

**TRADE INJURY COMPENSATION ACT OF 2000  
(TICA)**

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON FORESTRY,  
CONSERVATION, AND RURAL  
REVITALIZATION  
OF THE  
COMMITTEE ON AGRICULTURE,  
NUTRITION, AND FORESTRY  
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

ON

TRADE INJURY COMPENSATION ACT OF 2000 (TICA)

SEPTEMBER 25, 2000

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## Monday, September 25, 2000

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## **TRADE INJURY COMPENSATION ACT OF 2000 (TICA)**

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**MONDAY, SEPTEMBER 25, 2000**

U.S. SENATE,  
SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL  
REVITALIZATION, OF THE COMMITTEE ON AGRICULTURE,  
NUTRITION, AND FORESTRY,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 9:37 a.m., in room SR-328A, Russell Senate Office Building, Hon. Larry E. Craig, (Chairman of the Subcommittee), presiding.

Present or submitting a statement: Senators Craig and Baucus.

### **OPENING STATEMENT OF HON. LARRY E. CRAIG, A U.S. SENATOR FROM IDAHO, CHAIRMAN, SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION, OF THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY**

The CHAIRMAN. Good morning, everyone. The Subcommittee on Forestry, Conservation, and Rural Revitalization will come to order. Of course, this is a subcommittee of the full Committee of Agriculture, Nutrition, and Forestry.

The Subcommittee today is here to take testimony on S. 2709, the Trade Injury Compensation Act of 2000 known as TICA, as it is known by most of us, at least, and we will also be looking generally at the issue of European Union's ban on U.S. beef.

Since 1989, the European Union has banned the importation of U.S. beef on what many of us believe is a false premise that additional naturally occurring growth hormones in U.S. beef constitutes a health risk to the consumer. This premise is demonstrably scientifically false, as has been found out by the World Trade Organization.

In 1999, the WTO authorized \$116.8 million in retaliatory duties. Theoretically, imposing 100-percent duties would block importation into the U.S. of \$116.8 million worth of EU products targeted with such duties. But the U.S. implementation of WTO's retaliation authority has not been effective. The EU ban of all U.S. beef continues and EU goods carrying 100-percent duties are still being imported into America. USTR calculates that \$35.65 million in EU goods with 100-percent duty were still imported between July 1999 and June 2000.

To strengthen the retaliation tool, Congress instructed the USTR in the African-Caribbean Basin Initiative legislation to impose car-

ousel retaliation by June 20, 1999. We want to know why USTR has not yet acted to impose carousel.

I am a cosponsor of TICA, which also seeks to make retaliatory duties more effective. Currently, such duties are deposited in Treasury general revenue accounts. TICA would segregate into a trust fund that retaliatory duties collected by EU goods carrying 100-percent duty that would nevertheless come into the U.S. The Secretary of Agriculture would then release the money to a duty-constituted U.S. beef industry promotion board to promote U.S. beef in foreign markets.

The U.S. beef industry's real goal here is not retaliation but rather re-access to the European market. Retaliation is just a means to an end, but if there are duties collected beyond the 100-percent tariff placed on targeted EU products, the U.S. beef industry should have the money to lessen the harm caused by the EU ban. TICA is a good method to accomplish that goal as we continue to seek total removal of the ban.

The Subcommittee is pleased this morning to have witnesses with a great understanding in this controversy and we welcome all of you here today. Because of the scheduling of this hearing, we had some conflict in getting USTR folks with us, not their fault because of their schedules and their involvement in Europe.

In regard to the record, Ambassador Gunther Burghardt of the delegation of the European Commission was invited to testify today on behalf of the European Union. Ambassador Burghardt responded that EU policy barred his appearance before the U.S. Congress. However, the Ambassador has submitted a written statement on the subject of compensation and requests that it be included in the record, which it will be without objection.

Just a couple of housekeeping notes before I turn to my colleague, Senator Baucus, for an opening remark or remarks that he would like to make. The Subcommittee will ask the witnesses to hold their oral testimony to 5-minutes and then we will subject you to any questioning and we will also this morning allow Ambassador Peter Scher to go first. I think he has got an airplane to catch or something like that, is that not correct?

Ambassador Scher. That is. Thank you.

The CHAIRMAN. A fast ride out of town.

[Laughter.]

The CHAIRMAN. Anyway, thank you all very much for being here. Now let me turn to my colleague, Max Baucus, who really has played a role in bringing these hearings. He was insistent, as many of us have been, that we get more information on this issue to understand why we are not responding in the manner that we have an opportunity to respond. So let me turn to my colleague from Montana for any comments he would like to make.

[The prepared statement of Chairman Craig can be found in the appendix on page 20.]

[The prepared statement of Mr. Burghardt can be found in the appendix on page 48.]

**STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA, RANKING MEMBER, SUBCOMMITTEE ON FORESTRY, CONSERVATION AND RURAL REVITALIZATION OF THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY**

Senator BAUCUS. Thank you very much, Mr. Chairman. I appreciate your holding this hearing on a bill which I introduced to hopefully help the beef industry, which is not helped at all by current WTO ruling, and more particularly by European intransigence in not abiding by a WTO dispute panel decision. I thank you very much, and in particular the beef industry thanks you. I also thank our witnesses for changing their schedules. I know it is true, Ambassador Scher had made schedule changes to accommodate us here today and we very much appreciate your changing, Mr. Ambassador.

I might point out that this is a bipartisan group in favor of this legislation, Senators Bingaman, Dorgan, Daschle, Kerrey, Johnson, Thomas, Ashcroft, as well as you, Mr. Chairman, and the fellow co-Chairman of the Senate Beef Caucus, Senator Bond. The legislation establishes a beef industry compensation trust fund to help the United States cattle industry and applied to the European Union's illegal ban on beef treated with hormones and the EU's refusal to abide by the WTO decision.

Last year, the World Trade Organization approved retaliation in the amount of \$117 million when the European Union, ignoring a WTO decision, refused to open its market to American beef. The purpose of retaliation clearly is to inflict pain on the guilty party so that they will change their rules and abide by a WTO decision. Yet the EU continues its recalcitrance. Frankly, I think this is nothing short of outrageous.

We are forced to enact carousel legislation to revise the retaliation list every 6-months in the hope that that might work. In the meantime, we need to take action to press harder on compliance, and also importantly to give some relief to our domestic industry.

Mr. Chairman, we have a broader problem here. When the WTO finds a foreign practice illegal under WTO rules and the guilty party refuses to take action, the damage to the American industry continues. The increase in tariffs on selected European exports to the United States does nothing to help the beef industry.

It is no different than the so-called "chicken war" between the United States and Europe in the early 1960s. The GATT determined that U.S. chicken farmers were harmed by European tariffs on poultry. The United States retaliated, principally with the French and Germans who were major violators, by increasing tariffs on products such as French cognac and German Volkswagen vans. The result, U.S. chicken farmers not helped, French and German chicken farmers still protected, and innocent German Volkswagen workers and innocent U.S. Volkswagen purchasers harmed.

It is no wonder trade retaliation is not the most popular kid on the block. We win the case at the WTO and the guilty party refuses to make changes. Our injured industry loses twice. They get no improvement in the market access. They get no benefit from retaliation.

The Trade Injury Compensation Act establishes a mechanism for using the tariffs imposed on the EU to aid the injured beef producers in this country. At present, the additional tariff revenues received from retaliation simply go to the Treasury's general fund. That amounted to \$36 million between July of last year and June of this year.

This bill establishes a trust fund so that the affected industry will receive those revenues as compensation for its injury. The Secretary of Agriculture would call upon the trust fund to provide grants to a nationally recognized beef promotion and research board. The money would support education and market promotion for the United States beef industry. This would continue until the EU complies with the WTO ruling.

Now, some critics may complain that this is an improper export subsidy as defined by the WTO. It is not. First, according to recent WTO appellate body decisions, receipt of the money must be contingent upon exports for it to be considered a subsidy. TICA money can be used for quality improvement in the United States and that is not export contingent. Further, market development expenses for agricultural products are exempted from the categories of prohibited or actionable subsidies by various articles of the WTO agreements.

In a perfect world, we would not need this legislation because the EU would abide by its international trade commitments, and it is still my hope that the EU will recognize the dangerous path that they are on and comply with the WTO dispute settlement rulings so that our beef can be sold in the EU. Unfortunately, that has not been the case and no resolution is looming on the immediate horizon. Therefore, the U.S. beef industry as well as U.S. importers continue to pay the price of non-compliance.

To summarize, TICA provides a limited financial benefit to the U.S. industry. It is WTO consistent. It gives an additional incentive to our foreign competitors to simply cease their unfair trade practices. And, it helps an industry that is damaged by an EU trade practice which the Europeans refuse to fix.

TICA is a means to an end. We all want the Europeans to comply with WTO dispute decisions. The United States is working hard to fix a problem that we have with the FSC, Foreign Sales Corporation. Europe should do the same on beef hormones and bananas. If they will not, we need to do something to help our industry.

TICA is a good measure that bridges the gap between compliance and market access, and I thank my colleagues for their sponsorship and particularly you, Mr. Chairman, for holding the hearing. Hopefully, we can get some action on this, if not this year, very quickly next year.

[The prepared statement of Senator Baucus can be found in the appendix on page 22.]

The CHAIRMAN. Max, thank you for your leadership in this area.

Let me introduce to the Committee Tim Galvin, Administrator, Foreign Agricultural Service, USDA, along with Dale Moore, Executive Director, Legislative Affairs, National Cattlemen's Beef Association, and, of course, Ambassador Peter Scher, who is the former USTR Special Agricultural Trade Negotiator, now a partner in Mayer, Brown and Platt. As I mentioned earlier, there are some



time restraints on you, Ambassador Scher, so we will allow you to proceed first, if you would, please.

**STATEMENT OF PETER SCHER, FORMER USTR SPECIAL AGRICULTURAL TRADE NEGOTIATOR, AND PARTNER, MAYER, BROWN AND PLATT, WASHINGTON, DC.**

Mr. SCHER. Mr. Chairman, thank you, and thank you, Senator Baucus. I appreciate your consideration. I am pleased to have the opportunity to testify this morning regarding the European ban on U.S. beef and S. 2709 in particular. I have submitted my full remarks for the record and in the interest of time will summarize them for the Committee.

Mr. Chairman, I would like to make several points. First, putting this dispute in the larger context of the WTO dispute settlement system, in particular to talk about the difficult balance we have to strike between the issues of compliance with WTO decisions and the sovereignty of all countries. As both of you will probably recall, the question of sovereignty was central to the debate in Congress over U.S. entry into the WTO in 1994. Perhaps more than any other issue, we were debating what many of the critics said was an unwise subjecting of our laws and our own authorities to the jurisdiction of bureaucrats from Geneva, and the Congress was clear and the United States was clear that the United States could not order a country to change its laws.

So even in the face of EU recalcitrance on both beef and bananas, the painful reality we have to face is that in both of these cases, the system has worked as it was intended and as the United States intended. The European Union has the right under the laws and under the agreements that we negotiated not to change its rules, and, of course, in response, we the injured country have the right to impose a penalty.

I want to make no mistake that I am in no way defending the European Union, because I do believe that their approach to both the beef and banana cases has damaged the credibility of the WTO system, particularly true in the beef case. It has become very apparent that at least at this time, the European Union lacks the political will to allow the importation of hormone-treated beef. As much as I and members of this Congress and I think most of us here would disagree with this view, that is the reality.

Frankly, I believe it would be better for the system as a whole for the EU to simply acknowledge their problem, accept the findings of the panel, invoke its right to maintain its regulation, and pay the penalties imposed by the WTO. Frankly, there can be no greater demonstration that the WTO does respect the sovereign power of nations than such an act. But instead of this honest and lawful approach, what the European Commission has embarked on is another effort after literally 20-years of failure to try to use pop science to justify a ban that has no scientific or health rationale. In fact, the Financial Times, a London-based newspaper, last year commented that the EU's ban is not a scientific ban but a political ban.

The irony of all this is, of course, that the EU was the prime cheerleader for a new WTO dispute settlement system, believing that the U.S. had too much power as the judge, and as they call

it, the jury and the executioner of our 301 law and they believe that the new system would help, hopefully, in their view, kill that.

Some of you may remember, during the early days, it was the European Trade Commissioner who came to Washington and lectured all of us on the need to use the new system to resolve disputes. Well, we have used that system in the United States, and even when we have not prevailed, we have taken great efforts to comply with the results of the panel decisions, even when not politically popular. Unfortunately, the European Union has not taken a similar approach.

Mr. Chairman, I will not go through the history of this dispute. I think we all know that it has gone on for nearly 20-years and retaliation was imposed by President Bush beginning in 1989, despite efforts by the U.S. to mediate the dispute. When the WTO came into effect in 1995, we were for the first time able to litigate successfully the ban under the new sanitary and phytosanitary agreement, and so far as you both talked about the sanctions that we have put in place as a result of the WTO decisions, have not changed the EU's behavior.

Mr. Chairman, this dispute holds important lessons about the WTO dispute settlement process and how we should respond when countries fail to comply with its ruling. As a starting point, I think it is important to remember that in the vast majority of cases, the dispute settlement process has worked because in most instances, countries found to be in violation of the WTO amend their trade rules accordingly. And when the dispute settlement process has not resulted in changed behavior, it is again important to remember the underlying reason, that the WTO does not have the power to order changes in these rules.

Since the EU has yet to lift its ban on hormone-treated beef, the U.S. has rightfully retaliated, but I think there are a couple of ways in which the current retaliation system has probably fallen short, particularly for U.S. beef producers, and S. 2709, the TICA bill, addresses one of these shortcomings. TICA seeks to, as you both talked about, ensure that the injured party in a trade dispute, namely the beef industry, receives relief. While the current system imposes a price on the EU, it does nothing to provide relief to American ranchers.

There is an additional refinement as the Committee considers this problem that you and the administration may want to consider and that is the current retaliation practice has been to impose 100-percent tariffs on goods with the express purpose of keeping those goods out of the U.S. market. Well, this approach is sometimes sufficient to force an offending country to bring its rules into compliance, and, in fact, just threat of these tariffs has brought countries, including Canada in a case last year, into compliance. Frankly, it has certainly moved the EU in the banana dispute a lot farther than we would have thought.

There are several problems which need to be considered, some of which, Senator Baucus, you referred to in your statement. First, we have to deal with the real problem of harming innocent bystanders. In the case of beef and bananas, USTR received more than 400 comments seeking the removal of particular items on the list.

A second issue with attempting to completely block goods when you are trying to create revenue to compensate an injured industry is that when you block goods, it creates little if any tariff revenue. In cases such as this, as the beef hormone dispute, where countries refuse to comply and some type of retaliation is already assumed, one thing to consider may be a lower level of tariff, one which imposes significant penalty, harms fewer innocent bystanders because it allows goods to be traded, but generates real tariff revenue which can be channeled to the aggrieved parties.

For example, instead of 100-percent tariffs on a small list of goods, we might consider imposing a ten to 15- or 20-percent tariff on a larger list of goods, which would clearly disadvantage those imported goods in the U.S. market because U.S. goods would be traded lower. It would not block those goods and would, therefore, generate actual tariff revenue which could provide appropriate compensation for the aggrieved party in a trade action.

Make no mistake, we should never be cavalier about raising tariffs, even when authorized to do so, and there is no, I do not believe, having dealt with both of these disputes, there is a cookie-cutter approach that we could say, in this case, we should always impose 100-percent tariffs or we should always impose lower tariffs. I think we have to deal with the reality of the situation and when it appears, as in this situation, that a country is refusing to comply with the decision and our industry is not finding any relief in those limited number of cases, we should be thinking about new approaches.

There are clearly no clear-cut solutions to this dispute. While the current system has proved successful, refinements such as TICA and possibly adjustments to tariff levels could make the system more effective, and I applaud both of you, Mr. Chairman and Senator Baucus, because this hearing is an important step towards accomplishing that goal. Thank you for your time.

[The prepared statement of Mr. Scher can be found in the appendix on page 34.]

The CHAIRMAN. Ambassador, thank you very much.

We are going to ask you some questions so you can exit, if you wish, and then we will take testimony from our witnesses. You suggested the possibility of spreading, if you would, dropping the tariff down and spreading it to possibly greater leverage, greater revenue flows in tariff, whatever might be the end result. But without it being scored as a budget action, how would we use these revenues to provide appropriate compensation for the aggrieved party in a trade action?

Mr. SCHER. I think the same way. I think it would have to be done in conjunction with TICA. I mean, what I am suggesting is right now, you have 100-percent tariffs imposed on European goods. While some goods are still traded and still come in and some importers actually pay that tariff, I do not know what the current numbers suggest, but it is not a tremendous amount of tariff revenue. So I think it would be the same approach.

Rather than 100-percent, you would simply have WTO authorize—WTO does not tell you how much the tariff needs to be. It could be 500-percent. It could be 5-percent. So in this case, you would simply to—if one of your aims is to try to provide relief to

the industry, you would try to find a level that would generate a substantial amount of revenue within the amount authorized by the WTO.

The CHAIRMAN. What are the products on the list now that have basically had their price doubled by this tariff and are still being purchased by American consumers?

Mr. SCHER. How much is still coming out? Mr. Galvin, I do not have the specifics on what is still coming in.

The CHAIRMAN. We will ask him, then, about it when we get to him.

Mr. SCHER. Tim has that. I know there are some cheeses and some dijon mustard and some things like that, luxury items. I know, for example, some of the high-priced luxury handbags, for example, that have come in, I think there has been tariff revenue generated by this. I do not have the latest numbers on what has come in.

The CHAIRMAN. USTR data for July 1999 to June 2000 say that \$35.6 million of 100-percent duty EU goods are still being imported. Do you agree that this means that the U.S. beef industry last year lost the impact of 30.5-percent of the \$116.8 million in WTO authorized trade retaliation for the illegal ban on the industry?

Mr. SCHER. Well, they certainly have not received any benefit from—they have lost \$116 million in terms of lost export opportunities into Europe and they have received no benefit from the results of the tariff revenue generated.

The CHAIRMAN. Ambassador, thank you very much. We appreciate your testimony.

Senator Baucus?

Senator BAUCUS. I thank you, Mr. Chairman.

Mr. Ambassador, what about the potential challenges to this legislation? How bulletproof have we made it thus far and how might we modify it to withstand challenges?

Mr. SCHER. I think there will be two challenges. One challenge, as you talked about in your statement, is does it create WTO consistencies, or inconsistencies, and I think, as you said, we would need to make sure that as the fund would be established to benefit cattle farmers, that it not be tied directly to exports, and that would be what would create a problem. But certainly the money could be used for export promotion, which is not WTO consistent. As you said, it could be used for quality improvement. I think there are a wide variety of areas that it could be used.

The other, I think, policy challenge, frankly, that I have heard in preparing for today's hearing is whether or not we are creating a precedent in dumping and in other cases where tariff is generated, for example, dumping cases or CBD cases or 201 cases, and the suggestion is when the steel industry or the lamb industry or some other industry has tariffs imposed on the imports of a foreign product, would they be entitled under this precedent to that revenue?

I would argue that there is a very important distinction in these two cases. In a dumping case or in a CBD case or a 201 case, the injured industry is receiving relief in this market. So when the U.S. imposes higher tariffs, for example, on imported steel, domestic

steel producers are benefitted. When we impose quotas and tariffs on lamb from New Zealand and Australia, that is designed to benefit the domestic industry. So I think in those cases, they are already receiving a benefit from the trade action.

In this case, the beef industry is receiving nothing. We have had retaliation in effect on and off now for 10-years and the beef industry has not received any benefit from that action. So I think that is the second challenge, I think, that will be—

Senator BAUCUS. I appreciate that. One frustration, clearly, is Europe just does not seem to have enough pressure on it that it does not have to abide by these WTO rulings, that the tariff just is not enough to force them to do what they should do. An idea just now occurred to me. What about some kind of MFN principle here, changes in the WTO. That is, the effect of the WTO ruling is that the United States is not doing anything illegal. That is, it is not a trade barrier. It is a level playing field.

So applying the principles of MFN, if Europe is found to take an unfair action against the United States and the WTO dispute panel finds, yes, that is unfair, why should the penalty not apply worldwide, not just to the United States? Even though the United States is the defendant, is there some way, some MFN principle here? I do not know exactly what it would be—

Mr. SCHER. Yes.

Senator BAUCUS.—but it just seems to me that MFN works one way but it does not work the other way.

Mr. SCHER. Yes. I mean, as a partial answer to that, in this case, in the beef case, for example, and in the banana case, other countries do have the right to impose retaliation. So, for example, Canada—I do not think it was very much. Tim may remember. I think it was maybe \$25 or \$30 million worth of retaliation because Canada was a party to this dispute.

I think it is something that should be explored. The difficulty is, you want to have a proportional response to the offense, because the fact is, as much as we all like to whack the EU around, and I like to do it as much as anyone else, we are receiving benefits from our trade relationship with them and I think our agricultural exports are \$7, \$8, or \$9 billion, so there are some important benefits we are receiving, so we do not want to, in a sense, throw the baby out with the bathwater, but we do want to, I think, put serious pressure.

I think one of the problems that we have seen here, and this is, I think, a big problem in the EU, is this goes to the whole issue of food safety and the fact that the EU does not have an independent food regulatory system that people have confidence in. So what happens is politics replaces what should be scientific and health decisions, and until the EU actually establishes such a system and gives people with credibility the authority to make decisions without political interference, I think we are going to be facing these problems, particularly in animal health and in food safety, for quite some time.

Senator BAUCUS. You sure have been working hard in this area and I thank you very much, Ambassador.

Mr. SCHER. Thank you.

The CHAIRMAN. Ambassador, thank you. You are certainly welcome to leave if you need to.

I am going to have a time crunch in a few moments and will need to step out. Max, what is going to be your schedule?

Senator BAUCUS. We are pretty similar.

The CHAIRMAN. Here is how we are going to do this, then. We will take one of you and then we will ask that the Committee stand in recess for just a few moments and then I will step back in, we will complete that, and go to questions. I hope that your time will allow that this morning. With that, again, Tim Galvin, Administrator, Foreign Agricultural Service, USDA. Welcome before the Committee. Please proceed.

**STATEMENT OF TIMOTHY J. GALVIN, ADMINISTRATOR, FOREIGN AGRICULTURAL SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, DC.**

Mr. GALVIN. Mr. Chairman, Senator Baucus, thank you for the invitation to be here today. I would like to ask that my full statement be made a part of the record.

The CHAIRMAN. It will be, without objection.

Mr. GALVIN. The beef hormone issue has been a long and frustrating one for the U.S. cattle industry. The EU first banned beef in 1989, at the time costing our beef producers well over \$100 million a year in lost sales. After years of negotiations, the U.S. eventually took the issue to the WTO on the grounds that the EU action was not based on sound science and, therefore, was in violation of the sanitary and phytosanitary agreement.

In three separate rulings, the WTO agreed with us that the EU had produced no new information against the use of hormones. The WTO eventually decided that the damage to the U.S. totaled \$116.8 million annually, and since July of 1999, the U.S. has been imposing punitive duties against an equivalent amount of EU exports to the U.S. Those duties are being felt by EU exporters today.

The purpose of the retaliatory duties is relevant with regard to the intent of S. 2709, the Trade Injury Compensation Act of 2000, introduced by Senator Baucus, yourself, and others. As we understand that legislation, it would establish a fund financed by the additional duties imposed under the beef hormone retaliation list to be used to provide assistance to the beef industry for market development, consumer education, promotion in overseas markets, and beef quality improvement.

While we can certainly understand the impetus for the legislation, the purpose of the retaliatory duties is to bring about WTO compliance by making trade in the sanctioned items prohibitive. In other words, the 100-percent duties commonly imposed in these cases are intended to be so onerous as to prevent trade from occurring and thereby encourage the losing party either to eliminate its offending practices or to offer compensation in some other fashion. If the duties have the intended effect, then the items would not be imported and, thus, no duty would be collected. Therefore, a fund established on the assumption that such duties would be collected would likely realize far less revenue than implied by the 100-percent duties.

Despite the current impasse with the EU, we have made efforts to find an interim solution, including the idea of labeling U.S. beef for the European market or increasing access for non-hormone-treated beef from the U.S. The EU rejected the labeling idea and our discussions on increasing access for our non-hormone-treated beef were derailed when the EU cut off even that market for us this past year. However, that program has recently resumed.

Finally, I would note that despite our problems in Europe, U.S. beef exports in general have been doing exceptionally well. For the first 10-months of fiscal year 2000, beef exports are up by double-digit levels and the current U.S. trade surplus in beef is over \$1 billion per year.

Mr. Chairman, that concludes my statement and I would be happy to answer any questions.

[The prepared statement of Mr. Galvin can be found in the appendix on page 25.]

The CHAIRMAN. Max, do you have any questions?

Senator BAUCUS. No, just that, that is really something, the beef exports. On a net basis, where are we?

Mr. GALVIN. On a net?

Senator BAUCUS. Yes.

Mr. GALVIN. It is a positive \$1 billion.

Senator BAUCUS. It was not too many years ago it was negative by a huge amount.

Mr. GALVIN. Just since 1990, we have seen this kind of growth. It really is incredible.

Senator BAUCUS. So Canada, Japan—which countries for export?

Mr. GALVIN. Japan, Korea, Mexico. Mexico is number two.

Senator BAUCUS. Japan is one, Mexico number two—

Mr. GALVIN. Then I believe Korea.

Senator BAUCUS. Thank you very much.

The CHAIRMAN. I will ask a question that joins that one. Have you done any guesstimation when you have seen the growth in these other areas of the countries you have cited and the success of the industry in moving those up double digit, what it would have been if we would have had access to the European market? I mean, is the \$116 million that we talk about a real figure today or would it be substantially more than that?

Mr. GALVIN. We think it would be larger. In fact, if you recall when we had the discussions in the WTO about the level of damage, the U.S. side submitted figures in excess of \$200 million. So I think something closer to that. If you assume the trade not just in prime cuts of beef but offal and that sort of thing, it is quite a large amount.

The CHAIRMAN. I am going to ask the Committee to stand in recess for about 10-minutes and then we will be back. Tim, I do have a couple more questions of you, so if you would, please stay, and thank you. Excuse me.

[Recess.]

Gentlemen, thank you very much for accommodating the way we have had to juggle this, this morning from a time standpoint. I will bring the Subcommittee back to order and I would ask Dale Moore, Executive Director, Legislative Affairs for the National Cattlemen's Beef Association to proceed with your testimony. Dale, thank you.

**STATEMENT OF DALE MOORE, EXECUTIVE DIRECTOR, LEGISLATIVE AFFAIRS, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, WASHINGTON, DC.**

Mr. MOORE. Thank you, Mr. Chairman. Chairman Craig, we appreciate you holding this hearing on TICA. We appreciate Senator Baucus and all the time he and his staff have provided in pulling this legislation together and working with us on it. We certainly appreciate your support of this legislation and working with Mike and Janie on this, as well.

I am Dale Moore, Executive Director of Legislative Affairs, and Dana Hauck, our chairman of our International Markets Committee, extends his apologies and regrets for not being able to make this morning's hearing.

We appreciate the opportunity to discuss how S. 2709 would provide an additional trade policy tool to help resolve the EU ban on U.S. beef, not to mention the temporary benefits that it would provide to U.S. cattlemen and women should Europe continue to refuse American access to their market. Regaining access to the EU market has always been the U.S. beef industry's primary goal for over a decade. WTO retaliation measures serve one key role in the WTO dispute settlement process—that is to provide a burr under the European saddle that hopefully pushes them toward compliance with the rulings. They certainly seem to expect rapid compliance when rulings fall in their favor.

NCBA and the U.S. beef industry have tried to settle this case and it is important to remember that we did win. The EU has had 15-months to comply, yet there is little indication that they are even intending to try to come into compliance. In efforts to reach an amicable settlement, the NCBA, working through U.S. negotiators, has proposed to label our products so that EU consumers could make informed purchasing decisions. This offer has been declined. NCBA has sent volunteer leaders to Brussels to meet with EU representatives in Brussels to explore alternative political solutions to lift the ban. We have been assured that there are no such solutions.

Using a concept very similar to S. 2709, we offered to settle for an annual lump sum cash payment from the EU treasury to the U.S. beef industry in the amount of injury determined by the WTO. This has been declined. We have offered to accept interim compensation in the form of elimination of the 20-percent end-quota duty and a significant expansion of the non-hormone product quota, but only if meaningful trade of non-hormone product resumes at the presummer 1999 levels. So far the response or the counteroffers have not been forthcoming.

The EU's ongoing refusal to work with us led Congress to enact the carousel retaliation act, which you had mentioned earlier. This new law spelled out that the first date for the administration to announce a change in the list of products was June 19, 2000—3-months ago. We appreciate the efforts of several members of this committee to urge the administration to release the new beef retaliation list because we believe without periodic changes to this list, there is little, if any, internal political pressure from the offending countries to settle. Now that the list of affected commodities is subject to change on a random basis, countries and/or the commodities



impacted can never be certain that they have escaped targeting. This uncertainty will help generate constant pressure on all offending parties to come into compliance with WTO rulings, which brings me to TICA.

Companion legislation similar to TICA is being discussed by Congressman Jerry Moran and Congressman Cal Dooley in the House and we urge all members in the Senate who are not yet on this bill to join. Retaliation is the least desirable of the three possible outcomes from a WTO ruling. Even with the current assessment of 100-percent duties, some trade continues for some products on the list. In the beef case, this is roughly \$35.6 million. This means that \$35.6 million of unanticipated revenue is generated and paid into the U.S. general Treasury.

The intent of the TICA legislation is to direct the tariff revenue generated by retaliation toward the injured industry as partial compensation. The proposed legislation provides for a national promotion and research board to administer the revenues generated from retaliation duties for market development, consumer education, and promotion of the beef industry in overseas markets.

This approach would allow the Cattlemen's Beef Promotion and Research Board members to decide how best to utilize these funds to improve the beef industry. The board's members who would make these decisions are appointed by the Secretary of Agriculture from nominations submitted by eligible State organizations, including the Farm Bureau, Farmers Union, Cattlemen's associations, Dairy Producer associations, and other organizations. The board currently funds various promotion, consumer education, and research programs throughout the United States and in foreign markets, and therefore would have the administrative and management expertise in place to handle TICA revenues.

The Europeans will likely object to TICA with a wide array of claims. This is logical. After all, they are currently paying a \$116.8 million fine for noncompliance with a check for roughly \$81 million, a 30-percent discount. TICA would help ensure the EU pays the full measure determined by the WTO. It is important to remember that if TICA were in place and if concerns about its funding source were raised, the EU could cut off TICA's funding simply by complying.

Like other retaliation measures, TICA is not a silver bullet, but it would provide another important tool in the trade toolbox. It would provide equity by taking retaliation duties and compensating the injured industry in the amount of retaliation discount that occurs after duties are imposed. Selfishly, I also enjoy the fact that TICA would allow U.S. cattlemen and women to use EU funding to promote our product in Europe should we ever get that door open.

In closing, the objective of the U.S. beef industry is to regain access to the European beef market. Retaliation does not benefit the beef industry and is viewed by us only as a means to an end. TICA would compensate the industry for the amount of under-retaliation that results when trade continues on some products. Importers or exporters of product from the EU who are concerned that retaliation may impact their business should urge the Governments in

the exporting countries to join the United Kingdom in opposing this illegal ban within the EU political process.

Mr. Chairman, the NCBA again thanks you and thanks the co-sponsors for this legislation and the opportunity to present these comments to you. I also appreciate the Committee's indulgence in allowing me to substitute for Chairman Hauck.

The CHAIRMAN. Dale, thank you very much.

Let me get back to a line of questioning that Max and I were involved in when I had to step out. Tim, I had asked Ambassador Scher the question of what products or commodities coming in are at the 100-percent tariff level now. Do you have a list of those for the record? I would be just curious.

Mr. GALVIN. I do have a list. I do not have the exact dollar amounts, but—

The CHAIRMAN. No, the type of product, where it appears the American consumer is willing to still pay it double the price.

Mr. GALVIN. The list I have shows truffles, jams, berry juice, roquefort, chicory, mustards, and rusks.

The CHAIRMAN. What was the last one?

Mr. GALVIN. Rusks. Those are those little dried biscuits.

The CHAIRMAN. So we really have kind of picked—to me, that sounds fairly selective to the palate. I am thinking of the wine set, the grey poupon kind of ad. We have created that into a market of exclusivity, if you will, instead of going at the heart of maybe a consumer product.

With that in mind, let me ask this question of you. You have heard a suggestion that possibly we could lower the tariff and spread it, 15- or 20-percent across a broader range of product, or simply take these and bump them up another 100-percent. Put them at 200-percent. Put them at 300-percent, somehow to cause the EU to react to something that we believe and the WTO believes they are now operating illegally in. Your thoughts and suggestions about that. First of all, just increasing what we have or lowering them and spreading across a broader band.

Mr. GALVIN. I think, first of all, the idea of raising the current tariffs from 100-percent to 200-percent is a real option and a live option right now on some of these products, and clearly we have authority to do that. The idea is that we have authority to increase the duties to whatever point is necessary to absolutely prohibit trade, and there is simply an assumption right now that 100-percent duties is sufficient to prohibit trade.

In terms of going, though, to a broader reduced duty that hits other products, again, I understand some of the sentiment for going in that direction but I just think it has to be acknowledged that, that would represent a rather fundamental shift in the intent of these retaliation lists. I think the intent would be then, rather to force a policy change by the offending party, it would be to try to direct some assistance to the damaged party here in the U.S. and I think that would be a fundamental change in policy.

The CHAIRMAN. Go ahead.

Mr. GALVIN. If I may, Mr. Chairman, just on the issue of how much revenue we are still earning under that trade that is occurring, you cited the figure of about \$35 or \$36 million. That was the figure that we had initially received from Commerce, as well. We

have since received, I guess, some more accurate figures show that for the last 12-months the total is closer to \$16.6 million.

The CHAIRMAN. Would you submit that list for the record?

Mr. GALVIN. I would be happy to.

The CHAIRMAN. Thank you.

[The information referred to can be found in the appendix on page 60.]

The CHAIRMAN. Tim, TICA would direct that retaliatory duties on EU products generated by EU ongoing ban of U.S. beef be collected into a trust fund administered by the Secretary, who would disperse the funds to a beef industry promotion board. Under existing law, the 1930-era agricultural marketing adjustment program known as AMAA, does not the Secretary already administer industry product promotions boards for eggs, stone fruits, nuts, citrus, and, yes, beef?

Mr. GALVIN. Yes, he does.

The CHAIRMAN. So are not TICA and AMAA for the beef industry analogous since both mechanisms concern beef industry-generated money used solely to promote beef?

Mr. GALVIN. I think they are analogous, other than the source of the revenue, yes.

The CHAIRMAN. Some critics of TICA are concerned that TICA would generate budget authority for domestic spending programs outside the normal budget process. Would you comment on that?

Mr. GALVIN. I am really not able to comment on that. I do not know how CBO would react up here and just what some of the budget problems might be.

The CHAIRMAN. NCBA raises an important question in the battle between free trade and protectionism where the question in the agricultural community is whether to support free trade at the grassroots when the EU beef ban situation makes unclear the U.S. Government's willingness to go to the mat with our trading partners on enforcement. What can you say to allay the fears in our producer community that our government is willing to protect our industry with bad faith trading partners?

Mr. GALVIN. Well, I would point out that this was one of the very first cases that we brought under the WTO after the WTO was formed, so we have been pushing very hard throughout the initial case and the appeal and then the discussions on the level of damage. As I said earlier, we went in with a larger figure. We were disappointed in the end that it was just \$116 million, but nevertheless, that is what we are implementing today. As you indicated, there is under discussion the new lists of different products, not just for the beef hormone retaliation but bananas, as well.

The CHAIRMAN. Tim, thank you very much.

Dale, let me turn to you. I regret that USTR witnesses could not be here today, but Ambassador Frazier submitted a statement where he states USTR's concern that TICA would provide the beef industry with a stake in maintaining a trade barrier, in this case, a retaliatory tariff or tariffs. The ambassador states that the beef industry's position is inconsistent with USTR's basic trust in trade policy, open markets, and lower tariffs.

Dale, I thought the beef industry was the one suffering from the trade barrier. Does the U.S. beef industry really want to keep retaliatory tariffs, as the ambassador implies?

Mr. MOORE. Mr. Chairman, I can emphatically state that retaliation, and as our testimony reflects, is a means to an end, and that end is access to the European market. We would love nothing more than to have TICA go into effect. If this \$16 million figure, and as Mr. Galvin has pointed out from the numbers that the administration submitted, beef trade potential in the \$200 million range, \$16 million versus \$200 million in trade is a pretty easy math for me to work out. We would certainly prefer to have access. We want to hit Europe with every retaliatory, every trade policy weapon we have bring them into compliance. But simply put, no. We would have no desire to drag this out.

The CHAIRMAN. Recently, the EU has begun to soften their position somewhat and is promoting compensation as a means of resolving the impasse. I would like to understand the context of that compensation. Could non-hormonal beef be increased beyond the 10,000-metric-ton quota by amounts against the \$116.8 million retaliatory duty? That would be one question. And could you explain to the Subcommittee how that might work and the likelihood that the beef industry perhaps would live with such a compromise? You might also want to respond to that, Tim.

Mr. MOORE. I was going to say, Mr. Chairman, I know Mr. Galvin and Ambassador Scher have both actually worked with us as we had talked through this several months ago, but the concept would be—what we had, I guess, proposed was that once Europe worked with us to reestablish the beef from non-hormone-treated cattle trade that they had cut off, that once we got that up to the, what was it, 11,000—

Mr. GALVIN. Five-hundred.

Mr. MOORE. Eleven-thousand-five-hundred-metric-ton quota, then we would be willing to talk about a compensation approach that for every, I guess, dollar, if you will, that we went above that quota level, that, that could be used to offset the \$116 million in retaliation as a rational approach to the compensation.

Part of what we have been wrestling with is this moving target that Europe has set on the non-hormone beef process, and as a result, we have a 2-year time lag in our industry before producers can take advantage of that effort, and as such, we have a lot of our members who are interested. But they want a little more, I guess, good faith showing on the part of Europe that this is going to be a consistent and predictable market before they take the risk of entering that market again.

The CHAIRMAN. Dr. Galvin, do you wish to comment to that?

Mr. GALVIN. I think Dale has done a very good job of describing the situation. We have had informal discussions with the EU about increasing access for our non-hormone-treated beef and that increased access could be in the form of either the higher quota beyond the current 11,500-tons or perhaps a waiver of the current duty on beef, which is about 20-percent in the EU. If beef then started to flow under either the reduced duty or if it exceeded the quota of 11,500, then the idea would be to reduce the retaliation list accordingly.

But as Dale indicated, under the new program for certifying that our beef is not treated with hormones, it really takes about 2-years from the time that calf is first dropped in the pasture until it is out of a feedlot, so there is such a long lag time in the current system that we would not see any benefits for some time. And then as Dale indicated, and I think it is a very good point, there is always a risk in dealing with the EU because it seems like there is always another issue that is threatening our trade and the question is whether or not our cattlemen want to gear up for a program with the understanding that something could be yanked out from under them.

The CHAIRMAN. If there is no compromise on compensation, how does the NCBA come down on the idea of vastly increasing or decreasing duties under carousel? Is it better to place, say, 15-percent duties on many more goods and give the revenue to the TICA trust fund, or would it be better to put 200, 500-percent type duties on goods to stop absolutely those targeted goods from coming into the U.S.? Dale, could you react to that kind of discussion?

Mr. MOORE. Yes, Sir, and I apologize if I sound a little schizophrenic in my answer. We kind of like both approaches. We like the higher retaliatory levels for, I guess, sort of the reverse pain and suffering that causes on our EU trading partners. By the same token, if they are going to remain stubbornly committed to keeping us out of their market, then spreading that pain a little thinner over a number of different products and using that to generate some revenues which TICA would operate and which we could thereby use some of our European trading partners' funds to promote our product and increase our demand. That has some interesting promise to it.

At this particular stage of the game, I would reiterate that we simply want to get access into that market. If this helps us get there, fine. If not, we are for putting as many burrs under their saddle as we can.

The CHAIRMAN. If duties were adjusted such that significant revenues were raised from EU goods coming into the U.S. and the EU would not lift or compromise the ban, would the U.S. beef industry reconsider a per capita distribution of revenue or is that just impractical whatever the total?

Mr. MOORE. I would not rule anything out. We have enjoyed a lot of back-room brainstorming with Mr. Galvin, with Ambassador Scher, with Ambassador Frazier, and we certainly are not opposed to taking a look at anything that they or the Europeans might put on the table. I have to admit, getting into that level of detail is starting to get dangerously close to enabling me to display my ignorance as to how some of that might work.

The CHAIRMAN. We all have limitations.

[Laughter.]

The CHAIRMAN. I guess maybe one last question of you, Administrator Galvin. When does the administration plan to announce the carousel retaliation list that was due in June of this year?

Mr. GALVIN. Mr. Chairman, I simply do not know. I wish very much I had an answer here for you today, but I do not.

The CHAIRMAN. I understand that is a moving target.

Gentlemen, thank you both very much. I think it is obvious by the concern that we have and the industry has here and the credibility of the WTO on issues like this and our desire to make the WTO work that something ultimately has to get done. That is not suggesting that nothing has been done on this issue, but there really are some pretty real questions being asked out there on the ground at this moment amongst producers as it relates to the viability of these trade organizations, and, of course, we recognize, I think especially in agriculture, the importance of trade. It is very difficult to suggest to our producers that they should allow us to move freely in the area of trade to expand markets when we cannot keep them open or open them. Rhetoric and action just have to coincide, and here we have got that credibility gap looming against a market out there that appears to want to remain closed and by intent of the politics of it.

Yes?

Mr. GALVIN. Mr. Chairman, if I may, just one last point where we have clearly gone to bat for beef producers and that is in Korea, which, as I mentioned, is our number three market. As you know, the Koreans had a system in place that seemed to discriminate against imported beef whether it is from the U.S. or Australia or elsewhere and we took them to the WTO. We won on that case. It is now under appeal, but I think it is another indication of where we have gone to bat for beef producers.

The CHAIRMAN. I think the figures that we were all just visiting about a few moments ago, the rates of increase in beef exportation, as someone who was active in the beef industry for a good number of years, those are very nice statistics. I think we were all frustrated, both beef and dairy, that those were markets out there that were just generally by character of product not going to be available to us. But obviously, by both domestic industries moving abroad and using product but by our efforts, your efforts, the Government's efforts and the industry's efforts to get into these markets, we can, in fact, move in those markets and move quite successfully.

So when we talk about potentially a \$200 million loss and you compare a Japanese market against a European market or a Mexican market against a European market, I think those numbers are very real. And when you travel in Europe and see the prices, I think you begin to recognize that the consumer over there is being tremendously disadvantaged and so is the producer here.

Gentlemen, thank you very much for your time with us today.

Mr. GALVIN. Thank you.

Mr. MOORE. Thank you, Mr. Chairman.

The CHAIRMAN. The record will remain open for the balance of the week for any additional information that we would want to provide or that you have that you would want to become a part of the Committee record.

With that, the Subcommittee will stand adjourned.

[Whereupon, at 10:48 a.m., the Subcommittee was adjourned.]

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**APPENDIX**

SEPTEMBER 25, 2000

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**OPENING STATEMENT OF CHAIRMAN CRAIG, SUBCOMMITTEE  
ON FORESTRY, CONSERVATION AND RURAL REVITALIZATION,  
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,  
HEARING ON S.2709, THE TRADE INJURY COMPENSATION ACT  
OF 2000 (TICA)  
SEPTEMBER 25, 2000**

The Subcommittee on Forestry, Conservation and Rural Revitalization of the United States Senate Committee on Agriculture, Nutrition and Forestry will now come to order.

Good Morning and Welcome. We convene to take testimony on S.2709, the Trade Injury Compensation Act of 2000, or TICA, as it is commonly known. And, we will be looking generally at the issue of the European Union's (EU) ban on U.S. beef. Since 1989, the European Union has banned importation of U.S. beef on the false premise that additional, naturally-occurring, growth hormone in U.S. beef constitutes a health risk to consumers. This premise is demonstrably, scientifically false, as was found by the World Trade Organization.

In 1999, the WTO authorized \$116.8 million in retaliatory duties. Theoretically, imposing 100% duties would block importation into the U.S. of \$116.8 million worth of EU products targeted with such duties. But, the U.S. implementation of WTO's retaliation authority has not been effective. The EU ban on ALL U.S. beef continues, and, EU goods carrying 100% duties are still being imported into America. USTR calculates that \$35.65 million in EU goods with a 100% duty were still imported between July 1999 and June 2000.

To strengthen the retaliation tool, Congress instructed USTR [in the Africa/Caribbean Basin Initiative legislation] to impose "carousel retaliation" by June 20, 1999. We want to know why USTR has not yet acted to impose carousel.

I am a co-sponsor of TICA, which also seeks to make retaliatory duties more effective. Currently, such duties are deposited in Treasury general revenue accounts. TICA would segregate into a trust fund the retaliatory duties collected on EU goods carrying a 100% duty, which nevertheless come into the U.S. The Secretary of Agriculture would then release the money to a duly constituted U.S. Beef Industry promotion board, to promote U.S. Beef in foreign markets.

The U.S. Beef Industry's real goal here is not retaliation, but rather, re-access to the European Market. Retaliation is a just a means to that end. But, if there are duties collected beyond the 100% tariff placed on targeted EU products, the U.S. Beef Industry should have that money to lessen the harm caused by the EU ban. TICA is a good method to accomplish that goal as we continue to seek total removal of the ban.

The Subcommittee values your time, and appreciates your upcoming testimony. I am confident that we will make an excellent record this morning.

In regard to the record, Ambassador Guenter Burghardt, of The Delegation of the European Commission, was invited to testify today on behalf of the European Union. Ambassador Burghardt responded that EU policy barred his appearance before the U.S. Congress.



However, the Ambassador requested that he be permitted to submit a written statement on the subject of COMPENSATION for inclusion in the record. Without objection, the Ambassador's written statement on compensation will be accepted and made part of the record.

Just a couple of Housekeeping Matters before I ask Senator Baucus for any opening remarks he may want to make. The Subcommittee asks that witnesses please limit oral testimony to 5 minutes. Your entire written statement will be included in the record.

Thank you. Senator Baucus?

**"Trade Injury Compensation Act"**  
**September 25, 2000**

Mr. Chairman, I thank you for holding this important hearing today. Our beef industry has been hurt by a closed European market. The EU lost a WTO case. They refuse to abide by the WTO ruling.

That is why we are here today. We need to take a serious look at how to we can help our domestic beef industry until the EU fixes their protectionist system.

I appreciate the witnesses today sharing their views with us about my bill, S.2709, the Trade Injury Compensation Act of 2000. This bill has more commonly become known as "TICA."

I am joined in this effort by a bipartisan group of Senators, including Subcommittee Chairman Craig, and Senators Bingaman, Dorgan, Daschle, Kerrey, Johnson, Thomas, Ashcroft, and my fellow co-chairman of the Senate Beef Caucus, Senator Bond.

The Trade Injury Compensation Act, TICA, establishes a Beef Industry Compensation Trust Fund to help the United States cattle industry in light of the European Union's illegal ban on beef treated with hormones, and the EU's refusal to abide by a WTO decision.

In drafting TICA, I asked myself several questions. How can we better offset the adverse effects of unfair trade activities by compensating an injured US industry? What tools can we use to do this? And how can we ensure that our trade laws work for Americans?

Last year, the World Trade Organization approved retaliation in the amount of \$116.8 million when the European Union, ignoring a WTO decision, refused to open its market to American beef. The purpose of retaliation is to inflict pain on the guilty party so they will change their rules and abide by a WTO decision. Yet the EU continues its recalcitrance. This is outrageous.

We were forced to enact "carousel" legislation to revise the retaliation list every six months, in the hope that this might work. In the meantime, we need to take action to press harder on compliance and also, importantly, to give some relief to our injured domestic industry.

We have a broader problem here. When the WTO finds a foreign practice illegal under WTO rules and the guilty party refuses to take action, the damage to the American industry continues. The increase in tariffs on selected European exports to the United States does nothing to help the beef industry.

It is no different than the so-called "Chicken War" between the United States and Europe in the early 1960's. The GATT determined that U.S. chicken farmers were harmed by European tariffs on poultry. The US retaliated, principally with the French and German who were the major violators, by increasing tariffs on products such as French cognac and German Volkswagen vans.

The result?

- ÿ US chicken farmers were not helped.
- ÿ French and German chicken farmers were still protected; and
- ÿ Innocent German Volkswagen workers and innocent US Volkswagen purchasers, were harmed.

It's no wonder trade retaliation is not the most popular kid on the block.

When we win a case at the WTO, and the guilty country refuses to make changes, our injured industry loses twice. They get no improvement in market access. They get no benefit from the retaliation imposed.

The Trade Injury Compensation Act establishes a mechanism for using the tariffs imposed on the EU to aid the injured beef producers in this country. At present, the additional tariff revenues received from retaliation simply go into the Treasury's general fund. That amounted to \$36 million between July of last year and June of this year.

This bill establishes a trust fund so that the affected industry will receive those revenues as compensation for its injury. The Secretary of Agriculture would draw from the trust fund to provide grants to a nationally recognized beef promotion and research board. The money would support education and market promotion for the United States beef industry. This would continue until the EU complies with the WTO ruling

Some critics may claim that this is an improper export subsidy as defined by the WTO. It is not!

First, according to recent WTO Appellate Body decisions, receipt of the money must be contingent upon exports for it to be considered a subsidy. TICA money can be used for quality improvement in the United States, and that is not export-contingent.

Further, market development expenses for agricultural products are exempted from the categories of prohibited or actionable subsidies by various articles of the WTO agreements.

In a perfect world, we would not need this legislation because the European Union would abide by its international trade commitments. And it is still my hope that the European Union will recognize the dangerous path they are on and comply with the WTO Dispute Settlement rulings so that our beef can be sold in the EU.

Unfortunately, that has not been the case, and no resolution is looming on the immediate horizon. Therefore, the U.S. beef industry as well as US importers continue to pay the price of noncompliance.

To summarize, TICA provides a limited financial benefit to the US industry. It is WTO

consistent. It gives an additional incentive to our foreign competitors to simply cease their unfair trade practices. And it helps an industry that is damaged by an EU trade practice which the Europeans refuse to fix.

TICA is a means to a end. We all want the Europeans to comply with WTO dispute decisions.

The United States is working hard to fix a problem that we have – the FSC, Foreign Sales Corporation. Europe should do the same on beef hormones and bananas. If they won't, we need to do something to help our industry.

TICA is a good measure that bridges the gap between compliance and market access.

I thank my colleagues for their sponsorship of this important measure and look forward to the panelists comments concerning its merits in terms of the larger compliance picture.

Thank you Mr. Chairman.

**Statement of Timothy J. Galvin  
Administrator, Foreign Agricultural Service  
U.S. Department of Agriculture  
Before the Subcommittee on Forestry, Conservation and Rural Revitalization  
Senate Committee on Agriculture, Nutrition and Forestry  
Washington, D.C.  
September 25, 2000**

Mr. Chairman, members of the subcommittee, I am pleased to have this opportunity to update you on the current status of the longstanding dispute between the United States and the European Union (EU) over the safety of growth promotants used to treat cattle, and to review recent trends in U.S. beef trade.

**Overview of EU Beef Hormone Ban**

In 1989, when the EU banned the import of beef from cattle treated with growth promotants, U.S. cattle producers lost a market valued then at about \$100 million annually. The EU's ban ignores a body of scientific evidence showing that the growth promotants in question are safe when used in accordance with good animal husbandry practices. Their safety has been confirmed by the Codex Alimentarius Commission (a food standards body sponsored jointly by the World Health Organization and Food and Agriculture Organization), as well as by the EU's own scientists -- both the Lamming Committee, convened in 1982, and the EU's Scientific Conference on Growth Promotion in Meat Production in late 1995.

The EU plans to maintain the ban on Estradiol, and convert the current ban on five other hormones to provisional bans.

After years of negotiations, in 1996, the United States presented its case against the EU's hormone ban to the World Trade Organization (WTO), where we were joined by Canada, Australia, and New Zealand. After a thorough review of the scientific evidence, the WTO Panel upheld the U.S. position and ruled that there was no scientific basis for the EU's hormone ban.

On three separate occasions – once in 1997 and twice in 1998 – the WTO ruled that the EU's ban on the use of certain hormones to promote the growth of cattle violated the WTO Sanitary and Phytosanitary (SPS) Agreement. In each of its decisions, the WTO found that the EU beef hormone ban is not supported by an adequate risk analysis nor is there credible evidence to indicate that there are health risks associated with hormone-treated beef.

For the past two years, the debate has been over the EU's compliance with the WTO rulings and honoring its obligations under international agreements. During the Uruguay Round negotiations, the EU committed to uphold the principles of the WTO. In maintaining its unscientific ban, the EU does nothing to further the objective of protecting public health, but instead undermines the WTO Sanitary and Phytosanitary Agreement and invites other countries to renege on their international

obligations.

When the EU chose not to comply with the WTO ruling to lift its hormone ban, the United States suspended concessions on a list of EU products in July 1999 to encourage the EU to find a resolution to the problem. The WTO arbitrator had previously determined that the trade damage to U.S. beef from the EU's hormone ban was \$116.8 million annually. We also explored with the EU the option of labeling beef as a product of the United States, in conjunction with a lifting of the ban. Most of our producers and packers are proud to make that claim. Unfortunately, the EU has not taken us up on this offer.

The purpose of the retaliatory duties is relevant with regard to the intent of S. 2709, the "Trade Injury Compensation Act of 2000," introduced by Senator Baucus and others. As we understand that legislation, it would establish a fund, appropriated at an equivalent amount to the additional duties imposed under the beef hormone retaliation list, to be used to provide assistance to the U.S. beef industry for market development, consumer education, promotion in overseas markets, and beef quality improvement.

While we can certainly understand the impetus for the legislation, the purpose of the retaliatory duties is to bring about WTO compliance by making trade in the sanctioned items prohibitive. In other words, the 100 percent duties commonly

imposed in these cases are intended to be so onerous as to prevent trade from occurring and, thereby encourage the losing party either to eliminate its offending practices or to offer compensation in some other fashion. If the duties have the intended effect, then the items would not be imported and thus no duty would be collected. Therefore, a fund established on the premise that such duties would be collected would likely earn very little revenue.

#### **U.S. Beef Exports Are Rising**

While this scientifically unjustified ban has gone on far too long, the U.S. livestock industry has not been sitting still. Working in partnership with the U.S. Department of Agriculture (USDA), American livestock producers have used all the tools at their disposal to open and develop new market opportunities. As a result, U.S. beef exports represent one of the true success stories in our agricultural trade.

For as far back as our statistics go, the United States has been the largest beef importer in the world. Not until 1981 did we export even one-tenth the amount of beef that we imported. However, in the decade of the 1990s, U.S. beef exports really took off. Today export sales account for more than 9 percent of U.S. beef production and constitute an integral part of the income of U.S. ranchers. We now export, on a volume basis, more than 80 percent of what we import and our trade surplus in beef exceeds \$1 billion annually.



We can point to three key elements for this successful export strategy.

1. The U.S. beef industry's commitment to exports and servicing overseas customers;
2. The successful public-private partnership between USDA with its export programs and the beef industry, most especially the industry's export arm, the U.S. Meat Export Federation (USMEF); and
3. The government's success in opening up new market opportunities through trade negotiations and its diligent enforcement of these agreements.

Let me expand upon each of these factors in turn.

It was not so long ago that we heard as a common refrain that U.S. companies were interested only in our domestic market and perceived foreign markets only as outlets for surplus disposal. While perhaps once true, that cannot be said today of the U.S. beef industry. The beef industry, from producer to processor, has proven itself a sophisticated player in the global marketplace and a leader in processing innovation and product development. It is committed to both quality products and quality service. This is proven by the export numbers and by the industry's actions.

For example, when the Mexican peso collapsed in 1994 and U.S. beef sales plummeted 60 percent, the U.S. beef industry took a long-run view and worked creatively with its customers to maintain business relationships until Mexico's

economic fortunes improved. Mexico's economy recovered quickly, and in two years U.S. beef exports were back on track and running at record levels. By maintaining a visible market presence and not losing sight of their customers' changed needs, the U.S. beef industry was able to engender goodwill and product loyalty. And, the dividends continue to pay off handsomely. Today, Mexico is the Number 2 market for U.S. beef, after Japan, with sales valued at over \$450 million last year, and this year exports are up 20 percent over last year.

#### **FAS Role**

Central to the beef industry's ability to exploit market opportunities when they arise or to weather the downside of foreign market developments is the close cooperative relationship that exists between the industry and USDA. Our relationship with the beef industry's export arm, the USMEF, dates back to 1973. Along with significant funding provided by industry to develop overseas markets, USMEF also receives Foreign Market Development (FMD) funds and Market Access Program (MAP) funds, both administered by USDA's Foreign Agricultural Service (FAS). FAS and USMEF have worked hand-in-hand from the very beginning to increase U.S. beef exports, with FAS taking the lead in negotiating improved market access and USMEF spearheading the promotional efforts to take advantage of market liberalization as it occurred.

This partnership was instrumental in developing the Japanese market, which has grown during the past 20 years from a \$200 million market for U.S. beef producers to a \$1.7 billion market. Other examples of this successful partnership include introduction of the successful American Beef Club in Poland, headway in introducing new beef cuts into China, and the opening of meat training schools in Singapore and Korea for butchers and chefs throughout Asia.

Our partnership with the industry to promote U.S. beef exports extends beyond market promotion funding to include the myriad export programs operated by USDA, such as the export credit guarantee program. Export credit guarantees were absolutely critical to maintaining market share in important beef markets such as Korea during the stormy days of the Asian financial crisis.

As I mentioned, our partnership with industry is predicated upon each of us doing what we do best. For those of us in the Executive Branch, that means opening doors to new markets and keeping those doors open. The hard work, in fact, takes place not just at the negotiating table but also in the implementation phase, often outside the limelight.

In this difficult task we rely on our global network of agricultural counselors and attaches stationed in key markets around the world who serve as the Department's eyes and ears. For example, our office in Seoul, Korea, together with

our analysts in Washington, DC, identified early on Korea's failure to live up to its commitments under the U.S.-Korea beef agreement. This early warning allowed us to be proactive in dealings with the Koreans and ensure that when Korea fully liberalizes its beef market at the end of the year it will do so in the most trade-enhancing way possible.

**Conclusion**

Mr. Chairman, there are over 800,000 beef cow operations in the United States today and thousands of additional cattle feeders. Increased market access, reduced trade barriers and high-quality U.S. products continue to make the livestock sector one of the shining performers in the overall U.S. agricultural export picture.

We appreciate the Committee's efforts to address the frustrations of our livestock producers as we continue to work to resolve the hormone issue with the EU. When the EU and its member states signed on to become WTO members they agreed to abide by all WTO rules. It is time for the EU to honor its commitments under international agreements. From this side of the Atlantic, it appears that the EU leadership has painted itself into the proverbial corner. Rather than exercise leadership and responsibility for food safety issues, EU leaders have chosen to ignore sound science and instead have chosen political expediency -- not just on the hormone issue, but on other issues such as agricultural biotechnology. We must

move these bilateral trade issues out of the realm of politics and back to the realm of sound science where they belong.

We would be happy to work with the Committee to explore these issues further and talk about appropriate ways to compensate our cattle ranchers. In the meantime, we will continue to use all available trade policy and market development tools at our disposal to ensure the best outcome for the American livestock sector.

That concludes my statement, Mr. Chairman. I will be pleased to answer any questions.

**Testimony of Ambassador Peter L. Scher  
Mayer, Brown & Platt  
before the  
United States Senate  
Subcommittee on Forestry, Conservation, and Rural Revitalization  
Committee on Agriculture, Nutrition and Forestry  
September 21, 2000**

Thank you, Mr. Chairman and Members of the Committee. I am honored to have the opportunity to testify today regarding the beef hormone dispute with the European Union. As the former special trade negotiator for agriculture at USTR, I worked closely on this issue for some time and understand its importance to the U.S. beef industry. I am happy to appear today as a private citizen to offer an overview of the history of this dispute, as well as to discuss briefly this issue in the broader context of the WTO dispute settlement system.

*Retaliation and Sovereignty*

Before addressing the history of our dispute with the EU and offering some comments on how I think we can help bring about relief for the beef industry, I'd like to put this dispute into the larger context of the World Trade Organization dispute settlement system. In particular, I want to talk about the difficult balance struck between the issues of retaliation and sovereignty.

Here in Washington many of us will remember that the question of sovereignty was central to the 1994 congressional debate over U.S. entry into the WTO. Perhaps more than any other issue, the debate in Congress was about whether we were unwisely subjecting our laws and our authorities to the jurisdiction of bureaucrats from Geneva. Several Senators even went so far as to propose a commission of former judges to review decisions of the WTO.

Today, many of those who insisted that the WTO should not have the authority to order the United States to change its laws have shown great frustration that the EU failed to comply with the panel findings in the case of both the beef and the banana disputes.

The painful reality is that in both of these cases, the system has worked as it was intended, and as the United States intended. Where a country fails to comply with a panel finding, in this case Europe, penalties are assessed. Like the United States, the European Union has the absolute right under the laws and the agreements we negotiated not to change its laws. Of course, the injured country has the right to impose retaliation.

Make no mistake, the EU is still at great fault for its approach to both of these cases, an approach which has damaged the credibility of the WTO system in the eyes of many Americans. This is particularly true in the beef hormone dispute. Europe's approach is damaging to the credibility

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of the system not simply for their failure to comply, but for their cynical approach to the system in the first place. One does not need to be a great expert in European affairs to know that the EU lacks the political will to allow the importation of hormone-treated beef at this time. As much as I, and most of us here, may disagree with these views, that is the reality.

Frankly, it would be far better for the system as a whole for the EU to simply acknowledge this reality: it should accept the findings of the panel, invoke its right to maintain its regulations, and pay the penalties imposed by the WTO. There could be no greater demonstration that the WTO does respect the sovereign power of nations than such an act.

Instead of this honest and lawful approach, the European Commission has embarked on another effort, after ten years of failure, to use pop science to justify a ban that has no real scientific or health rationale. *The Financial Times*, a London-based newspaper, commented last year that the EU's ban is not a scientific ban, but a political ban. This, I believe, is what strains the credibility of the system and leads to many of the complaints that the EU will bend the rules to suit its purposes.

The irony of all of this of course is that the prime cheerleader for a new system was not the United States, but Europe, and other countries who expressed their ongoing frustration that our 301 law put the U.S. in the position of being the judge, jury and executioner of international trade disputes. While never being so bold as to say this, many countries believed that by making the new dispute settlement system binding, it would kill 301.

I recall when first joining the Clinton Administration in early 1995 as we were threatening Japan with unilateral sanctions for their failure to open their market to imports of automobile and auto parts, it was the European Trade Commissioner who came to Washington to lecture all of us on the need to use the new WTO system to resolve disputes.

The United States has used the system, and even when we have not prevailed we have taken great efforts to comply with the results of panel decisions, even when not politically popular.

#### *History of the Dispute*

Mr. Chairman, let me address the specifics of the beef hormone dispute. This dispute is rooted in a mix of political, economic and cultural factors which have combined to make it one of the more lengthy – and acrimonious – trade disputes with one of our major trading partners.

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To fully trace the origins of this dispute we have to go back to the late 1970s. It was during this time that a few incidents of hormone-related illnesses appeared and were eventually linked – in the press, if not scientifically – to the illegal use of the hormone dethylstilboestrol (DES) in veal production. This led to a crisis of consumer confidence in the use of hormones in meat production, and in 1980 the European Commission (EC) proposed a ban on the use of all hormones (both synthetic and natural) in livestock production unless the hormone was administered for therapeutic purposes.

While consumers probably had a right to be concerned due to the high percentage of illegal – and incorrect – use of hormones, consumer fear in the EU for food safety was exacerbated by the fact that the European Union does not have an FDA-style regulatory body charged with protecting consumer health and setting policy on food safety issues. And the national-level regulatory bodies of the member-states have not always instilled a great deal of consumer confidence in citizens of the member states. In fact, one of the main problems is that these regulatory or oversight bodies are staffed with politicians, not scientists, and are not always trained to handle the complex health and science issues present in food safety discussions.

Another factor contributing to the EU ban on meat imports is the EU's own meat production industry. When the issue first arose, the illegal and unregulated use of hormones in livestock production in several European countries was one of the key considerations in the decision to ban the use of hormones. In addition, the EU must also have considered the status of domestic beef producers and the attraction of limiting beef imports that would compete with domestic production and interfere with operation of the Common Agriculture Policy (CAP).

These factors all worked together toward the eventual ban of beef hormones. In July 1981 the EC Council of Ministers adopted the 1980 directive which banned five hormones used in livestock production. The EC then began a study to provide a scientific assessment of the effects these hormones might have if used for growth promotion. This report, the Lamming Report, while calling for more study, concluded that most of these hormones were not harmful when used properly, and suggested the implementation of control programs and monitoring systems to ensure safety. These findings were eventually rejected and the EU issued Directive 85/649/EEC which banned the use of all six hormones for growth promotion purposes, including a ban on the import of meat and products produced with these hormones. The ban was to take effect on January 1, 1988, but was eventually delayed to January 1, 1989.

During this time, the U.S. government was working to oppose this process both through bilateral consultations and through the GATT. In September of 1986 the U.S. raised this issue with the Committee on Technical Barriers to Trade. In 1987 the U.S. invoked dispute settlement under



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the Tokyo Round Agreement on Technical Barriers to Trade. The U.S. also held negotiations directly with the EU. Both bilateral and multilateral mediation efforts were unsuccessful.

Finally, President Reagan announced retaliatory tariffs on about \$100 million worth of EU imports – approximately equal to the value of lost meat exports to the EU – in December of 1987. The tariffs did not actually go into effect until January 1, 1989, but they remained in place for over six years.

While the EU was successful in blocking attempts by the United States to mediate this dispute under the GATT, the U.S. was afforded the tools to address the ban multilaterally when the Sanitary and Phytosanitary Agreement (SPS) came into force under the new World Trade Organization in January 1995. The SPS Agreement allows governments to adopt food safety measures but requires that these measures be based on science. The ongoing beef hormone dispute was one of the reasons the U.S. pushed so hard in the Uruguay Round negotiations to adopt just such a mechanism to challenge trade barriers disguised as consumer protection. The WTO also set out for the first time a specific dispute-resolution procedure with a clear timetable for each stage of the process.

The beef hormone dispute had the distinction of being the first such case to be tested under the new SPS agreement. It had become clear that despite the findings of numerous scientific studies (including studies commissioned by the EU) that the EU would not lift its ban on beef imports. In July of 1995 the Codex Alimentarius Commission (an international organization that recommends food safety standards) voted to approve the use of natural hormones in meat production. In November of 1995 the EU's own study conducted by the Scientific Conference on Growth Promotion in Meat Production concluded that there was "no evidence of human health risk arising" from the controlled use of five hormones: oestradiol beta 17, progesterone, testosterone, zeranol, and trenbolone, all of which are approved for use in the United States.

Despite these findings, two months later the European Parliament voted to maintain the ban. The U.S. then requested consultations under Article XXII of the WTO, and after objections by the EU, was eventually successful in forming a dispute settlement panel in July of 1996. Australia and New Zealand joined the United States in challenging the ban and Canada also initiated its own panel on the same issue.

One year later the panel vindicated both the U.S. and the Canadian positions. The WTO panel found that "the scientific conclusions reflected in the EC measures in dispute...does not conform to any of the scientific conclusions reached in the evidence referred to by the European

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Community.” A subsequent appeal to the WTO Appellate Body by the EU was unsuccessful and the EU was given until May 13, 1999 to comply with the findings of the panel.

As we all know, the EU did not comply and the WTO authorized the U.S. to retaliate. The U.S. did so by applying 100 percent duties on a broad range of EU agricultural products beginning on July 29, 1999. So far, these sanctions, while imposing a penalty on the EU for its non-compliance, have not resulted in a lifting of the ban nor have they helped the beef industry.

*Beef Hormones and the Dispute Settlement Process*

Mr. Chairman, the beef hormone dispute holds important lessons about the WTO dispute settlement process. As a starting point, it is important for us to remember that in the vast majority of cases the dispute settlement process has worked. Since 1995 the U.S. has filed 53 complaints with the WTO, and in fact, we have been the most active user of the dispute settlement mechanism. So far 28 cases brought by the U.S. have been concluded. Of these 28, the U.S. won 13 cases in panel proceedings and successfully settled 12. In all but two of these cases our trading partner have made the required changes to their trade regime. The two exceptions, as you know, are beef and bananas.

Where the WTO dispute settlement process has not resulted in changed behavior, it is important to remember the underlying reason: The WTO cannot force sovereign countries to change their laws. However, the WTO does require that countries who fail to comply with the rules pay a price.

The failure of the old GATT system showed us that the credible threat of retaliation is a critical component to resolving international trade disputes. The United States must continue to be willing to retaliate when its rights are aggrieved. In some cases, the imposition (and even the threat) of 100 percent tariffs may lead to removal of the illegal trade barrier. Where the barrier is not removed, the offending country must pay a price. Certainly, the European Union is now paying a price for its intransigence. The new carousel provisions provide an additional tool for administrations to apply as they seek to create leverage – or to craft an appropriately significant penalty.

There are a couple of ways in which current retaliation system has fallen short – and S.2709, the Trade Injury Compensation Act of 2000 (TICA) under discussion today, addresses one of these shortcomings. Most significantly, TICA seeks to ensure that the injured party in a trade dispute receives compensation. For example, while the current system imposes a price on the EU, it does nothing to provide relief to American ranchers for the ongoing injury caused by the EU. TICA

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represents a major improvement over the current system by establishing a mechanism to channel relief generated from the penalty to the injured party.

In this regard, there is one refinement that this Committee – and Administration officials – may want to consider in addressing the retaliation issue. The current retaliation practice has been to impose 100 percent tariffs on goods with the express purpose of keeping them out of the US market. While some goods – such as luxury goods – can absorb the steep price hike, these tariffs generally succeed in blocking goods.

While this approach is sometimes sufficient to force an offending country to bring its rules into compliance with the WTO, there are several problems which need to be considered. First, Administrations, as well as the Congress, must deal with the very real problem of harming innocent bystanders. In the case of beef and bananas, USTR received more than 400 comments seeking the removal of particular items from the list. These comments came primarily from US parties – including many Members of Congress – concerned about blocking the import of particular goods. A second problem with attempting to block goods completely is that very little, if any, tariff revenue is generated.

In certain cases, one solution to consider may be the imposition of lower tariffs on a wider array of goods. For example, instead of 100 percent tariffs on a small list of goods, USTR could impose a 10 - 15 percent tariff on a larger list of goods. Because they are far lower, these tariffs would be less likely to block goods completely from the U.S. market. And because actual tariff revenue would be generated, it would be possible to provide appropriate compensation for the aggrieved party in a trade action.

Make no mistake, we should never be cavalier about raising tariffs, even when authorized to do so by the WTO. But remember, we're talking about the limited number of cases where countries refuse to comply with WTO decisions and some type of retaliation is already assumed. In these rare cases, the best balance of interests may be a level of tariff that: imposes a significant penalty; harms fewer innocent bystanders because it still allows most goods to be traded; and generates actual tariff revenue which can be channeled to aggrieved parties.

Mr. Chairman, the beef hormone dispute is a complex issue that requires balancing a number of priorities. There are no clear-cut solutions. While the current system has proven to be successful in some respects, refinements such as TICA and adjustments to tariff levels, could make the system more effective. The hearing today is an important step toward accomplishing that goal.

Thank you for the opportunity to speak before the committee.



**NATIONAL CATTLEMEN'S BEEF ASSOCIATION**

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Testimony

On behalf of the

**NATIONAL CATTLEMEN'S BEEF ASSOCIATION**

In regard to

**Trade Injury Compensation Act (TICA)**

Submitted to

**Senate Agriculture, Nutrition and Forestry Committee,  
Forestry, Conservation and Rural Revitalization Subcommittee,**

The Honorable Larry Craig, Chairman

Submitted by

Dana R. Hauck  
Chairman  
NCBA International Markets Committee

September 21, 2000

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Producer-directed and consumer-focused, the National Cattlemen's Beef Association is the trade association of America's cattle farmers and ranchers, and the marketing organization for the largest segment of the nation's food and fiber industry.

**AMERICA'S CATTLE INDUSTRY**

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Chicago

Statement of Dana R. Hauck, Chairman  
 NCBA International Markets Committee  
 Forestry, Conservation and Rural Revitalization Subcommittee,  
 Senate Agriculture, Nutrition and Forestry Committee  
 September 21, 2000

Thank you for hosting this hearing regarding the proposed Trade Injury Compensation Act. NCBA appreciates the opportunity to discuss a long-standing trade dispute with the European Union and to improve how the process might be improved to benefit US beef producers. I am Dana Hauck, a beef producer from Delphos, Kansas, and Chairman of NCBA's International Markets Committee.

**The EU Beef Case:**

**Background** -- The EU has essentially banned imports of US beef since 1989. This thinly disguised trade barrier was implemented in the name of consumer protection in spite of ample scientific evidence that production technologies approved by FDA and widely used in the US, but prohibited in the EU were safe. The US government complained in the GATT, but the EU, as was permitted at that time blocked dispute resolution.

After the WTO replaced the GATT the US filed its formal complaint in January 1996, claiming the EU beef ban was a non-tariff trade barrier. Australia and New Zealand joined the United States in the action. Canada filed a separate case, and the final report addressed issues raised in both (US and Canadian) cases. These were, in effect, test cases for the application of the Uruguay Round Agreement on the Application of Sanitary/Phytosanitary Measures.

Following a series of legal actions and appeals a WTO arbitrator upheld all previous rulings and gave the EU until May 13, 1999 to bring regulations into compliance with WTO guidelines. Under WTO procedures the EU was then obligated to modify its regulations by May 13, 1999 to comply with the ruling or the United States could retaliate. Unfortunately the EU was unable to modify its regulations and on July 29, 1999 the US began implementing retaliatory measures against exports from the EU valued at \$116.8 million.

The objective of the US beef industry has always been to re-gain access to the European beef market, not retaliation. Retaliation or current proposals for compensation will not benefit the beef industry and these alternatives are viewed only as a means to an end – access to the EU market – and not the primary objective. Based on the criteria of market access as the primary objective, one could say that the WTO dispute settlement process has not worked -- we still do not have access to the EU beef market. However, compensation and retaliation are also possible outcomes for any WTO case and the US has implemented tariffs of 100 percent on \$116.8 million of EU goods consistent with alternatives provided in the WTO dispute settlement process. They provide a "burr under the saddle" to push the EU to compliance. From that perspective the WTO dispute settlement process has worked, though the industry has not yet achieved its objective.

Although the EU beef industry has been rocked by "mad cow" disease" and US beef has not caused a single case of this disease in the US or anywhere else, the US beef industry continues to be unfairly shut out of the European market after more than a decade. Since 1988, the United States has shown extreme patience relative to efforts to remove this scientifically, economically, and legally indefensible barrier to US beef. Our patience is gone. US cattle producers have won all rounds in the effort to require the European Union to comply with international trading rules and eliminate its ban on US beef. We are willing to work with Senate and House leadership, with the Administration and with representatives of the EU to exercise our right to sell US beef in Europe.

**Objectives:**

**Safety** -- The primary objective for the US beef industry is to produce a safe and wholesome product for domestic and international consumption. Beef producers consume US beef and so do their families. Scientific evidence clearly shows that growth-promoting technologies used by the US beef industry are safe. During the past decade, the EU has not been able to cite scientifically valid reasons for the ban. A scientific conference convened by the EU in 1995 and the WTO panel and Appellate Body have confirmed that our product is safe.

All beef naturally contains hormones. Indeed, three of the hormones in question are essential for life and occur naturally in widely ranging amounts in all plants and animals. The natural levels found in other animal foods, including eggs, milk or butter, are substantially higher than levels found in beef. Plants also produce the equivalent of sex hormones -- soybeans, wheat germ and even broccoli contain high levels of plant estrogens. The other three compounds in question are synthetic alternatives that closely resemble the three natural hormones. These compounds do not leave residues and scientific analysis cannot differentiate between beef produced with and without their use.

**Market Access** -- Our goal is not retaliation. Our goal is to sell our product in Europe -- an opportunity guaranteed by the WTO rules. The objective of the US beef industry is to re-gain access to the European beef market. Retaliation as currently implemented does not benefit the beef industry, and should be viewed only as a means to an end -- market access -- not the primary objective. Unfortunately, the EU's track record indicates that it will only seriously consider resolving trade disputes if it is confronted with the reality that retaliation is inevitable and that the US is willing to exercise its rights under the WTO Dispute Settlement Understanding to the maximum extent allowed by law.

**Alternatives:**

**Labeling** -- The US beef industry consulted with USTR and USDA and approved an earlier Administration offer to the EU for market access with approved USDA labeling. NCBA supports country-of-origin labeling for beef in the domestic and international marketplaces and is willing to consider various labeling alternatives to inform EU consumers about US beef. At the same time we are not willing to accept labels that would be unduly prejudicial and discriminatory.

It is difficult to see why US beef producers should accept a discriminatory labeling regime in Europe whereby our beef is labeled as having been "treated" with hormones while European beef which -- legally, under EU rules -- may be produced from cattle administered hormones for "therapeutic" purposes. Still, the US beef industry is willing to explore alternative labels that might be acceptable if the EU would negotiate on this point. To date they have not.

**Retaliation** -- We regret the need for retaliation. We realize that retaliation is contrary to our industry's generally pro-trade philosophy, and that US importers of EU products, and ultimately US consumers are inadvertently impacted. Our strong preference is for the EU to comply with the WTO ruling and grant US beef access to the European market. That said, if the EU continues to refuse to comply with the WTO rule, the entire point of retaliation should be to put a 'burr under the saddle' sufficient to lead the EU member states to reconsider their position. For this reason we have always requested that the retaliation be swift and sure and that the list remain widely diversified with agricultural and non-agricultural products.

The WTO arbitrator approved retaliatory measures against exports from the EU valued at \$116.8 million. NCBA continues to believe that this is a very conservative estimate of the injury and that the value of trade would now exceed \$500 million annually as can be seen from the percent of increase in US beef exports to the rest of the world. For example during 1999 sales of US beef to Mexico -- a country with one-third the population and one-twentieth the per capita disposable income of the EU -- exceeded \$512 million.

**"Carousel" Retaliation** -- The US beef industry can again speak from experience on this issue. The 1989 retaliation against the EU in this case was suspended when the WTO case was initiated in January 1996. The 1989 retaliation was static and the burden fell mostly on Italy. Although it imposed some economic and political pain on Italy, it hardly affected the other 11 member states. Italy's interests were quickly written-off by the other member states, and there was no significant pressure to change the policy. For that reason, the US remained shut out of the market.

All EU member states carry responsibility for maintaining this illegal policy -- none should be immune from the effects of retaliation. Since each EU member believes other member states will bear the brunt of the US retaliation, there is minimal pressure within the EU to change or withdraw its ban on US beef. With the retaliation in the EU beef case set at only \$116.8 million, a static retaliation list has significant impact on the exports of only two or three member states out of the 14 (UK has been exempted from retaliation by the Administration in the beef case).

With this background the US beef industry and others have supported another enforcement tool where the retaliation list is revised periodically -- often referred to as "carousel" retaliation. NCBA and a broad coalition of agricultural organizations strongly supported the "Carousel Retaliation Act," S. 1619 with a bipartisan group of over 30 co-sponsors. As you are no doubt aware provisions of S. 1619 passed the Senate as part of the Africa Free Trade bill and were signed into law during May 2000 and we thank members of this Subcommittee for their support.

The Carousel Retaliation amendment was approved at a critical moment, as the EU steadfastly refused to come into compliance with the WTO's Dispute Settlement Body's ruling on the beef case after more than a year of retaliation. Now that the list of affected commodities is subject to change on a random basis, countries and/or commodities are never certain they have escaped targeting. This uncertainty is helping generate constant pressure on all offending parties to come into compliance with the WTO ruling -- and would be more effective if the Administration would implement the law.

EU intransigence has forced the United States to retaliate -- in accordance with WTO rules -- with 100 percent tariffs on selected EU products. Carousel retaliation legislation called for a substantial change in the list of European products subject to 100 percent duties every six months to induce compliance with World Trade Organization (WTO) rulings. As spelled out in the legislation the first date for the Administration to announce a change in the list of products was **June 19, 2000, three months ago.**

NCBA has been told since late June that an announcement regarding a change in the list is expected "any day." We have been willing to be patient and gave the Administration the benefit of some additional time for the interagency process to reach consensus. Action by the Administration is now three months late and recent news stories regarding Prime Minister Blair's concerns about items on the banana list indicate that there will be further delays. We respectfully request the continued leadership by this Subcommittee on this issue and ask that you contact the Administration and urge immediate release of the new beef retaliation list of EU products subject to 100 percent duties.

Once retaliation is taken, carousel retaliation seeks to ensure that it is applied in a way to best ensure compliance. This approach increases political pressure among EU member states for compliance or acceptable compensation and is uniquely applicable to -- and was conceived primarily for use against -- the European Union because of the EU's one-of-a-kind policy-making apparatus. Judging from recent comments from leaders in various EU countries carousel retaliation is having its intended effect of multiplying the "burr under the saddle" for all targeted EU countries.

**TICA -- Another Tool** -- As indicated earlier in this statement, retaliation is the least desirable of the three possible outcomes from a WTO ruling, but if we must resort this alternative it should be as effective as possible. Even with assessment of 100 percent duties, some trade continues for some products on the retaliation list. In the beef case \$35.65 million of products on the retaliation list have entered the US during the July 1999 through June 2000 period. At 100 percent duty level, this says in effect that some US consumers are willing to pay twice the original price and still purchase these products. It also says that \$35.65 million of unanticipated revenue are generated and paid into the US general treasury.

This "leakage" results in total retaliation being less than the \$116.8 million authorized by the WTO. In effect the US is authorized to place trade-prohibiting duties on \$116.8 million of EU goods, but we are only stopping trade on \$81.15 million of goods. Maximum pressure for a change in EU policy is not being generated.



There are two possible ways to address this leakage. First, duties could be increased to truly trade-prohibiting levels -- say 500 or 1000 percent. At those levels, US consumers would likely stop buying -- they would not be likely to pay 5 times or 10 times pay the original price and still purchase the product.

The second alternative brings us to the intent of the TICA legislation strongly supported by NCBA. Instead of punishing US consumers with trade-prohibiting tariffs, trade could be allowed to continue for those consumers who are willing to pay the 100 percent tariff with any tariff revenue generated going to the injured industry. These revenues will compensate the industry for the amount of under-retaliation resulting from leakage due to continuing trade. Contrary to some perceptions, this revenue should not be viewed as a subsidy to the industry. Keep in mind that the industry is allowed to stop \$116.8 million of trade and is only stopping \$81.15 million. The TICA revenues only bring the total package back to the original amount of retaliation allowed as compensation for under-retaliation -- \$81.85 million retaliation and \$36.65 million compensation, for a total of \$116.8 million.

The proposed legislation provides for a national promotion and research board to administer any revenues generated by TICA for "market development, consumer education and promotion of the beef industry in overseas markets." This provision assures equity across the beef industry. The Cattlemen's Beef Promotion and Research Board are "cattle producers and [beef] importers appointed by the Secretary [of Agriculture] from nominations submitted by eligible State organizations certified" [to meet criteria as set out in the enabling legislation]. Certified State organizations currently include state Farm Bureaus, Farmer's Unions, Cattlemen Associations, Dairy Producer Associations and other organizations. The Board currently funds various promotion, consumer education and research programs (among others) in the domestic US and in international markets, so the administrative and management expertise for any TICA revenues is already in place.

Foreign market development programs currently funded by the Board include consumer information and education programs. TICA funds could be used to educate European consumers about the safety and wholesomeness of US beef, about US production practices, new US production technologies and the FDA product approval process. Other international marketing programs currently being funded also include cooking classes for chefs, product demonstrations, classes for retail meat managers, consumer taste tests, and a wide range of other activities that could be adapted to promote US beef in the EU market.

Opposition to this proposed legislation will likely come from at least two camps and just as well be addressed up front.

First, the Europeans would be expected to object with a wide array of claims. This is very logical. After all they are currently paying a \$116.8 million tab with a check for \$81.15 million -- a 30.5 percent discount on the total amount owed. In addition, the Europeans can stop the revenue stream from TICA at any time. They just have to bring their regulations into compliance with the original WTO ruling or negotiate an acceptable package of compensation. In either instance all retaliation -- including carousel and TICA generated revenues would end.

Second, some may claim that TICA funds should go directly to cattlemen rather than to a fund for benefit of the total cattle industry. Philosophically this is probably a justifiable argument, but a look at the numbers makes it an impractical alternative. With expected revenues of \$35.65 and nearly 1.096 million operations with cattle (January 28, 2000 USDA Cattle Inventory Report), average revenue per operation would be less than \$33. Collection, administrative and postage costs would likely exceed the amount of revenue dispersed per operation.

Like other retaliation measures, TICA is not a silver bullet, it is just another tool in the toolbox and not a final objective. Revenues generated from TICA would help provide equity by compensating the US beef industry for the amount of under-retaliation from any trade that occurs after 100 percent duties are imposed. These revenues could be used on behalf of the entire cattle industry to directly communicate with EU consumers. A board of producers nominated by certified state organizations and appointed by the Secretary would administer programs funded by TICA. When used in conjunction with carousel revenues would change every six months as new products are added and taken off the list and as consumer willingness to pay the tariff and continue to purchase items on the list changes. And TICA will provide another "burr under the saddle" to help lead the EU member states to reconsider their position. In short, TICA is like other retaliation measures. It isn't perfect, but it is designed to be as equitable to the US beef industry as possible.

#### **Need to Generate Support for Trade:**

Despite the overwhelming evidence that the international market must be a focal point for market growth and economic vitality, there is a growing protectionist sentiment at the grassroots level. This sentiment is the result of increased questioning at state and local levels about the impacts of trade on individual agricultural producers and increased skepticism about the willingness of federal officials to aggressively negotiate and then enforce agreements favoring US interests.

The resounding 83-15 approval of the China agreement by the Senate has helped address agricultural concerns about willingness to negotiate and implement agreements favorable to agriculture. Unfortunately, EU cases continue to raise issues about willingness to go to the mat with our trading partners on enforcement. As in recent reluctance to release a new beef retaliation list, agriculture often seems to be left holding the bag. In addition, there is a growing lack of confidence even among "free" traders that our trading partners will live up to their obligations under negotiated agreements and the example of the EU's non-compliance with the hormone ban rulings is often used as an example.

NCBA supports the WTO and free trade because a majority of cattlemen understands that our growth market is beyond US borders. But we need enforceable global trading rules in place and in use that grant market access, settle disputes on the basis of science and reduce tariffs. Developing interagency agreement and focus on aggressive enforcement and negotiated settlements is important for maintaining public support for trade agreements, successfully negotiating increased access to international markets, and ensuring interests of US producers are not compromised.

The National Cattlemen's Beef Association is prepared to participate in the process of evaluating critical trade issues within the beef industry. NCBA looks forward to providing additional input as the US addresses other trade issues, including a new round at the WTO and approving legislation to provide authority for negotiating additional trade agreements. NCBA thanks the co-sponsors of this legislation and I thank you for the opportunity to present these comments.



EUROPEAN UNION  
DELEGATION OF THE EUROPEAN COMMISSION

Head of Delegation

September 21, 2000

The Honorable Larry E. Craig  
Chairman  
Subcommittee on Forestry, Conservation, and  
Rural Revitalization  
Committee on Agriculture, Nutrition and Forestry  
United States Senate  
Washington, D.C. 20510-6000

Dear Mr. Chairman,

Thank you for your letter of 7 September inviting me to provide testimony to the Subcommittee in the matter of the EU/US beef hormone dispute.

Under long-standing practice the Delegation of the European Commission should, other than in most exceptional circumstances, refrain from giving evidence before Congressional committees and, for this reason, I must decline your invitation.

However, this matter is of great concern to the European Commission because of the misunderstandings of the EU position on this issue which I think have characterized the debate in the United States.

Concerning the substance of the dispute, I must underline that the EU's ban on the use of hormones for animal growth-promoting purposes has been the subject of a great deal of analysis and consideration by expert, and wholly independent, scientists who advise the EU, including several scientists from the US. In their most recent risk assessment, they have identified risks which the use of hormones in beef production can pose to human health. Indeed, none of the studies usually cited by the US authorities cast doubt on the underlying scientific basis of the EC measures, namely the link between the hormones concerned and negative health effects. The fact that there are differences in the conclusions reached by the scientific committees advising the EU and those reached by the US government scientists is not completely unusual. As you know, it is quite possible in scientific questions to draw differing and equally legitimate conclusions from the same or similar scientific evidence. The on-going international scientific debate about the possible adverse effects of hormonal substances on human health is a clear testimony to that effect.


In the light of the latest independent scientific advice, which confirmed an earlier opinion of health risks associated with 17-beta-oestradiol and its derivatives and with the other five hormonal substances concerned, the European Commission has now set out legislative proposals designed to bring EU law into conformity with the WTO recommendations. In accordance with our lawmaking procedures, this proposal is now being considered by the European Parliament and by the Council of Ministers.

In the meantime, the European Commission very much regrets the withdrawal of trade concessions by the United States in the form of 100% tariffs on various exports from the EU. This has had the effect of straining trade relations, and harming both US customers and EU suppliers. Furthermore, there can be very few members of WTO, if any, which would be prepared to reduce their chosen level of public health protection, against the advice of independent scientists, under trade pressure

For this reason, while the EU sets about the legislative process to bring itself into conformity with the WTO ruling, we remain open to negotiate trade compensation. Our understanding is that the US would only be interested in trade compensation in the form of additional access possibilities for beef. Thus, the only possible product would be hormone-free beef certified as such under the non-hormone treated cattle programme. We were therefore disappointed to discover in 1999 residues of hormones in supposedly non-hormone treated US beef exported to the EU. However, I understand that the US authorities have made considerable strides in remedying the problems in the operation of controls for the non-hormone treated cattle programme to the extent that the European Commission is able to relax the tests at the port of entry, from 100% of consignments to the normal level of 20% of consignments for beef imports. We would expect this news to be welcomed by the US industry. If this provides an opening for the EU and US to substitute trade-restricting retaliation by trade-promoting compensation, we think that we shall have begun the task of reducing a serious item of bilateral trade friction.

The European Commission is grateful for the opportunity you provided to it to make its point of view known on this particularly difficult and technical file and we are ready, in accordance with the established practice and procedures, to provide more detailed information, if necessary.

Yours sincerely,



**Guenter Burghardt**  
Ambassador



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**DOCUMENTS SUBMITTED FOR THE RECORD**

SEPTEMBER 25, 2000

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**NATIONAL CATTLEMEN'S BEEF ASSOCIATION**

1301 Pennsylvania Ave., N.W. • Suite 300 • Washington, DC 20004-1701  
 Phone 202-347-0228 • Fax 202-638-0607 • Web Site [www.beef.org](http://www.beef.org) • E-mail [cattle@beef.org](mailto:cattle@beef.org)

October 2, 2000

Ambassador Guenter Burghardt,  
 Delegation of the European Union  
 2300 M Street, NW  
 Washington, DC 20037-1434

Dear Mr. Ambassador:

In reference to your letter of September 21, 2000 to the Honorable Larry E. Craig, Chairman of the Subcommittee on Forestry, Conservation and Rural Revitalization, Committee on Agriculture, Nutrition and Forestry, United States Senate. In that letter you report "the latest independent scientific advice, which confirmed an earlier opinion of health risks associated with 17-beta oestradiol and its derivatives" and EU legislative proposals under consideration to remedy the issue. With respect to this legislative proposal we raise the issue of consistency and refer to the enclosed information regarding the estrogen content of birth control pills and many other foods with higher estrogen levels than beef -- produced either with or without growth promotants. I would also refer you to the following web site that lists maximum residue limits (MRLs) for products approved for use in the EU: <http://www.eudra.org/vetdocs/vets/mrl.htm>

US meat scientists have determined that one would have to consume 18,421 eight-ounce steaks produced using US technology to intake as much estrogen as is contained in one EU-approved birth control pill. We look forward to the announcement that estrogen is no longer approved for therapeutical use in cattle and horses in the EU and that birth control pills and all foods and beverages with higher estrogen content than beef have been banned in the EU. Then legislation banning US beef produced with growth promotants may be consistent with the EU's WTO obligations.

NCBA also regrets the need for trade restricting retaliation and would much prefer trade-enhancing alternatives. We have stated this preference repeatedly in testimony and other public comments. We view the adoption of the 20 percent testing requirement as a definite step in the right direction. As a token of our appreciation for eliminating the 100 percent test-and-hold requirement, we have requested that US negotiators now offer a reduction in the amount of retaliation in exchange for eliminating the 20 percent in-quota tariff. We are also willing to consider other offers of trade-enhancing compensation. So far none have been forthcoming through official negotiation channels.

I refer you to the following excerpt from our public comments during the Subcommittee hearing:  
 "In efforts to reach an amicable settlement, NCBA, working through US negotiators has proposed the following:

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**AMERICA'S CATTLE INDUSTRY**


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Denver

Washington D.C.

Chicago



- We have offered to label our product so that EU consumers could make informed purchasing decisions. Offer declined.
- We sent volunteer leaders to Brussels to meet EU representatives in Brussels to explore alternative political solutions to lift the ban. We were assured that there are none.
- Using a concept very similar to S 27099, we offered to settle for an annual lump sum cash payment from the EU treasury to the US beef industry in the amount of injury determined by the WTO. Offer declined.
- We have offered to accept interim compensation in the form of elimination of the 20 percent in-quota duty and a significant expansion of the non-hormone product quota -- but this would only become effective when meaningful trade of non-hormone product resumes at the pre-summer 1999 level. No response or counter offers."


The US beef industry also stands ready to do our share to reduce trade tensions and expand trade. However, any negotiated solutions must benefit the US beef industry and provide meaningful access to the EU market. History has proven that access to the EU market is an elusive and moving target. There must be some assurances that if producers meet all the requirements of the Non-Hormone Treated Program (NHTP) as agreed to by both the EU and US authorities that they will be able to offer their product to European consumers at the end of the process. Many have expressed concerns that even if they meet all of the requirements of the USDA certified NHTP that other trade-restricting measures will be enacted to prohibit access to the EU market. There must be assurance that this will not be the case.

Thank you for your letter and for providing an opportunity for the US beef industry to express our position. We look forward to further dialogue and to formal proposals through negotiation channels that will bring this issue to conclusion.

Sincerely,



George Hall  
President

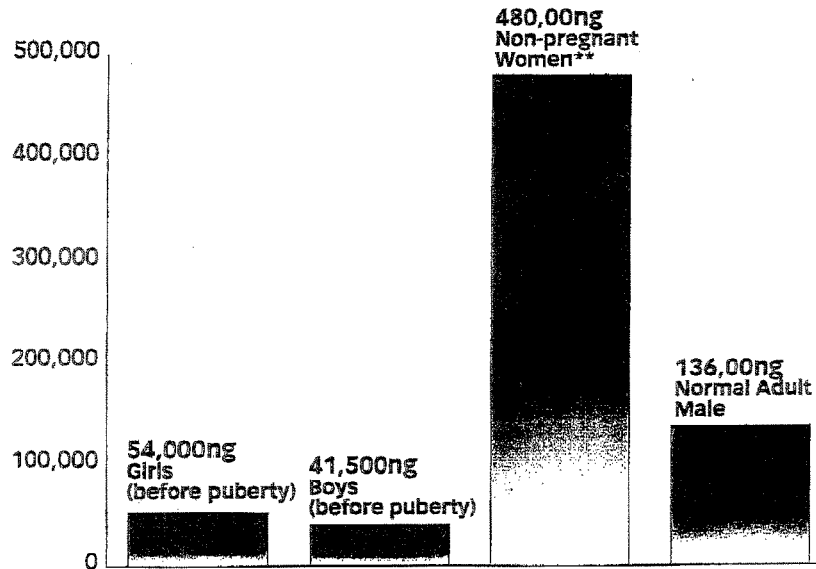


Dana Hauck, Chairman,  
International Markets Committee

Encl.



## Daily Human Estrogen Production (in Nanograms\*)



The scientific evidence worldwide overwhelmingly indicates there is no hazard to human health resulting from the consumption of beef from animals implanted with growth-promoting hormones. Hormones exist naturally in virtually all foods of plant and animal origin. In fact, the human body naturally produces hormones in quantities substantially greater than would ever be consumed by eating beef or any other food.

As shown in Chart A, natural estrogen production in humans on a daily basis is quite high. Estrogen production is measured in "nanograms." A nanogram is one billionth of a gram, which might be visualized as one blade of grass in all the blades of grass in two football fields.

The beef industry continually strives to improve the efficiency of producing high-quality products to meet consumer demand. Growth-promoting hormones have been used by cattle producers for over 30 years to improve the animal's ability to more efficiently utilize the nutrients that it consumes in order to produce more muscle and less fat. The hormones are administered by placing an implant (about the size of a pencil eraser) under the skin in the middle of the animal's ear. This location is used because the ears of cattle are removed after slaughter and not included in products for human consumption.

Animals that are implanted with these hormones grow as much as 15 to 20 percent faster than untreated animals. The cattle produce more lean meat and less fat than cattle raised without implants. What's more, cattle producers over 10 years ago established the Beef Quality Assurance program to ensure the highest quality product. Substantial testing by USDA shows that there are no residue problems with beef.

Source: Hoffman & Evers, 1986. (Presented as the summed production of Estrodiol-17 $\beta$  and Estroil per 24 hour period.) Levels are taken from pre-pubescent boys and girls and non-pregnant women.

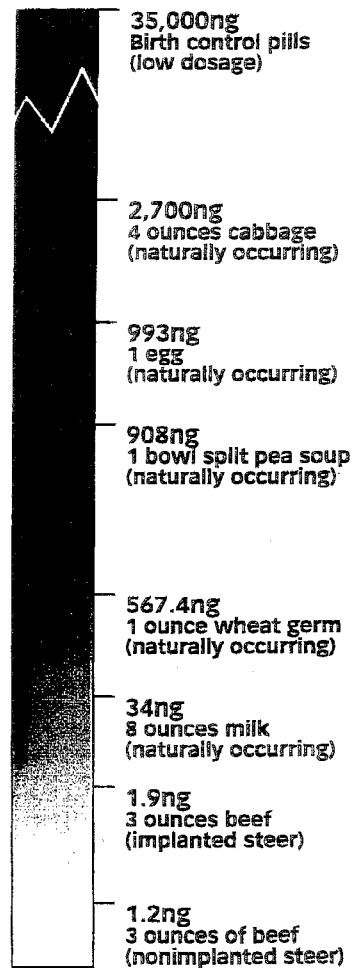
\*A nanogram is one billionth of a gram.

\*\*Will vary depending on a woman's monthly menstrual cycle.



## Estrogenic Levels (in Nanograms\*)

Hormones occur naturally in beef and virtually all other foods. The amount of hormones ingested by eating beef produced from both implanted and nonimplanted cattle is minuscule when compared to the amount of hormones produced in the human body daily. For example, in Charts A and B we compare the nanograms of estrogen naturally produced by the human body each day with the estrogen content found in 3 ounces of cooked beef and in other foods. We see that the estrogen content in beef is insignificant when compared to estrogen found in other foods and produced naturally by humans.



Source: Collins et al., 1989; Booth et al., 1960; Verdeal and Ryan, 1979.

\*A nanogram is one billionth of a gram.

Note: not to scale

## What Will They Ban Next?

### Beer? Wine? Milk? Peas? Eggs?

This is no joke. After over 10 years of trying to prevent Europe's consumers from buying High Quality U.S. beef, and after having failed to justify its ban with the World Trade Organization, the World Health Organization and the Food and Agriculture Organization, the European Union is seeking to claim that because U.S. beef contains oestrogen it must be bad.

Well, here's some news for you. So does all beef. Not just U.S. beef, but all beef, including European beef.

And not just all beef but also all beer, all wine, all milk, all peas and all eggs.

In fact, most of the food we eat contains oestrogen and often at much, much higher levels than beef. For instance, a litre of milk contains 19 times as much oestrogen as 250 grams of beef, and just one hen's egg contains the same amount of oestrogen as 6 kilograms of beef.

So why all the fuss? All that American farmers ask is to be allowed to sell here in Europe the same beef that is served to millions of European holidaymakers in the U.S. each year.

Of course, just like everything else, if you don't want to buy U.S. beef you don't have to. But, don't you think you should have the choice?

U.S. Meat Export Federation, Inc.  
1050 17th Street, Suite 2200, Denver, Colorado 80202



## International Agricultural Trade

September 21, 2000

### Dairy, Livestock, & Poultry Trade

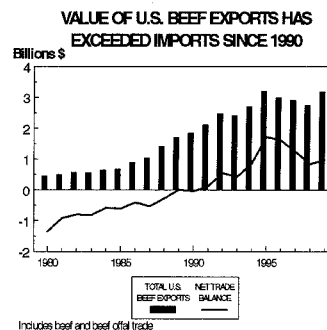
#### Bullish on U.S. Beef Exports

##### Overview

U.S. beef exports represent one of the true success stories in U.S. agricultural trade. For as far back as our statistics go, the United States has been the largest beef importer in the world. It was not until 1981 that the U.S. first exported even one-tenth the amount of beef that it imported. However, in the decade of the 1990s, U.S. beef exports really took off. Today export sales account for more than 9 percent of U.S. beef production and constitute an integral part of the profits and income of U.S. ranchers and cattlemen. Moreover, the United States now exports, on a volume basis, 80 plus percent of what we import; and the U.S. trade surplus (exports minus imports) in beef exceeds \$1.0 billion annually.

##### Three Keys to Success

- 1) The U.S. beef industry's commitment to exports and servicing its overseas customers.
- 2) The successful public-private partnership between USDA's export programs and the beef industry, most notably the U.S. Meat Export Federation.
- 3) The ability to open new markets through trade negotiations and diligent enforcement of these agreements.



##### U.S. Beef Industry's Commitment to Exports

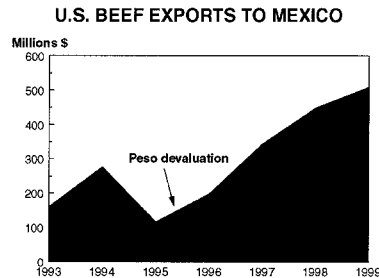
Not so long ago, American companies were criticized for viewing foreign markets as outlets for surplus disposal. While perhaps once true, that cannot be said of the U.S. beef industry today. The industry, from producer to processor, is a sophisticated player in the global market place, a leader in processing innovation and product development, and committed to both quality products and quality service.

When the Mexican peso collapsed in 1994 and U.S. beef sales plummeted 60 percent, the U.S. beef industry took a long-run view and worked creatively with its customers to maintain business

relationships until Mexico's economic fortunes improved. Mexico's economy improved quickly and in two years U.S. beef exports were back on track and once again experiencing record sales to this market. By maintaining a visible market presence, and not losing sight of their customers' changed needs, the U.S. beef industry was able to engender goodwill and product loyalty. The dividends continue to pay off handsomely. Today, Mexico is the second largest market after Japan for U.S. beef, with sales valued at over \$500 million last year.

### Public-Private Partnership

Central to the beef industry's ability to exploit market opportunities when they arise or to weather the downside of foreign market developments is the close cooperative relationship that exists between the industry and USDA. This relationship with the beef industry's export arm, the U.S. Meat Export Federation (USMEF), dates back to 1973. USMEF is a recipient of both Foreign Market Development funds and Market Access Program funds, both administered by the Foreign Agricultural Service (FAS). These funds together with significant funding from industry help develop overseas markets for U.S. beef. FAS and USMEF have worked hand-in-hand for over twenty-seven years to increase U.S. beef exports, with FAS taking the lead in negotiating improved market access and USMEF, using FAS market development funds, spearheading the promotional efforts to take advantage of market liberalization as it occurred.



The partnership has been an extremely successful collaboration. Membership in the USMEF includes a wide range of individuals, firms and associations that represent all facets of the beef industry. The organization has a worldwide presence with 13 foreign offices, most recently opening an office in Moscow. USMEF's marketing program is effective because it creates demand in foreign markets by working with and expanding the customer base for U.S. beef.

The general strategy USMEF uses to penetrate markets progresses along a market development continuum beginning with product introduction, education, trial purchases, repeat purchases and finally diversified purchases of meat products. The association provides a wide-range of services such as trade, retail, and consumer activities that build relationships with importers and distributors. A key element of their program is sound strategic planning, that provides them with marketing analysis and performance tracing to adjust their programs in individual markets in response to changing market conditions.

A clear example of the successful partnership between USMEF and USDA is what has happened in Japan, where the largest U.S. beef export market has grown from \$200 million to \$1.7 billion during the last 20 years. The combined government-industry efforts in opening that market and taking advantage of the access with effective promotion have made U.S. beef producers the number one supplier to the world's largest import market. More recent concrete examples of successful USDA/USMEF marketing initiatives include introducing the very successful American

Beef Club in Poland, making headway in introducing additional beef cuts into China, and opening meat training schools in Singapore and Korea for butchers and chefs throughout Asia.

Partnership with the industry to promote U.S. beef exports extends beyond market promotion funding to include the myriad of export programs operated by USDA, such as credit guarantee programs, food assistance under PL-480 and Section 416, Food for Progress, and the Emerging Markets Program. It was under Title 1 of PL- 480 that USDA programmed 46,000 tons of U.S. beef (valued at \$87 million) to Russia in FY 1999. Export credit guarantees under the GSM program were absolutely critical to maintaining market share in important beef markets such as Korea during the stormy days of the Asian financial crisis.

#### Opening the Door to Market Access and Keeping it Open

USDA's partnership with industry is predicated upon each doing what it does best. In government, this means identifying new and emerging export opportunities, opening the door to new markets, and keeping the door open so that U.S. exporters can walk through to the customer.

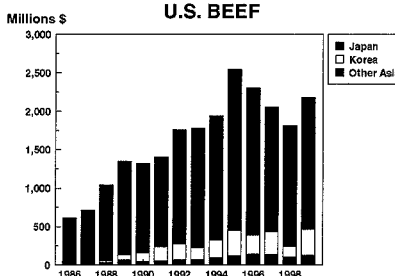
To open overseas market opportunities requires hard work not just at the negotiating table but also in the implementation phase, often outside the limelight. In this difficult task, USDA is reliant on its global network of agricultural counselors and attaches stationed in key markets around the world, who serve as the Department's eyes and ears. This global network produces critical market intelligence that forms the underlying structure to USDA programs and trade policy positions. The information and analysis allows us to exploit new markets, monitor trade flows, and identify competitor threats.

For example, it was the work of the Office of Agricultural Affairs in Seoul, Korea that enabled USDA to identify early on Korea's failure to live up to its commitments under the U.S.-Korea beef agreement. This early warning allowed us to be proactive in dealings with the Koreans and ensure that when Korea fully liberalizes its beef market at the end of the year it will do so in the most trade enhancing way possible.

#### Conclusion

It is the goal of USDA to make U.S. beef a center cut on the plates of consumers around the globe. While new horizons exist in China, Vietnam, Eastern Europe and elsewhere, exploiting these opportunities will require the continued collaboration between USDA and its industry partners.

**ASIA: THE GROWTH ENGINE FOR U.S. BEEF**



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*new FRs from Commerce*  
*Beet Hormone*  
*Retail List TRAP*  
*Bill*

1998	Jan	11,470,267	
	Feb	11,847,008	
	Mar	13,324,653	
	Apr	12,967,953	
	May	10,098,615	
	Jun	9,305,417	
	Jul	10,322,467	
	Aug	7,842,422	
	Sep	7,700,803	
	Oct	10,057,736	
	Nov	11,267,557	
	Dec	13,286,673	
1999	Jan	8,228,913	
	Feb	9,227,435	
	Mar	10,432,788	
	Apr	10,998,343	
	May	16,490,356	
	Jun	13,823,494	
	Jul	11,560,087	
	Aug	1,181,935	
	Sep	1,330,347	
	Oct	1,371,996	
	Nov	1,324,105	
	Dec	1,919,154	
2000	Jan	1,558,403	
	Feb	1,349,903	
	Mar	1,382,988	
	Apr	1,567,847	
	May	1,329,708	
	Jun	1,324,400	
	Jul	1,054,931	16,695,717 <i>— last 12 months</i>