

**CHINA AND U.S. AGRICULTURE: SANITARY AND
PHYTOSANITARY STANDARDS, A CONTINUING
BARRIER TO TRADE?**

ROUNDTABLE
BEFORE THE
**CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA**
ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

MARCH 26, 2004

Printed for the use of the Congressional-Executive Commission on China



Available via the World Wide Web: <http://www.cecc.gov>

U.S. GOVERNMENT PRINTING OFFICE

93-222 PDF

WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
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CHINA AND U.S. AGRICULTURE: SANITARY AND PHYTOSANITARY STANDARDS, A CON- TINUING BARRIER TO TRADE?

FRIDAY, MARCH 26, 2004

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The roundtable was convened, pursuant to notice, at 10 a.m., in room 2255, Rayburn House Office building, John Foarde (staff director) presiding.

Also present: David Dorman, deputy staff director; Susan R. Weld, general counsel; Selene Ko, chief counsel for trade and commercial law; Dale Nellor, agricultural legislative assistant, Office of Senator Chuck Hagel, and Carl Minzner, senior counsel.

Mr. FOARDE. Good morning, everyone. My name is John Foarde. I am the staff director of the Congressional-Executive Commission on China. I would like to welcome everyone to this issues roundtable of the CECC.

On behalf of Congressman Jim Leach, our chairman, and Senator Chuck Hagel, our co-chairman, and all of the 23 members of the CECC, welcome to our panelists and to all who are coming to listen this morning.

The topic that we are going to examine today may seem a little bit unusual for a commission with a mandate such as ours which concentrates on human rights, but also development of the rule of law. So it is probably worth taking a minute to say that, in our view, the development of the rule of law includes transparency and includes commercial rule of law development, particularly WTO implementation and compliance on the part of the People's Republic of China [PRC]. So, these issues are a big part of our work.

Among the many implementation issues that we have been looking into for the last 2 years are questions relating to the implementation of the agricultural commitments in the WTO and the related bilateral agreement that we signed in 1999 with China.

As the recent U.S. Trade Representative [USTR] report shows, China's record on implementation has been mixed. So, today we wanted to examine a key commitment, the WTO commitment on sanitary and phytosanitary standards [SPS].

I can see from the group here in the audience that everyone is familiar with those terms, but not everybody reading the record will be. So I will take a minute to say that I think we all understand what the word "sanitary" means, but "phytosanitary" may not be so quickly understood.

Unless I misunderstand, and I am sure the panelists will correct me if I do, phytosanitary measures means steps that pertain to plant quarantine, that is, activities designed to prevent the introduction and spread of quarantined pests or to ensure their official control. For short, we call these measures “SPS measures” when we talk about the SPS commitments in the WTO.

A word of context, though, before we get started. China continues to be an important market for U.S. agricultural products. We exported \$3.5 billion worth of farm products to China in fiscal 2003, and our estimates, I think, from the USDA for 2004 are somewhere in the neighborhood of \$5.4 billion. So at that level, China would be our fourth largest market for U.S. agricultural products.

Soybeans, hides and skins, cotton, poultry meat, soybean oils, and red meats are the principal products that we are sending to China. So China’s compliance with this WTO SPS agreement really matters to U.S. farmers and to the agricultural industry in the United States.

To help us examine these issues today we have three distinguished panelists. I will introduce them in more detail before they speak. We have Dr. Peter Fernandez, the Associate Administrator of USDA’s Animal and Plant Health Inspection Service [APHIS]; Merlyn Carlson, Director of Agriculture for the great State of Nebraska; and Paul Dickerson, Vice President of Overseas Operations for U.S. Wheat Associates.

We will conduct this roundtable the way we have been doing them for the past 2 years. Each of our panelists will have 10 minutes to speak. After 8 minutes, I will just remind you that you have 2 minutes left. Inevitably, you will run out of time before you make all the points you would like to make, but we hope that we can pick up those points in the question and answer session afterward.

When all three of you have spoken, we will recognize the staff experts here at the table for 5 minutes each to ask a question and hear the answer, and we will go until we run out of steam, or until 11:30, whichever comes first.

In a few weeks, we will have a transcript to you for correction, and this will eventually be not only printed as an official committee print of the Commission, but also the transcript will be online on our website.

Anyone who does not know how to find our website at *www.cecc.gov*, now knows how to find it. You will find the statements from this session, as well as others, there, and eventually the complete transcript.

A final duty. The office of Senator Gordon Smith has asked us to pose a question for the record. I understand that USDA will come back to us formally with a reply. So let me ask the question. “China has yet to respond to a U.S. request for a pest risk assessment [PRA] for Pacific Northwest pear exports to China. The United States submitted a pest list in 1995. We understand that USDA is unwilling to push this issue with China until the U.S. industry provides research on fireblight transmission on pears. The industry has started this research. However, a request for research prior to receiving a PRA documenting a country’s concerns is like putting the cart before the horse. When will China provide a PRA

on Pacific Northwest pears?” So, for the record, we would appreciate USDA’s response to that for Senator Smith.

[The response appears in the appendix.]

Let me then recognize Dr. Peter Fernandez, the Associate Administrator of APHIS. He serves as a U.S. delegate to the Office International des Epizooties, the international animal health standard-setting body, and is a member of the Senior Foreign Service. He was APHIS Regional Director for Mexico from 1995–1998, and also the Regional Director for South America from 1998 to late 2000.

Dr. Fernandez, thank you very much for sharing your expertise with us this morning.

STATEMENT OF PETER FERNANDEZ, ASSOCIATE ADMINISTRATOR, ANIMAL AND PLANT HEALTH INSPECTION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, DC

Mr. FERNANDEZ. Thank you very much. Thank you for asking me to take part in this roundtable discussion this morning. My name is Dr. Peter Fernandez and I am the Associate Administrator of the U.S. Department of Agriculture’s [USDA] Animal and Plant Health Inspection Service [APHIS].

Within USDA, APHIS is charged with protecting the health of U.S. agriculture. In doing so, our agency works to prevent foreign agricultural pests and diseases from entering the country through regulatory controls, development of sound animal and plant health policies, and anti-smuggling programs aimed at keeping risky agricultural products out of the United States.

The agency also conducts domestic surveillance and monitoring programs for serious pests and diseases and works with state and industry cooperators to eradicate economically significant ones. These activities allow us to ensure that U.S. agricultural products are healthy, abundant, and welcomed in the international marketplace.

As the primary Federal agency that addresses animal and plant health issues, APHIS also plays an important role in international trade. Officials with our agency convey information to U.S. trading partners regarding the pest and disease status of U.S. livestock, meat products, plants, and plant products.

In turn, we also evaluate the same information submitted to our agency by other countries when they want to export a new agricultural product to the United States.

APHIS evaluates such requests by analyzing the information submitted to us; working to collect and evaluate related scientific data; preparing risk assessments that evaluate any potential pest or disease risks to U.S. agriculture; and then, if appropriate, conducting public rulemaking to change our import regulations to allow the animal or commodity to enter the United States in such a way that any pest or disease risks are mitigated.

In a nutshell, this is how APHIS conducts our business when it comes to international trade, and, generally speaking, it is how our trading partners operate. I am able to say this because APHIS, as well as our counterparts in many other countries, all work under terms outlined in a very important international trade agreement,

the World Trade Organization's Agreement on Sanitary and Phytosanitary Issues.

As was mentioned earlier, in the international trade arena, sanitary and phytosanitary issues, commonly referred to as SPS issues, are the technical terms for animal and plant health issues.

The SPS agreement is critical to APHIS's work because it allows us and our trading partners to speak a common language when discussing trade issues. The SPS agreement encourages cooperative, instead of competitive, work. It has been our experience that the agreement is a highly useful and effective tool for opening new markets and making other important agricultural decisions.

The agreement allows governments to take necessary protective measures with regard to imports of agricultural products based upon sound science. However, it also provides the rules and structure to prevent the arbitrary use of such measures to impede trade.

As I said a moment ago, APHIS officials have the needed technical expertise and regulatory authority to address SPS issues. For instance, APHIS personnel with our Veterinary Services, Plant Protection and Quarantine, and International Services programs assist U.S. agricultural exporters by negotiating the plant and animal health requirements for U.S. products destined for foreign markets. They also review the scientific merits of other countries' agricultural health requirements and issue the necessary health certificates to accompany U.S. shipments.

APHIS also meets constantly with our counterparts on a bilateral basis to help negotiate resolutions to technical disputes, and we are also active participants in international agricultural standard-setting bodies like the International Plant Protection Convention and the International Office of Epizooties.

APHIS's trade support activity has increased tremendously in recent years as a result of trade liberalization and international trade agreements. Quite simply, agricultural health issues are important to every nation's ability to seek and maintain international trade markets.

Through trade agreements, the United States strives to open markets for U.S. producers. However, as trade agreements open the potential for trade, agricultural health issues emerge as critical hurdles that need to be cleared if active and reliable trade is to occur.

This is precisely APHIS's job, to supply the technical agricultural health information that our colleagues with the U.S. Trade Representative's Office, USDA's Foreign Agricultural Service, and other Federal agencies need.

APHIS officials work on critical SPS issues during trade negotiations with other countries, and also during interruptions to trade caused by domestic situations in the United States.

As I am sure you all know, international agricultural markets are highly sensitive to pest and disease outbreaks, and such situations can significantly affect access to those markets. Take, for example, the impact that the detection of Bovine Spongiform Encephalopathy [BSE] in the State of Washington in December has had on U.S. beef exports, not to mention the impact of the recent detections of avian influenza have had on the U.S. poultry export market.

Considerable USDA efforts and resources have been committed to addressing these diseases domestically, as well as to conducting export negotiations to retain market access for U.S. poultry and poultry products.

With that background, I will now turn to the SPS issues APHIS is working on with regard to China.

China's accession to the WTO in November 2001 was accompanied by a great deal of excitement: new export opportunities were expected to emerge, with significant gains particularly in the area of fresh produce. Almost 3 years later, some of these new market opportunities have been realized by U.S. producers, but others, due to SPS concerns expressed by Chinese officials, have stalled.

To meet these SPS challenges, APHIS has actively engaged our Chinese counterparts at the technical level. In 2003, our interaction with the Chinese increased significantly as we relocated our regional office for Asia from Tokyo to Beijing.

APHIS now has two Foreign Service officers working in Beijing and is slated to post a third Foreign Service officer at a new office in Shanghai. The new Shanghai office will be specifically responsible for monitoring the status of plant and animal pests and diseases in Chinese ports and production areas that ship agricultural products to the United States.

Also, last year, USDA's Under Secretary for Marketing and Regulatory Programs, Mr. Bill Hawks, and APHIS's Administrator, Mr. Bobby Accord, hosted the first U.S.-China Plant and Animal Health Regulatory Symposium in Beijing.

This symposium was designed to begin consistent, effective dialog between regulatory officials from the United States and China. Agenda topics included a range of different issues related to agricultural health and trade, and the meeting was very successful.

In addition to our annual SPS bilateral meetings with China, APHIS is also working to schedule routine monthly meetings with appropriate technical counterparts from China to help resolve outstanding SPS issues in a timely manner.

We believe strongly that regularly scheduled monthly bilateral technical meetings will be an effective way to sustain our dialog with China and help bring about mutually agreeable resolution to outstanding SPS technical issues.

In the last several years, working in this way, we have achieved some notable accomplishments. U.S. citrus—with continuing dialog on China's prohibition on imports from four counties in Florida—and tablestock potatoes from Alaska are now shipped to China. In terms of imports, APHIS has approved the entry of longans and lychees from certain areas of China.

Under Secretary Hawks likes to say that agricultural trade is a two-way street. In similar fashion, APHIS' experience in working with China on SPS issues has been that our accomplishments have been equaled by a number of significant challenges.

We are working very hard to convince China to ease their restrictions on U.S. beef and poultry, and we also continue to supply China with information attesting that U.S. stonefruit and potatoes from the Pacific Northwest do not present any pest risk to domestic Chinese agriculture.

For their part, Chinese officials have requested that APHIS consider allowing imports of Chinese apples, and China expressed a great deal of concern after APHIS suspended the Ya pear export program last fall due to detections of an exotic *Alternaria* on imported fruit being sold at commercial markets.

We all know that, in terms of SPS issues, China is a work in progress. As in any trade relationship, there has been progress with China on SPS issues and there have also been a number of setbacks.

But with these thoughts in mind, APHIS is staying engaged with our Chinese counterparts and will continue to encourage China to participate fully in international agricultural health forums by becoming full members of the International Plant Protection Convention [IPPC] and the World Organization for Animal Health [OIE]. We feel very strongly that these steps will help improve our relationship with China on SPS issues.

With that, I will turn things over to other participants and look forward to any questions that you might have.

[The prepared statement of Dr. Fernandez appears in the appendix.]

Mr. FOARDE. Dr. Fernandez, you are clearly an experienced panelist, because you have been remarkably well disciplined. I appreciate it.

I would like to now recognize Merlyn Carlson, who is the Director of Agriculture for the State of Nebraska, and past president of the Mid-America International Agri Trade Council. Merlyn is also the past chairman of the U.S. Meat Export Federation [MEF] and has served on the MEF Executive Committee. He has also served as president, and on the Executive Committee and Board of Directors of the National Cattlemen's Beef Association.

Welcome, Mr. Carlson. Thank you for sharing your views with us this morning.

**STATEMENT OF MERLYN CARLSON, DIRECTOR OF
AGRICULTURE, THE STATE OF NEBRASKA, LINCOLN, NE**

Mr. CARLSON. Thank you very much for inviting me to address you today. It is a privilege to speak to you on this important topic.

I have been asked to share with you information about the effects of the Chinese ban on U.S. beef imports following the finding of a single case of BSE in the United States.

Like over 50 other countries, in late December, China chose to shut its borders to live bovine and any related products from the United States. Our U.S. negotiators have been working to reestablish trade, and we applaud their efforts. It is important to say that the system has worked, but now is the time to move forward.

However, we are told that the Chinese officials continue to indicate they will take their cues from Japan in the opening of their market. I do not believe that this is in the best interests of China. Japan has made animal testing demands that are not based on science or practical experience, and negotiations are ongoing. While Chinese trade negotiators look to Japan for cues, consumers in China have indicated they still desire and want United States beef.

The Nebraska Department of Agriculture's Ag Promotion and Development Administrator Stan Garbacz returned just last Friday

from a trip to Beijing. While there, he had numerous opportunities to visit with beef importers, restaurant owners, and Chinese consumers.

Mr. Garbacz summed up his trip by saying it was “depressing and frustrating.” On the positive side, he said he was unable, during his numerous appointments, to find anyone that is concerned about potential health issues connected to consumption of U.S. beef. Instead, he found individuals who believe in the safety of our food supply and are asking for, if not demanding, more of our product. The depression and frustration stem from the knowledge that our customers are ready and willing to accept the U.S. product, but the Chinese Government will not allow it.

Some of these Chinese companies get over half of their meat products as imports, and they generally recognize that the United States has a better quality and more consistent product than other beef-producing nations. These companies have been allowed to use U.S. beef product that was in storage prior to December 23, 2003, but as those supplies have dwindled, these companies are gradually forced from business. So not only are we unable to service existing customers, but we are also losing these potential outlets permanently when they close their doors.

I personally also had the opportunity to travel to China earlier this year. I visited with importers and with Chinese consumers about U.S. beef. I must tell you, I was pleased with the response I received. In the wake of the Washington State BSE case, the industry and the Chinese consumers told me that they are hoping U.S. beef products could be made available again as soon as possible.

Like the company representatives Mr. Garbacz spoke to, these consumers expressed a belief in our food safety system. They are comfortable with the safety of our beef product, and they desired U.S. meat over that of other countries.

So what our experiences tell me is that China must consider the needs of its own consumers and citizens. The United States should continue to encourage Chinese Government officials to use science in its decisionmaking process. It is China’s obligation as a member of the World Trade Organization, and furthermore, it is what their citizens want.

As a point of digression, I want to note that the Chinese Government recently highlighted its openness to use these scientific principles in considering major policy decisions. Just last month, China announced approval of a permanent safety certificate for a number of biotechnology crops. This is encouraging. It would be my hope that a similar route will be followed in addressing the BSE situation.

If Chinese officials look to science for answers regarding BSE, I believe they will find that Nebraska, and the United States, can provide them with the quality and safe beef products that they desire. Even before December 23, the United States had in place a number of protective measures to lessen the opportunity for occurrence of BSE in our cattle population.

We have had a surveillance program in place since 1990, and we have banned imports of cattle and bovine products from countries with BSE since 1989. Most importantly, we have had a ban against feeding ruminant-derived meat and bone meal to cattle since 1997.

Feeding of such products is generally agreed to be the principal means of transmission of BSE.

In addition to these points of action, since December 23, USDA and FDA have implemented a number of actions to further bolster protection against BSE in our beef production system and in our food supply.

For example, non-ambulatory or disabled cattle and specified risk material are now banned from the human food supply. Mechanically separated meat also is now prohibited from use in the human food supply.

Animal feed production rules have been strengthened as well. For example, to prevent cross-contamination issues, facilities must have production lines that are dedicated to non-ruminant animal feeds if they use protein that is prohibited in ruminant feeds.

Just last week, USDA Secretary Ann Veneman announced an enhanced surveillance program as a means of making a thorough assessment of the status of the United States herd. This action was taken at the suggestion of the international scientific review panel, which reviewed USDA's response to the BSE case.

Animals of high risk will be focused upon, with USDA's goal to obtain samples from as many of these types of animals as possible. They will also obtain samples from animals that appear normal, but are older, since science has shown that these have a greater likelihood of having BSE than cattle under the age of 30 months.

While the enhanced USDA and FDA activities should serve as more than enough scientific justification for opening the borders to trade, States such as Nebraska are moving ahead with their own efforts at further disease protection enhancements. Even before the December 23 announcement, the Nebraska Department of Agriculture had stepped up its contact with feed manufacturers and animal rendering facilities in the State to raise awareness about BSE issues at the level of the livestock production chain.

The Nebraska Department of Agriculture also has moved ahead aggressively with the development of a state-wide animal tracking system. We intend to be compatible with whatever plan will be eventually implemented nationwide. Our model at present focuses on the beef industry, although other species will be added later. It will contain both premise identification and individual animal identification components.

The primary goal of the system is traceability for protection against and reaction to disease issues like BSE. However, we also intend to utilize this beef tracking system for marketing purposes. The idea is to work in conjunction with partners in the beef production cycle to create a closed loop, farm-to-fork tracing system.

Nebraska has chosen to move forward in the animal traceability arena because, frankly, we have a great deal to lose if foreign country borders remain closed to U.S. beef products. Already, the effects are apparent. For example, Nebraska generally is known for leading the Nation in commercial cattle harvesting and processing. A report released just last week by USDA highlights a 7 percent decline nationally in beef production during February 2004, compared to February 2003.

In that same report, Nebraska slid from first place to second in total cattle harvested. Our packing plants have had to cut jobs—

and some of them hundreds of jobs—as we continue to deal with the impact of the lost overseas markets.

I believe the beef industry in the United States, and Nebraska, has shown its desire to provide China and other U.S. beef importing countries the tools necessary to engage in a thorough risk assessment regarding the beef trade.

Given that many countries still have hesitated to recognize our enhanced animal disease protection measures, China has an important opportunity to distinguish itself as a leader. Clearly, we are hoping that the country's officials will recognize this and respond to the needs and desires of its citizens and its food industry representatives.

Thank you for allowing me to share our Nebraska perspective, and I welcome any questions that you may have. Thank you.

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

Mr. FOARDE. Thank you, Merlyn Carlson. All very good points. We will come back to some of them during the Q&A.

Next, I would like to recognize Paul Dickerson. Paul is the Vice President of Overseas Operations for U.S. Wheat Associates. U.S. Wheat has a long history in northeast Asia, and certainly in China, so it is a great pleasure to have you here.

Paul Dickerson was General Sales Manager and Associate Administrator of the USDA's Foreign Agricultural Service between 1989 and 1991. From 1986 to 1989, he was a consultant and marketing agent with Pacific Northwest. From 1978 to 1986, he was president and chief operating officer of Columbia Grain, Incorporated in Portland.

Paul, welcome. Thank you for sharing your views with us this morning.

STATEMENT OF PAUL DICKERSON, VICE PRESIDENT OF OVERSEAS OPERATIONS, U.S. WHEAT ASSOCIATES, WASHINGTON, DC

Mr. DICKERSON. Thank you. Thank you for this opportunity to discuss the U.S. wheat industry experience with trade to China. First, if I may, I would like to give some background on U.S. Wheat Associates [USW] and my experience in grain trading.

U.S. Wheat does not buy or sell wheat. Our job, since the 1950s, has been to develop and maintain export markets for American wheat. We are the marketing arm for the American wheat farmer, and over the years we have worked in nearly 100 countries. Our expert staff has a depth of knowledge on wheat issues that is unmatched anywhere else in the world.

We receive a third of our funding from U.S. wheat producers through checkoffs funneled through our 20-member state wheat commissions, but the remaining two-thirds of our budget, including all of our overseas work, depends upon USDA's Foreign Market Development program and the Market Access Program. We simply could not do our work without that support.

As Vice President of Overseas Operations for U.S. Wheat Associates, I direct the market development activities of U.S. Wheat's 15 overseas offices. I joined U.S. Wheat in 1992, first serving as regional Vice President of the South Asian region in Singapore, and

then moving to the Washington, DC, office in 1995. I will dispense with any other comments about my background.

It has been fascinating to be involved from all these angles from my past experience in the long, difficult history of U.S. trade with China. As you know, the U.S. agricultural community, including the wheat industry and the trade, was very supportive of China's admission to the WTO. While the outlook for significant wheat export opportunities looked promising, the results were initially quite disappointing.

Until very recently, the U.S. wheat industry faced continuing problems. While China reduced its old carryover stocks, which were more than needed, it used various devices to curb exports from the United States of quality wheat that its end users could import without a series of trade barriers.

There were three chief areas of concern affecting access to China's market:

First, Tariff Rate Quota [TRQ] implementation for the private sector was inadequate, in that individual allocations were too small, and there was no transparency. Companies had to combine TRQs in order to get a commercially viable volume.

Second, licenses that were supposed to be issued by the State Administration of Quality Standards, Inspection and Quarantine for commodity imports, were given for a limited period of time, which discouraged purchases.

Third, sanitary and phytosanitary barriers relating to TCK—a wheat smut—continued to be a problem, despite the Agriculture Trade Agreement that was reached in 1999, ending a trade dispute that began in 1972. The story about how this phytosanitary dispute over TCK evolved and was resolved is a long saga, which I will not go into today.

Let me just point out that, after decades of the best efforts of scientists from the U.S. Department of Agriculture and the wheat industry, an international panel conducted an independent pest risk assessment [PRA], following guidelines established by the U.N. Food and Agricultural Organization. In May 1998, the PRA was presented to Chinese officials. The public response to the PRA from the Chinese was, essentially, silence, until WTO talks began.

When negotiations between USTR and the Chinese Government began in earnest in 1999, we were grateful for USTR's support on the U.S. wheat industry's position: that there could be no WTO agreement without resolution of the TCK issue.

On April 9, 1999, the USTR announced that the agreement would allow U.S. wheat imports from any State to enter any Chinese port. The agreement allowed wheat imports that do not exceed a tolerance level of 30,000 TCK spores per 50 gram sample, a level that is easily met by U.S. wheat.

That agreement was translated into Chinese, and the USTR and Chinese officials officially "confirmed" that version in early December 1999, while the two countries were in Seattle for the World Trade Organization meeting.

Finally, in early 2000, the China National Cereals, Oils, and Foodstuffs Corporation, [COFCO], the official government buyer, announced their purchase of U.S. wheat, including wheat from the Pacific Northwest. It was the first largely unrestricted commercial

cargo of northwest wheat to be shipped to the People's Republic of China in 27 years.

The bulk carrier "Miyama" left the Columbia River on June 2, carrying 52,000 tons of wheat, 30,000 tons of soft white wheat, and 10,000 tons each of hard red winter wheat and hard red spring wheat. The resolution of the TCK issue was absolutely vital to the U.S. exports of wheat. With the agreement and with Permanent Normal Trade Relations [PNTR] status with China, the United States would increase its total wheat exports up to 10 percent each year.

There is a huge market potential for U.S. wheat in China. Between 1985 and 1995, on average, China imported 10 million tons of wheat each year—ranging from 4 to over 15 million tons—relying on imports during this time for just over 10 percent of its wheat needs. But then their domestic wheat production grew dramatically and imports dropped steadily since 1996, until this year.

China has drawn down its wheat stocks in recent years, most recently with domestic sales of nearly a million tons of old crop. They now produce about 86 million metric tons annually—for comparison purposes, the United States produced 64 million metric tons during the current crop year—but China's consumption is estimated at 105 million metric tons.

These three factors—lower stocks, lower production, and steady demand—now come together, forcing China to import wheat in much larger quantities than in the past several years. This "draw-down" in stocks has brought China back to the market as their domestic prices have increased.

China is buying wheat from the United States, purchasing nearly 3 million metric tons this year and next year, and COFCO representatives say there is more to come. But the question, until recently, was whether they would truly honor the agreement on TCK. Would they buy from Pacific Northwest ports? Would they ship? Would they continue to discourage their buyers from purchasing wheat from the United States? Would they off-load that wheat and put it into domestic circulation?

Last month, representatives from COFCO conducted a whirlwind U.S. buying tour. Before beginning its rounds of meetings in Washington, Chicago, and Portland, however, the COFCO team graciously agreed to meet with members of the U.S. media in the Nation's Capital. The chairman directly addressed concerns about whether TCK was still an issue in purchasing decisions, stating flatly that "the TCK problem has already been resolved. It is not a problem." He went on to say that wheat from the Pacific Northwest "gives us more variety, and provides wheat that China does not have." Also, he noted, "we want to cut shipment costs," and shipping out of Portland is less expensive for China than shipping from the U.S. Gulf. That freight savings is currently between \$20 and \$25 per ton. That is over a million dollar difference for a normal 50,000 metric ton shipment.

U.S. Wheat Associates, the industry's export market development organization, which has maintained an office in Beijing since 1983, has worked for years just for this moment in history. Hopefully, the TCK issue is in the past, but we cannot be certain until volume

shipments discharge at ports in China. Until then, it is difficult to confirm resolution of the issues.

We still anticipate some problems with the private sector licensing and TRQ allocations, and we will continue to work with COFCO and other Chinese agencies, with the private entrepreneurs in China, and with the dedicated professionals at USTR and USDA, especially as wheat shipments arrive in China.

In the long term, liberalization of China's import policies and internal reforms of the grain industry are expected to generate higher imports than at present, with estimates of imports ranging from 5 to 10 million tons. Some estimates go even higher.

The opportunity for the U.S. wheat industry is immense. Under the U.S.-China agreement, the TRQ for wheat is 9.6 million metric tons. The tariff is 1 percent, lower than most other Asian countries. If the U.S. could get 40 percent of those sales, we would increase the total U.S. wheat annual exports by 10 percent.

Thank you for offering me the opportunity to present today.

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

Mr. FOARDE. Fascinating. Thank you very much for those facts and figures.

We are going to let our three panelists rest their voices for just a minute while I make an administrative announcement. Our next staff-led issues roundtable will be next Friday morning at 10:30 a.m. in this very room, where we will be looking into commercial rule of law development in China and how the United States might step up its activities in supporting commercial rule of law development in China.

We will also have three distinguished panelists to help us through the issues there. It will be in this same room Friday morning, but at 10:30 rather than at 10 o'clock.

Going now to our question and answer session, each of us will get a chance to ask a question and listen to the answer. We will go 5 minutes each and then give someone else an opportunity, and we will just keep going.

Thank you, by the way, for being so disciplined, all three of you, because that gives us more time for what I think is the most useful part of the conversation.

Let me then exercise the prerogative of the chair and begin by asking a question on wheat trade. This is principally addressed to Paul, but I would like to hear anybody's views who has views on it.

One of the things that is the most exasperating about doing business with China, in my view, is the frequent practice of taking a small action, but not really addressing the underlying systemic problems that are causing the difficulty in the first place. I think all of you alluded to this problem in your statements.

Do you see China's recent purchases of U.S. wheat as simply a temporary expedient of this sort intended to reduce pressure on them on account of a trade surplus with the United States, or as a real reflection of China's intention to comply with WTO and bilateral agricultural trade and SPS obligations to the United States?

Mr. DICKERSON. Well, that is a good question that has probably multiple facets in terms of how I would answer. I am of the opinion

that there are a number of undercurrents at work in China when it comes to wheat.

You have the scientific community. I have been involved, by the way, for over 40 years, so I have watched this thing back to the 1970s. I am convinced that there is genuine concern by the scientific community in China for TCK and what TCK can potentially do to Chinese production.

There is no danger in TCK on the end use of the product. Their concern is in possible reduced yields. A country like China, with over a billion people, and the largest producer of wheat in the world, has genuine concerns with this. We have gone to a lot of work as an industry in trying to dispel those concerns because TCK is not a problem in the United States. We have spent years trying to convince China of this.

But I think you have generally a TCK scientific concern in some parts in China, but on the other hand you have people like COFCO and others who are very interested in living up to the agreements of the Agriculture Trade Agreement and WTO.

But I think what is happening in China today is that the economics of the situation are overwhelming, if you will. They are overwhelming the scientific—or what I consider to be non-scientific—concerns in that community. If you look at the graph, you will see that Chinese wheat stocks are going down. Acreage is going down in China. It is going to more high-value crops.

Frankly, they simply need to import wheat, whether it is from the United States, whether it is from Canada, or Australia, or other origins. They are actually consuming between 15 and 20 million tons more wheat every year than they are producing, so they have a genuine need.

I think we have been watching this for a number of years. It has finally happened. If you look at this graph and the handouts that I presented, it is very clear what is going on. So, it is not an easy question to answer. It is multi-faceted.

Mr. FOARDE. So it was not until the economics really lined up that the impetus was given for more of a systemic change. I do not want to put words in your mouth, but is that where you are going?

Mr. DICKERSON. I think that is my opinion, yes.

Mr. FOARDE. Interesting.

Do either of the other panelists have a comment on that question? Mel?

Mr. CARLSON. I would comment, if I might. It just seems like we are experiencing a protocol in China as we have seen elsewhere with other countries and other agreements. I might point out, issues of TRQs, SPSs, biotech, and licensing are all being used to restrict markets and set up nontariff barriers. We are seeing the use of some of these smaller issues to restrict trade. These issues do need to be addressed.

Mr. FOARDE. We are seeing this also in the human rights area of the Commission's mandate. That is really the basis of my question. We have seen, for example, some prisoner releases of high-profile political dissidents and religious prisoners in the last few weeks, but we are not seeing enough of the systemic changes, change in the legal regime, change in the way things are done, so that these people are not incarcerated in the first place. I was just

wondering if there were any parallels. So, that is a useful comment.

Let me now recognize my friend and partner, Dave Dorman, who is the deputy staff director of the Commission and works for Senator Chuck Hagel, to ask a question.

Mr. DORMAN. Well, first, I would like to thank each of you for coming today and offering your wisdom and insights on these issues. They are important to the Commission and I know they are important to Senator Hagel.

I would like, just for a moment, to go to something you said, Dr. Fernandez, during your opening statement. You mentioned, in terms of China and SPS measures, that “it is a work in progress.” That is a very interesting and important comment.

We have somewhere between 15 or 20 roundtables a year and as John has pointed out, we attempt to explore the universe of human rights and rule of law issues in China. I would have a hard time counting how many times panelists have said “it is a work in progress.”

Now, why is that important? It is important for a couple of reasons. Number one, you have all pointed out today that this issue is important to ranchers and farmers in the United States in terms of trade. But beyond that, attempting to understand this work in progress and the connections between rule development and rule implementation in China in one area such as agricultural standards, may help the Commission understand other areas. It is my experience, in the short time I have been on the Commission staff, that there are connections between how rules are developed and implemented across issue areas.

With that context, I would like to ask the panel, beginning with you, Dr. Fernandez, the extent to which China is looking at ensuring that SPS measures are applied equally to both domestic products and imported products. I know that you have a wealth of experience in China, but also globally. It would be interesting to hear how the Chinese are doing in relation to other countries.

Mr. FERNANDEZ. Yes. As we said, it is a work in progress. Progress has been very slow. But one of the things we have been trying to work with our counterparts on, especially in China, has been this idea of trying to—within WTO, you are very aware that you cannot require externally of countries something that you do not require internally. This is one of the precepts of the WTO.

So, as we have tried to bring them in to the WTO, the WTO relies very heavily on two or three resources, the three resources being what they call the “three sisters:” the International Plant Protection Convention [IPPC]; Codex Alimentarius for food safety issues; and for animal health issues, the World Organization for Animal Health [OIE]. It has been very difficult. I can tell you that there was a time in the early 1990s when, for example, China had reported that they had type O FMD [Foot and Mouth Disease]. The following year, they said they never reported foot and mouth disease. So, the OIE said, “You mean you did not find it this year?” They said, “No, we have never reported FMD.” They are going, “Well, this is rather difficult, because last year——.” And the Chinese said, “We do not know who reported it, but we do not have FMD.” So that was the situation we were coming from.

Countries can report to the OIE, even if they are not standing members. I can tell you that this month, for the first time, the Director General of the OIE in Paris made a visit to Beijing and met with the Premier directly, who assured him that this year China would send a delegate. So we are hoping that they will truly come to the table.

Having said that, let me just tell you, I am sure you are aware of these kinds of things. As you say, our experiences reflect on probably other things that you are dealing with all the time. What has been the issue? The issue has been Taiwan's membership in the OIE. So for a long time, or at least for the last 5 years, we have been talking about what name Taiwan would use as a member of the OIE. The last thing that China said it would want the OIE to change the status of every country, 164, from "member country" to simply "member" so that Taiwan would not be recognized as a member "country." So here is where we get into this difficulty, trying to deal with the technical issues that we have to deal with every day. We keep getting caught up in these political issues, in a sense.

That has been our finding many times, that we go to these meetings and when there are high-level people present, they try to find quick political solutions. We try to explain to them that our system does not work that way. We have a very clear regulatory system. It is very rigorous and complete. We try to expedite it as much as we can, but I am sure you all know that the regulatory process here exists for a reason: to make sure that the public, the consumers, and the industries have the opportunity to comment.

So the Chinese sometimes seem to feel that this process can all be superseded simply by someone whom they have met personally, and made a personal contact with, and that that can advance the issue very quickly; "If you give me this, I will give you that." It is very difficult. We have tried many times. That is why these symposia are so important for us to try to explain to them how our regulatory process works and what we are trying to do here.

We are not trying to find problems with China, we are trying to find solutions, truly. It is not a game of "got you," you have got this and we do not have that. We are trying to find ways that we can mitigate risks and allow trade. So, I do not know if that answers your question, but that is some of what we have been finding as of late.

Mr. DORMAN. Thank you. Any others have a comment in terms of wheat? Does China have a history of applying the same sort of SPS measures to domestically-produced wheat?

Mr. DICKERSON. I do not know of anything that I could add relative to SPS issues with their domestic market, really, that would be of help to you.

Mr. DORMAN. All right. Good. Thank you.

Mr. FOARDE. Let us go on then. Let me recognize Dale Nellor, who is the Agricultural Legislative Assistant for Senator Chuck Hagel, joining us this morning.

Over to you for questions.

Mr. NELLOR. I would just like to thank you gentlemen for being here today. This is very important, not only to U.S. agriculture, but specifically to Nebraska.

Mr. Carlson, you were talking about how the Nebraska Department of Agriculture has been very active in going overseas. I know China is not the only place you have visited. How do you feel that your actions and the actions of the industry, as well as within wheat, have affected negotiations with these countries on these issues?

Mr. CARLSON. Well, first of all, may I compliment USDA, APHIS, and our cooperators, USMEF, U.S. Grains Council, and others. They all have done a tremendous job in promoting and servicing our markets around the world. Our efforts on the state side hopefully complement their good effort. It is a synergy that works very well. I just returned from Taiwan. I had the opportunity to work with cooperators and with our government representatives. I just cannot say enough in recognition of the cooperation and the synergy that we have found with our government people in those markets. It is important.

For those of us in Nebraska, maintaining and servicing markets is very important to us. We are a small State in population, but yet a fairly substantial agriculture-producing State that must depend on a third of our production being sent out of state.

Mr. DICKERSON. Yes. I would certainly add to that in the case of wheat. U.S. Wheat Associates is known as a cooperator, a cooperator with the U.S. Department of Agriculture. I think globally, and particularly in China, we have really had a marvelous relationship between USTR, USDA, and Embassy staff in China. We have an office in Beijing, we have an office in Hong Kong. It really has been a team effort in all aspects to try to find a resolution to this SPS TCK issue.

We have been in a position in China to be dealing with, working with, and talking to the receivers of U.S. wheat and wheat in general, so we know we have been able to identify where problems have arisen. Doing this, I think, has been helpful to APHIS and to others who have been part of this process.

Mr. FERNANDEZ. If I could just echo what the other two panel members have mentioned. I think it is impossible for us to be able to reflect accurately the good health of animal agriculture without the participation of our counterparts. In other words, they have been very quick to help us gather the kinds of information that we need to make our cases. We cannot make the U.S. case with any country, whether it be TCK with Brazil or other issues with other nations, unless the industries are there to cooperate.

The cooperation has been phenomenal on avian influenza, and on BSE. Even when the counterparts do not respond the way we want them to, I think our industries realize that we have gone as far as we can. We have gone the extra mile, as far as we can go technically, with these issues. But, again, if it were not for the very close relationship with the industry, we would not even be able to get out of the door, really.

Mr. NELLOR. Thank you.

Mr. FOARDE. Let me next recognize our friend and colleague Susan Roosevelt Weld, who is the general counsel of the Commission staff.

Ms. WELD. Thank you all very much for coming. A fascinating topic, which I knew nothing about before reading your testimonies.

The first thing that comes to mind is that I remember Mr. Dickerson said there is a problem with transparency in issuing licenses for certain kinds of imports. So, can the three of you tell me, in your experience, what are the precise problems in the Chinese rulemaking process related to transparency? How could it be improved? Are there ways which they are now trying to improve transparency? Are there ways in which we can furnish the Chinese with technical assistance?

Mr. DICKERSON. I am not sure how much help you could be on this end. My own personal opinion was, for whatever reasons of their own, they were very slow in meeting the government's obligation to release the TRQ information. I am talking now about the private sector recipients of the 10 percent of the TRQ. For whatever reasons, and one can conjecture what they might have been, they were very slow to identify those. They were unwilling, for whatever reasons, to identify TRQ recipients publicly. They also were released in very small amounts. It appeared to us—at least, it appeared to me, personally—as an effort to discourage the use of those TRQs by the private sector and to discourage them from importing. In other words, putting up roadblocks.

Now, what we could do to try to change that, other than what is being done or has been done by USTR, that is another issue. But I consider it to have been roadblocks to the implementation of an agreement that they should have gone forward with.

Mr. FERNANDEZ. If I could just respond very quickly. I do not have a lot of information, but we can get you more information on this question. One of the key issues that we have actually had at the top of our list with China is to modify or abolish something we call Quarantine Import Permitting [QIP]. While these QIPs are not really SPS measures, they are framed as if they are sanitary/phytosanitary animal or plant health issues. In fact, they are a de facto import licensing system.

So it is very difficult with these types of licensing systems. You come to the table thinking you are going to be speaking about technical issues. You bring up the technical facts, the science behind the particular product, pests lists that are associated or the diseases associated with it, and you run into these issues that really have no technical basis, or at least the science is not there. So what we have tried to do in those cases with other countries—and again, this is what we are trying to do by getting, for example, China to come to the OIE and IPPC—before you go to a WTO dispute resolution, both of these fora, especially OIE, offers kind of a consultation where they act as an arbitrator to listen to both sides, to listen to the science. They bring together experts.

We used this, I think, with a certain amount of effectiveness with Japan on avian influenza, where now their actions are not taken at the entire country level, they are taken at the state level and then released as a low pathogenic avian influenza. So, we are hoping to use a similar strategy with our Chinese counterparts as well.

Mr. DICKERSON. Could I just maybe add a little more detail to the whole issue of the TRQ, because it could be, and very likely is, interwoven with the SPS issues. But it is important to U.S. wheat and our export effort.

The agreement calls for 10 percent of the TRQ to be authorized and made available to the private sector. That is what we are talking about. As I recall the agreement, at the end of September—it is either September 1 or the end of September—that portion which has not been used by COFCO or the government is to be made available to the private sector.

So what we really were talking about in addressing your question is, “What happened early on in the year?” These 10 percent of the TRQs for the private sector were supposed to be announced in January, early on in the year. Of course, then they were delayed, and delayed, and delayed. So, the announcements were delayed. When they were made, there was no transparency. They were not made public, so you could neither find out if company A, B, or C got a quota, nor could you find out how much. But they were in very small quantities which made shipping difficult.

As we look forward over the balance of this year, we are all excited now about how much wheat they have purchased from the United States, but I want to emphasize that those purchases have all been made by COFCO. They have all been made by the government. That is fine. We are all happy with that. But as I pointed out in my testimony earlier, we still are concerned about how these TRQs will play out, how the licenses may be referred to by the sanitary and the inspection folks who receive this grain in China. So, we are happy, but we still are very reticent to say everything is all taken care of and behind us.

Mr. CARLSON. And I might say that in the meat industry, well, these gentlemen are much more acquainted with rules, regulations, and transparency than I am, but I might mention that we used to have to deal with the gray market as an issue. China has transitioned into a market with much greater definition of protocol for entry and access even before the shipment leaves the point of origin. It has been a welcome transition to get away from the gray market, since it often was a market that was soft and was difficult to service and maintain.

Mr. FOARDE. Let me now recognize our colleague Carl Minzner, who is a senior legal counsel for the Commission staff, and looks into rule of law issues for us.

Carl, questions?

Mr. MINZNER. Thank you very much. Again, I appreciate the presence of three such distinguished gentlemen as yourselves.

I appreciated all three of you when you were talking about the relationship with China. You noted that it is a very complex relationship. And all of you had spoken both of the work in progress as well as advances, but you are still reticent as to certain issues.

As you know, for the U.S. Government, when policymakers have to contemplate actions to take to address outstanding issues, there are a range of different actions, including the extreme or the high-level end. This is, of course, starting the WTO dispute resolution process. Could you, first, talk generally about principles that you think should guide the U.S. policy when it comes to deciding whether or not to employ WTO dispute resolution processes, particularly with regard to agricultural issues?

Then particularly with regard to some of the issues you talked about here, are there any that you think rise to the level that the

relevant people should start thinking about using, or start using those processes?

Mr. FERNANDEZ. Maybe I can just start. We have worked very closely with USTR on a number of different trade agreements and things of this type. What we have always tried to do, and this is with our other counterparts as well in Asia, tried to find solutions from the technical perspective. The attempt has always been to try to make sure that the counterparts that are meeting are technical counterparts. Then, as we start to see that the technical issues are not really the issues—in other words, we are not getting very far—we begin to change the composition of our delegation. It starts to become maybe more people from the Foreign Agricultural Service.

What we try to do, though, is exhaust the possibility so that there is not some technical solution that we are overlooking. The worst thing that could happen is that we start to move it up, and then we find out that we had not asked something or had not investigated some other option. So we try to do everything we can to exhaust the technical solutions. But there does come a point where it is pretty clear that the issue is not technical. There is some political pressure, there is an industry group, there is something that is keeping it from moving forward. At that point, what we try to do is make sure that the package that we provide to FAS, to USTR, is the most complete technical package possible. If they need someone to go with a package to represent it, fine.

I will say one thing. I will tell you the issues that we should be very careful about bringing to USTR. I think they are very dangerous. An example would be things associated with BSE or food consumption-type issues.

It is fraught with danger to try to force a country to accept meat or meat products because you won a WTO dispute. What you may end up doing is that the public in that country will feel, well, you may have won technically, but I will not purchase that product under any circumstances. It becomes adversarial at that point. This is the very issue we have with Japan now with BSE. Many people have said, “Well, why do we not just take Japan to the WTO?” I mean, there is no foundation for testing animals over 30 months. The OIE is there. They have been very clear. That would not be someplace we would really want to go because it might create more of a problem. They have a confidence issue with their national government. By winning this, our case is not helped.

So, I think those would be the kinds of issues that I think you need to find other ways of influencing how we move forward. But, again, I know I am sounding a little like a broken record, but I think if we can get China to continue to engage in international setting bodies where they feel commitment and they feel engaged, it puts pressure on them to actually fulfill their obligations as members of those organizations.

Mr. FOARDE. Let me recognize now Selene Ko, who is our senior counsel for commercial rule of law development.

Selene.

Ms. KO. I guess I would start by allowing any of the other panelists respond to Carl’s question. I am very interested in his question as well.

Mr. DICKERSON. Maybe as a follow-up. Of course, the WTO status with China is relatively recent. I think, subsequent to the completion of the U.S.-China Agricultural Trade Agreement, over the last several years, up until very recently, there were periods where we were very concerned. We, as the wheat industry, were very concerned about their living up to their agreements. Clearly, as I mentioned in my testimony, we felt that the agreement on their tolerance for TCK smut spores per a 50-gram sample was not being abided by.

There were cases when some soft white wheat went into China, and it was being detained in ports with unnecessary delays, treatments, question-mark treatments going on that made those in the private sector who would otherwise import that wheat very reluctant to do so because they knew their money would be tied up, or perhaps they would never even receive the wheat. We were becoming very frustrated with this process.

That is, essentially, as of today, in the past. It is past tense. It got to the point where I am sure some in our industry were prepared to elevate this thing to a WTO issue. Today, in my judgment, at least, we are going through a phase of great optimism. They have disclaimed publicly at the highest levels any further concern about TCK. Are they going to live up to those statements? They now have made very large purchases of soft white wheat, as well as hard red spring wheat, to be shipped off the West Coast.

Our position today would be, let us play through this thing and see how things go. We are not totally convinced that our problems are behind us, and we want to see that grain arrive in China and be distributed. We want to see how it is off-loaded, how it goes into the distribution system, then make further judgment. But right now we are in a mode of, "Let us see how this plays out and let's give them the benefit of the doubt until we find out where we are."

Mr. CARLSON. May I address your question on BSE? It gives us an opportunity to focus again on science and to urge them to implement a risk assessment just as quickly as they can. Our message should be: "Be sure that it is sound, science-based and not 'political' science."

It gives us a great opportunity to thank APHIS, thank USDA, and thank FDA for implementing new firewalls and safeguards. We can absolutely say that our food supply is safe and wholesome, and that any risk assessment will verify.

I was rather alarmed when I read, in preparation for this hearing, that we have not had any government officials—high government officials—visiting China, urging them to open their borders and to relax their ban on beef. So, it would be a good opportunity for us to suggest that high-level USDA officials should visit China in an effort to open that market.

China is a huge, giant, and growing market and therefore would be very appropriate that China show its leadership by opening their market.

Mr. FERNANDEZ. Could I make one final point on WTO dispute resolution, and also just make a comment with regard to high officials going to China?

One of the things you need to remember is that WTO dispute resolution always seems like a silver bullet, but you have got to be

ready to go for the long slog. The industry has got to be prepared, and you have to have a pretty good case, air-tight, bullet-proof. So, it is not as easy as that, sometimes.

Finally, there has been, I know, some discussion about officials going to China. Our administrator, Mr. Bobby Accord, was in China in January after the BSE case. He did bring up this issue on various occasions with our counterparts, tried various ways to try to get them to separate from the other Asian countries in their perspective as far as the reaction to our BSE case.

So, we continue to dialog with our counterparts. If they indicate to us that one of our officials could possibly make a difference, then a senior official gets on a plane. I mean, there is no doubt about them going over there. So, just so you know, Bobby Accord retired this very week, but had gone over there in January.

Ms. KO. Could I ask just a quick follow-up? Are there any issues that you think that are actually ripe for pursuit through WTO dispute resolution? I know you just emphasized how important it is to have a very tight argument and being ready for the long haul.

Mr. FERNANDEZ. One of the staff folks has handed me a note regarding fireblight. This is one that has been a longstanding issue, not just with China, but with various countries. We have been able to actually resolve it with various countries. It is one of the many blight diseases that we have. So, this could be one of the diseases that we might engage or consider for WTO dispute resolution.

Again, before you go to WTO, there are some fora that start to lead up to formal dispute resolution. So, it is a question sometimes of starting to elevate the issues to these fora first. Even the fact that you begin to put together the kinds of information that USTR—Mr. Dick White, who is here also, helps to put those together—just the fact that you are putting it together starts to attract the kind of foreign government attention that is needed. But for us, I think that might be one issue that APHIS would consider for WTO dispute resolution.

Mr. FOARDE. Your comments, Peter Fernandez, dovetail into the question that I wanted to ask. You mentioned the symposia that you have been having on a bilateral basis. I wondered if you could go into those in a little bit more detail and tell us if you think that either they are, or they might become, a more effective vehicle than some of the multilateral fora for resolving SPS issues.

Then, without necessarily trying to predict the outcome, because I know that is tough, tell us if the forum is going to meet in April, and who might be coming, and what issues might be on the agenda. I think that would be very useful for us.

Mr. FERNANDEZ. Right. As we said, I think these symposia are extremely important because they do a couple of things. One, they create a scientific network. The folks that have the technical background in our country begin to develop that network with other countries that you are trying to work with. I think that one of the more important things about regulations and regulatory science, if you would like to call it that, is there needs to be a sense that there is trust. That is the basis, many times, for how these things have to work in a practical sense. So, these symposia start to create that camaraderie, that feeling of a network.

Obviously, it is a forum to exchange views, technical perspectives, new mitigations that we have developed, processes, regionalization, risk assessment techniques, all of these things. These are forums in which you can start to begin to create that dialog, and hopefully they then take it to the next step, which is to start to incorporate those things into the regulatory process. So, we felt that that was an important way to do that.

With regard to the meetings in April, we understand there are some meetings in April of the Joint Commission on Commerce and Trade [JCCT]. That is the meeting you are talking about. Our understanding is that Secretary Veneman will be leading the U.S. agricultural delegation. At this time, we have been working to see exactly what the composition of the delegation is going to be, and what some of the issues are that we will bring up. I have mentioned some of those issues today. For the United States, the issues are the QIPs, the Quarantine Import Permitting issues; the request that China lift the BSE-related ban on non-bovine products and low-risk bovine products; a request that China regionalize Texas avian influenza, which we feel would also be in keeping with the OIE regulations.

They are asking us about various issues, too. I think we need to be very clear that there are important issues for them, too. For example, removal of U.S. import suspension on Chinese origin Ya pearls, which comes up every time we sit down with our counterparts; finalization of the work plan authorizing importation of five varieties of Chinese origin tenchin, a growing media. Again, these are ongoing technical meetings that are in process. The regulatory process is moving these along.

The Chinese have also asked for market access for chilled poultry to the United States, and apples and citrus to the United States. Many times it is very difficult, because we find with our counterparts, they say, "All right, let us both abide by the OIE," and the OIE says, "This is what you need to do for these products." But you need to go back and say, "Yes, but our risks for these are different. We have to start by saying, what are the pests that you have, what are the pests that we have for these products?" Many times they feel, well, if you ask for this, then I have to ask for that, not starting from the point of, we have to first assess our country's risk status. Sometimes it is infrastructural, sometimes it is simply bioecologic. So, that is where we need to start, I think.

One of the other things is that we have a follow-up symposium coming up this fall. We have a follow-up to the other symposia we had, and hopefully we will begin to develop that trust and that network so we can move some of these issues forward.

Mr. FOARDE. Our understanding of the JCCT is that Madam Wu Yi will lead the Chinese delegation overall. Having somebody of that stature and clout is a way to move some of the political issues along. So, God willing, you will make progress in your own talks.

Let me recognize Dave Dorman for another question.

David.

Mr. DORMAN. I have a process question that would be very helpful to me, and I hope for others. I will choose the BSE ban as the starting point.

First, a question, just to make sure that I understand things correctly. As it stands right now, the U.S. beef supply, including ingredients derived from cattle tissues, are in accordance with internationally recognized standards regarding sanitary measures. Is that correct?

Mr. FERNANDEZ. For BSE?

Mr. DORMAN. For BSE, or in general.

Mr. FERNANDEZ. Yes.

Mr. DORMAN. All right.

Mr. FERNANDEZ. We process beef in a hygienic manner.

Mr. DORMAN. Good. What I am trying to understand is, with that piece of information, which I am assuming is scientifically-based, when a country like China, or any country, institutes a ban, do they do it on the basis of their own domestic health standards? Does this mean they ignore internationally-recognized standards? So, that is the first part of the question.

The second part refers back to Mr. Carlson's comments on Japan relating to China's position on its BSE ban. Has USDA also heard the same sort of response or are there Chinese standards that we simply have not met?

Mr. FERNANDEZ. Yes. First, with regard to the first part of your question, it is not just the hygienic manner in which we process the meat. What has changed was the detection of an imported case of BSE in the United States. That is what triggered the closure of meat imports by many countries, especially in Asia, because of BSE.

So, under those circumstances, what China and many countries are basically saying is that the risk for BSE in the United States has changed. We are no longer a country that is free of BSE, but would fall into some other category. The OIE is very clear about what the conditions are that you need to meet for being in various categories. It is up to the country to designate what category they think you would be in. It has been difficult to get countries to actually do that. Part of the problem is, as has been mentioned by Mr. Carlson, the issue of surveillance. Many things that we have in place have been very effective. We have tried to impress upon our counterparts that, in fact, as the Harvard risk assessment has shown, we are 44 times more likely to find an indigenous case of BSE in the United States than an imported case. So our risk, we feel, is extremely low.

How are we going to settle this issue of BSE? Through this aggressive surveillance program that we have proposed this month. We feel that this will be the way for us to find a way out of this issue and put to rest concerns about the true risk that exports from the United States would pose to any country. Having said that, I am not implying that we need to wait for that surveillance to take place. There are mitigations that are internationally recognized that can be put in place and that the United States, in fact, is trying to incorporate into its regulations to allow safe trade in meat and meat products to continue. So, I think that is kind of where we are with the Chinese.

What they are saying to us is not that we are not doing it hygienically. They are just simply saying that our status has changed. Now what we need to do is tell them, "Let us go to the

next step. Here is the information that you need to assess us. Based on that, you need then to allow us to start to mitigate risks for the risks you say we might have.” That has been the difficulty.

Mr. DORMAN. Is the surveillance system being put into place based on an international standard or model, or are we exceeding these standards?

Mr. FERNANDEZ. We, in fact, are exceeding the OIE standard by quite a bit. What we have tried to do in the past, we had exceeded in the past by about 40 times the surveillance level. Now, this was at the level of about 20,000 animals a year, high-risk animals in the high-risk group.

But I think what happens with many of these issues is that consumers and trading partners begin to feel that the numbers are not there. So, what we have done is that we have said, “All right, we are going to ratchet this up as a result of the risks that we have had with Canada in May, and now in December with our case.” What we want to do is find a level that is based on valid biostatistics. So, in this case we are going to be able to find one case in 10 million animals at a 99 percent confidence level. We do not think that there are any countries that have actually been this aggressive.

In fact, the international review team, which is made up of many members from the EU, saw our plan. They approved it and thought it was very aggressive. They said, “This will definitely find it. If you have got cases of BSE in the United States, you will find them with this plan.” That is what we need to give that kind of assurance.

Then we would go the extra step with China, if we could get them to at least accept some of our products, and say, “Now we fall into an even freer category. So whatever we have told you you can mitigate is not even necessary because our status is even better than what we told you it was or negotiated before.”

Mr. DORMAN. Mr. Carlson, did you want to respond?

Mr. CARLSON. I think Peter has done a really good job of explaining it.

Mr. DORMAN. Good. Thank you.

Mr. FOARDE. Dale Nellor, another question?

Mr. NELLOR. Asian soybean rust has become a big issue in Brazil and it is starting to pick up a lot of ground and print in the United States. With China’s recent announcement to have certificates for products in the biotechnology area, how do you see that playing in the future?

Mr. FERNANDEZ. Soybean rust is an important issue, of course, to the United States. We take this issue very seriously. It is also, as it turns out, one of the select agents on our agents of concern that we have worked on with the Department of Homeland Security and CDC.

We also are aware that—as you all may know—that this is a disease that has been on the move for some time in South America. We have tried to do various things in the area of research for types of soybeans that would be resistant. We are looking at modeling for how it would come into the United States. We know that it will probably come in to the United States at some point. I make that point because what we need to be careful of here is that we do not

impose regulatory restrictions on soybeans that may come back to cause problems for us later on.

Everybody probably remembers the karnal bunt situation. We had put some very strict ideas out there about how to treat countries that have karnal bunt. When we received it, we found ourselves in the very difficult situation of trying to figure out how to get out from under that self-imposed regime.

I guess what I am saying is that the important thing with soybeans and what we are looking at, the other area that is very important, is how do we mitigate the risks? Soybean meal is not an issue, but soybean seed and soybeans. Those we feel are the two riskiest materials that could possibly bring this in through imports. Imports of soybean meal we still feel, are a very low risk. Of the different pathways that we could get soybean rust into the United States, imports of soybean meal are probably very low risk.

Nonetheless, we sent a team just recently to Brazil to work with our counterparts. This is one of those tricky situations where your counterparts think you are simply coming over to figure out how you are going to stop their imports. But we have gotten in EMBRAPA, which is the Agricultural Research Service's Brazilian counterpart, to meet with us. We are trying to work with them. We are trying to find ways. We are basically saying to them, "You trade in soybeans, we trade in soybeans. Let us find a solution to this so we do not have problems in the future, either of us."

How do we do that? We have been working with them on ways that we can mitigate spores associated with this disease, whether it be with soybeans, soybean seed, or any of these products. The preliminary results coming back indicate that there are some methods, some mitigations, 2-week holds, things of this nature, that will mitigate any risks associated with it. What we have at hand now is that we allow 2 percent or less green leafy material associated with soybeans, and that has mitigated much of their risks associated with this. But we are continuing to work on this issue. It is an important issue.

China is another country, of course, as you bring it up here. They are another big importer and they are also in the market for soybeans. So, we are trying to make sure that whatever we do is something that is acceptable internationally also.

Mr. FOARDE. Do you have a follow-up?

Mr. NELLOR. Yes.

Mr. FOARDE. Please.

Mr. NELLOR. Thank you for bringing up that point about the decisions that we make, how they can affect us in the future. As relates to the BSE situation, I think there are a lot of countries worldwide that are in the position they are in today because of decisions they have made as a result of what happened in Europe. They may have gone to all extents to keep BSE out of their country, and meat from BSE countries out of their country, and now they are set up with a situation that they probably never expected to happen with the U.S. So, that is a very important point and we need to keep that in mind.

Mr. FERNANDEZ. Yes. BSE is the perfect example of that. I think we need to also remember, we are sitting here now in 2004, but in 1989, or the early 1990s, we did not know what BSE was. I

know that many of us wanted to change the regulations quickly, because we started to get the kind of science you need to make those modifications. But we put those in place because we did not know a lot of the science, so unfortunately our system is rather cumbersome at times.

Our regulatory system is cumbersome. We were kind of strapped with this issue. But I think, as you say, we need to make sure that we can live with the kinds of things we expect from our counterparts because we may very well find those things applied to us in similar situations.

Mr. NELLOR. Thank you.

Mr. FOARDE. Do either of the other panelists want to comment?
[No response].

Susan Roosevelt Weld, for another question.

Ms. WELD. Thanks, John. Apart from transparency, one of the things we look on in the development of the rule of law in China is implementation. You all probably deal with people at the center. I wonder if you find that some of the agreements made by people at the center are not implemented by lower level personnel. For example, the anecdote about the ships coming into the port and being held might be a local decision rather than a central decision.

Is this a problem that you have come across? Is that something that you have seen?

Mr. DICKERSON. Yes. In the case of wheat, that has very much been a problem over the last couple of years, where in the Agricultural Trade Agreement provided for, as I told you, the tolerance for TCK in soft white wheat, or any U.S. wheat, for that matter.

So, at a higher level here was the expectation of an implementation of an agreement, which we expected to be lived up to. But, in fact, once those cargoes arrived at port, at their ports in China, it was as though some of the quarantine people, the inspection people had not heard about that agreement. Why that occurred or why it did not occur in terms of the coordination, the proper orders coming in from Beijing to implement this agreement, is open to conjecture. But certainly it has been a problem with wheat, yes.

Mr. FERNANDEZ. I would just say exactly the same thing. I think we have found that to be true, that somehow those decisions do not filter down to the people who actually have to implement them, especially in ports.

That is one of the reasons why we want to put this USDA person in Shanghai. One of their jobs will be not only to try to help gather information and try to build infrastructure for surveillance, but also to try to resolve some of those issues right on the ground, develop the network with the folks that actually are in those different ports where most of our products come in, to try to quickly resolve them right there on the spot.

Ms. KO. I just want to ask a question about the international standards that you addressed, Dr. Fernandez. What kind of efforts are China's trading partners and the international organizations that are producing these standards making to help China understand what their responsibilities are? Are there any efforts to help China build its capacity with respect to those rules and are they seen as successful?

Mr. FERNANDEZ. Yes, on various fronts. First, in the area of just trying to become full members. As I said, the director general of the World Organization for Animal Health, OIE, Dr. Vola, has made various visits. But this last one, he feels, hopefully will be the most fruitful visit to try to get them to actually participate. The OIE is broken up into regions. So, we have an Americas region. I am the president for the Americas region. The president for the Asian region is Dr. Gardner Murray. Dr. Murray accompanied Dr. Vola to China with the express purpose of trying to not only encourage them to join the OIE, but to express to them how we would help them understand the rules, how to vote, what the issues are, all of the issues that you need to be able to understand to be a full participant in the OIE general session in May, and, more importantly, the actual work that goes on behind the scenes to create the International Terrestrial Animal Health Code during the whole year.

So, we have also spoken about using our symposia to help in these efforts also with China. How do we incorporate the international standard setting issues in the actual symposia? Because that is the basis. That is what we want countries to use. If they need to turn to someone, we would prefer them not to turn to Japan and their restrictions, but to the OIE. What the OIE says should be the rules for how to engage, or disengage, in product exchange.

Mr. CARLSON. I might comment on a level far below these two gentlemen about Chinese officials that I have an opportunity to work with. That is, from time to time, I have the opportunity to meet with representatives of the Ministries of Agriculture and Commerce of China. That has to help, to bring the issues to them. We also invite their representatives to come to the United States, and that is good. It is essential to developing that trust and those relationships. Relationship-building is not a one-time contact, it is a 6, 7, 10, or 12 times set of contacts, building that level of trust and those levels of relationship.

So those are just some of the things that can be done way down at the level much lower than these gentlemen work on that we try to work on.

Mr. FOARDE. Very good. We have had a fascinating conversation this morning. Thank you, all three, for sharing your expertise with the Commission. This is really going to help us to look at these issues clearly.

On behalf of Senator Chuck Hagel and Congressman Jim Leach, our co-chairmen, and the members of the CECC, thanks to Peter Fernandez, Paul Dickerson, and Merlyn Carlson.

I would remind everyone that we will be back here next week for a look at commercial rule of law development in China at 10:30 a.m.

We will now bring this session to a close. Thank you all.

[Whereupon, at 11:30 a.m. the roundtable was concluded.]

APPENDIX

PREPARED STATEMENTS

PREPARED STATEMENT OF PETER FERNANDEZ

MARCH 26, 2004

Thank you very much for asking me to take part in this roundtable discussion this morning. My name is Dr. Peter Fernandez, and I am the Associate Administrator of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, or APHIS.

Within USDA, APHIS is charged with protecting the health of U.S. agriculture. In doing so, our Agency works to prevent foreign agricultural pests and diseases from entering the country through regulatory controls, the development of sound animal and plant health policies, and anti-smuggling programs aimed at keeping risky agricultural products out of the United States. The Agency also conducts domestic surveillance and monitoring programs for serious pests and diseases and works with State and industry cooperators to eradicate economically significant ones. These activities allow us to ensure that U.S. agricultural products are healthy, abundant, and welcomed in international markets.

As the primary Federal agency that addresses animal and plant health issues, APHIS also plays an important role in international trade. Officials with our Agency convey information to U.S. trading partners regarding the pest and disease status of U.S. livestock, meat products, plants, and plant products. In turn, we also evaluate the same information submitted to our Agency by other countries when they want to export a new agricultural product to the United States. APHIS evaluates such requests by analyzing the information submitted to us; working to collect and evaluate related scientific data; preparing risk assessments that evaluate any potential pest or disease risks to U.S. agriculture; and then, if appropriate, conducting public rulemaking to change our import regulations to allow the animal or commodity to enter the United States in such a way that any pest or disease risks are mitigated.

In a nutshell, this is how APHIS conducts our business when it comes to international trade, and, generally speaking, it is also how our trading partners operate. I am able to say this because APHIS, as well as our counterparts in many other countries, all work under terms outlined in a very important international trade agreement—the World Trade Organization's Agreement on Sanitary and Phytosanitary Issues. In the international trade arena, sanitary and phytosanitary issues, commonly referred to as SPS issues, are the technical terms for animal and plant health issues.

The SPS agreement is critical to APHIS's work because it allows us and our trading partners to speak a common language when discussing trade issues. The SPS agreement encourages cooperative, instead of competitive, work. It has been our experience that the agreement is a highly useful and effective tool for opening new markets and making other important agricultural decisions. The agreement allows governments to take necessary protective measures with regard to imports of agricultural products based upon sound science. However, it also provides the rules and structure to prevent the arbitrary use of such measures to impede trade.

As I said a moment ago, APHIS officials have the needed technical expertise and regulatory authority to address SPS issues. For instance, APHIS personnel with our Veterinary Services, Plant Protection and Quarantine, and International Services programs assist U.S. agricultural exporters by negotiating the plant and animal health requirements for U.S. products destined for foreign markets. They also review the scientific merits of other countries' agricultural health requirements and issue the necessary health certificates to accompany U.S. shipments. APHIS also meets constantly with our counterparts on a bilateral basis to help negotiate resolutions to technical disputes, and we are also active participants in international agricultural health standard-setting bodies like the International Plant Protection Convention and the International Office of Epizootics.

APHIS's trade support activity has increased tremendously in recent years as a result of trade liberalization and international trade agreements. Quite simply, agricultural health issues are important to every nation's ability to seek and maintain international trade markets. Through trade agreements, the United States strives to open markets for U.S. producers. However, as trade agreements open the potential for trade, agricultural health issues emerge as critical hurdles that need to be cleared if active and reliable trade is to occur. This is precisely APHIS's job—to supply the technical agricultural health information that our colleagues with the U.S.

Trade Representative's Office, USDA's Foreign Agricultural Service, and other Federal agencies need.

APHIS officials work on critical SPS issues during trade negotiations with other countries and also during interruptions to trade caused by domestic situations in the United States. As you all know, international agricultural markets are highly sensitive to pest and disease outbreaks, and such situations can significantly affect access to those markets. Take, for example, the impact that the detection of BSE in Washington State in December has had on U.S. beef exports, not to mention the impact of the recent detections of avian influenza have had on the U.S. poultry export market. Considerable USDA efforts and resources have been committed to addressing these diseases domestically, as well as to conducting export negotiations to retain market access for U.S. poultry and poultry products.

With that background, I'll turn now to more specific SPS issues APHIS is working to address with China.

China's accession to the WTO in November 2001 was accompanied by a great deal of excitement: new export opportunities were expected to emerge, with significant gains particularly in the area of fresh produce. Almost 3 years later now, some of these new market opportunities have been realized by U.S. producers, but others, due to SPS concerns expressed by Chinese officials, have stalled.

To meet these SPS challenges, APHIS has actively engaged our Chinese counterparts at the technical level. In 2003, our interaction with the Chinese increased significantly as we relocated our regional office for Asia from Tokyo to Beijing. APHIS now has two Foreign Service officials working in Beijing and is slated to post a third Foreign Service officer at a new office in Shanghai. The new Shanghai office will be specifically responsible for monitoring the status of plant and animal pests and diseases in Chinese ports and production areas that ship agricultural products to the United States.

Also, last year, USDA Under Secretary for Marketing and Regulatory Programs Bill Hawks and APHIS's Administrator hosted the first U.S.-China Plant and Animal Health Regulatory Symposium in Beijing. This Symposium was designed to begin consistent, effective dialog between regulatory officials from the United States and China. Agenda topics included a range of different issues related to agricultural health and trade, and the meeting was very successful.

In addition to our annual SPS bilateral meetings with China, APHIS is also working to schedule routine monthly meetings with appropriate technical counterparts from China to help resolve outstanding SPS issues in a timely manner. We believe strongly that regularly scheduled monthly bilateral technical meetings will be an effective way to sustain our dialog with China and help bring about mutually agreeable resolutions to outstanding SPS technical issues.

In the last several years, working in this way, we've achieved some notable accomplishments. U.S. citrus (with continuing dialog on China's prohibition on imports from 4 counties in Florida) and tablestock potatoes from Alaska are now shipped to China. In terms of imports, APHIS has approved the entry of longans and lychees from certain areas in China.

Under Secretary Hawks likes to say that agricultural trade is a two-way street. In similar fashion, APHIS's experience in working with China on SPS issues has been that our accomplishments have been equaled by a number of significant challenges. As I mentioned a few moments ago, we are working very hard to convince China to ease their restrictions on U.S. beef and poultry, and we also continue to supply China with information attesting that U.S. stonefruit and potatoes from the Pacific Northwest do not present any pest risk to domestic Chinese agriculture. For their part, Chinese officials have requested that APHIS consider allowing imports of Chinese apples, and China also expressed a great deal of concern after APHIS suspended that Ya pear export program last fall due to detections of an exotic *Alternaria* on imported fruit being sold at commercial markets.

APHIS will continue to address these SPS issues with China in the way I described a few moments ago—by continuing our dialog and actively engaging our counterparts on technical issues. APHIS will participate in a U.S.-China Plant and Animal Health Technical Planning Session next month, followed by technical talks in China on phytosanitary issues associated with exports of U.S. soybeans. Tentative arrangements have also been made to convene the first U.S.-China Animal Health Bilateral Technical meeting in May in Ft. Collins, Colorado.

We all know that in terms of SPS issues, China is a "work in progress." As in any trade relationship, there has been progress with China on SPS issues, and there have also been a number of setbacks. But with these thoughts in mind, APHIS is staying engaged with our Chinese counterparts and we continue to encourage China to participate fully in international agricultural health forums by becoming full members of the International Plant Protection Convention and the International Of-

fice of Epizooties. We feel very strongly that these steps will help to improve our relationship with China on SPS issues.

With that, I will turn things over to the other participants. I look forward to answering any questions you may have. Thank you.

PREPARED STATEMENT OF MERLYN CARLSON

MARCH 26, 2004

Thank you for inviting me to address you today. It's a privilege to speak to you on such an important topic.

I have been asked to share with you information about the effects of the Chinese ban on U.S. beef imports following the finding of a single case of BSE in the United States. Like over 50 other countries, in late December China chose to shut its borders to live bovine and any related products from the United States.

Our U.S. negotiators have been working to re-establish trade, and we applaud their efforts. But they have not met with success, and we are told that Chinese officials continue to indicate they will take their cues from Japan.

I do not believe this to be in the best interests of China. Japan has made animal testing demands that are not based in science or practical experience, and negotiations are ongoing. While Chinese trade negotiators look to Japan for cues, consumers in China have indicated they still want United States beef. The Nebraska Department of Agriculture's Ag Promotion and Development Administrator Stan Garbacz returned last Friday from a trip to Beijing. While there, he had numerous opportunities to visit with beef importers, restaurant owners and citizens, in addition to his governmental appointments.

Mr. Garbacz summed up his trip by saying it was "depressing and frustrating." On the positive side, he said he was unable, during his numerous appointments, to find anyone that is concerned about potential health issues connected to United States beef consumption. Instead, what he found, were individuals who believe in the safety of our food supply and were clamoring for more of our product. The depression and frustration stem from the knowledge that our customers are ready and willing to accept product, but the Chinese government won't allow it.

Some of these Chinese companies get over half of their meat products as imports, and they generally recognize that the United States has a better quality product than other beef producing nations. These companies have been allowed to use U.S. beef product that was in their freezers prior to December 23rd, but as those supplies have dwindled, these companies are gradually going out of business. So, not only are we unable to service existing customers, but we are losing these potential outlets permanently when they close their doors.

I personally also had the opportunity to travel to China earlier this year. I took it upon myself to visit with consumers there about U.S. beef, and I must tell you, I was pleased with the responses I received. In the wake of the Washington State BSE case, consumers told me they were hoping U.S. beef products could be made available again as soon as possible. Like the company representatives Mr. Garbacz spoke to, these consumers expressed a belief in our food safety system and desired U.S. meat over that of other countries.

What our experiences tell me is that China must consider the needs of its own citizens. The United States should continue to encourage Chinese government officials to use science in its decisionmaking process. It is China's obligation as a member of the World Trade Organization, and it is what its citizens want. As a point of digression, I want to note that the Chinese government recently highlighted its openness to using scientific principles in considering major policy decisions. Last month, China announced approval of permanent safety certificates for a number of biotechnology crops. This is encouraging, and it would be my hope that a similar route will be followed in addressing the BSE situation.

If Chinese officials look to science for answers regarding BSE, I believe they will find that Nebraska, and the United States, can provide them with the quality and safe beef products they desire. Even before December 23, the United States had in place a number of protective measures to lessen the opportunity for occurrence of BSE in our cattle population. We've had a surveillance program in place since 1990, we've banned imports of cattle and bovine products from countries with BSE since 1989 and, most importantly, we've had a ban against feeding ruminant-derived meat and bone meal to cattle since 1997. Feeding of such products is generally agreed to be the principal means of transmission of BSE.

In addition to these points of action, since December 23rd, USDA and FDA have implemented a number of actions to further bolster protection against BSE in our

beef production system and in our food supply. For example, non-ambulatory or disabled cattle and specified risk material are now banned from the human food supply. Mechanically separated meat also is now prohibited from use in the human food supply.

Animal feed production rules have been changed also. For example, to prevent cross-contamination issues, facilities must have production lines that are dedicated to non-ruminant animal feeds if they use protein that is prohibited in ruminant feeds.

Just last week, USDA Secretary Ann Veneman announced an enhanced surveillance program as a means of making a thorough assessment of the status of the United States herd. This action was taken at the suggestion of an international scientific review panel, which reviewed USDA's response to the BSE case. Animals of high risk will be focused on, with USDA's goal to obtain samples from as many of these types of animals as possible. They will also obtain samples from animals that appear normal, but are older, since science has shown these have a greater likelihood of having BSE than cattle under age 30 months.

While the enhanced USDA and FDA activities should serve as more than enough scientific justification for opening the borders to trade, states like Nebraska are moving ahead with their own efforts at further disease protection enhancements. Even before the December 23rd announcement, the Nebraska Department of Agriculture had stepped up its contact with feed manufacturers and animal rendering facilities in the State to raise awareness about BSE issues at their level of the livestock production chain.

The Nebraska Department of Agriculture also has moved ahead aggressively with the development of a statewide animal tracking system that we intend to be compatible with whatever plan is eventually implemented nationwide. Our model at present focuses on the beef industry, although other species will be added later. It will contain both premise identification and individual animal identification components.

The primary goal of the system is traceability for protection against and reaction to diseases issues like BSE. However, we also intend to utilize this beef tracking system for marketing purposes. The idea is to work in conjunction with partners in the beef production cycle to create a closed loop, farm to fork tracing system.

Nebraska has chosen to move forward in the animal traceability arena because, frankly, we have a great deal to lose if foreign country borders remain closed to U.S. beef products. Already, the effects are apparent. For example, Nebraska generally is known for leading the Nation in commercial cattle processing. A report released just last week by USDA highlights a 7 percent decline nationally in beef production during February compared to February 2003. In that same report, Nebraska slid from first place to second in total cattle processed. Our packing plants have had to cut jobs—some of them, hundreds of jobs—as we continue to deal with the impact of lost overseas markets.

I believe the beef industry in the United States, and Nebraska, has shown its desire to provide China and other U.S. beef importing countries the tools necessary to engage in a thorough risk assessment regarding the beef trade. Given that many countries still have hesitated to recognize our enhanced animal disease protection measures, China has an important opportunity to distinguish itself as a leader. We are hopeful that the country's officials will recognize this and respond to the needs and desires of its citizens and food industry representatives.

Thank you for allowing me to share our Nebraska perspective. I welcome any questions you may have.

PREPARED STATEMENT OF PAUL DICKERSON

MARCH 26, 2004

Thank you for this opportunity to discuss the U.S. wheat industry experience with trade to China. First, if I may, I'd like to give some background on U.S. Wheat Associates (USW) and my experience in grain trading.

USW does not buy or sell wheat. Our job, since the 1950s, has been to develop and maintain export markets for American wheat. We are the marketing arm for the American wheat farmer, and over the years we have worked in nearly 100 countries. Our expert staff has a depth of knowledge on wheat issues that is unmatched anywhere else in the world. We receive a third of our funding from wheat producers, through checkoffs funneled through our 20 member state wheat commissions, but the remaining two-thirds of our budget, including all of our overseas work, depends

on USDA's Foreign Market Development program and the Market Access Program. We simply could not do our work without that support.

As vice president of overseas operations for U.S. Wheat Associates, I direct the market development activities of USW's 15 overseas offices. I joined them in 1992, first serving as regional vice president of the South Asian region in Singapore, and then moving to the Washington D.C. office in 1995.

I was General Sales Manager and Associate Administrator of the U.S. Department of Agriculture's Foreign Agricultural Service between 1989 and 1991. Previous to my work at USDA, I've been a consultant and marketing agent in the Pacific Northwest, and was president and chief operating officer of Columbia Grain, Inc. in Portland, Oregon. I've also worked for Cargill and Cook Industries, Inc., both in the United States and several overseas locations. In total, I spent the first 26 years of my career in the private sector in various grain trading and management positions.

I've been very lucky to view wheat trade from all of these perspectives—from private grain trade, from government, and from a commodity organization. And it's been fascinating to be involved, from those angles, in the long and difficult history of U.S. wheat trade with China.

As you know, the U.S. agricultural community, including the wheat industry and the trade, was very supportive of China's admission to the WTO. While the outlook for significant wheat export opportunities looked promising, however, the results were initially quite disappointing.

Until very recently, the U.S. wheat industry faced continuing problems. While China reduced its old carryover stocks, which were more than needed, it used various devices to curb exports from the United States of quality wheat that its end users could import without a series of trade barriers.

There were three chief areas of concern affecting access to China's market:

1. Tariff Rate Quota implementation for the private sector was inadequate, in that individual allocations were too small, and there was no transparency. Companies had to combine TRQs in order to get a commercially viable volume.

2. Licenses, that were supposed to be issued by the State Administration of Quality Standards, Inspection and Quarantine (AQSIQ) for commodity imports, were given for a limited period of time, which discouraged purchases.

3. Sanitary and phytosanitary barriers relating to TCK—a wheat smut—continued to be a problem, despite the Agriculture Trade Agreement that was reached in 1999, ending a trade dispute that began in 1972.

The story about how this phytosanitary dispute over TCK evolved and was resolved is a long saga, which I will not go into today. Let me just point out that, after decades of the best efforts of scientists from the U.S. Department of Agriculture and the wheat industry, an international panel conducted an independent pest risk assessment (PRA), following guidelines established by the UN Food and Agricultural Organization and, in May 1998, the PRA was presented to Chinese officials.

The public response to the PRA from the Chinese was, essentially, silence . . . until WTO talks began.

When negotiations between USTR and the Chinese government began in earnest in 1999, we were grateful for USTR's support on the U.S. wheat industry's position: that there could be no WTO agreement without resolution on the TCK issue.

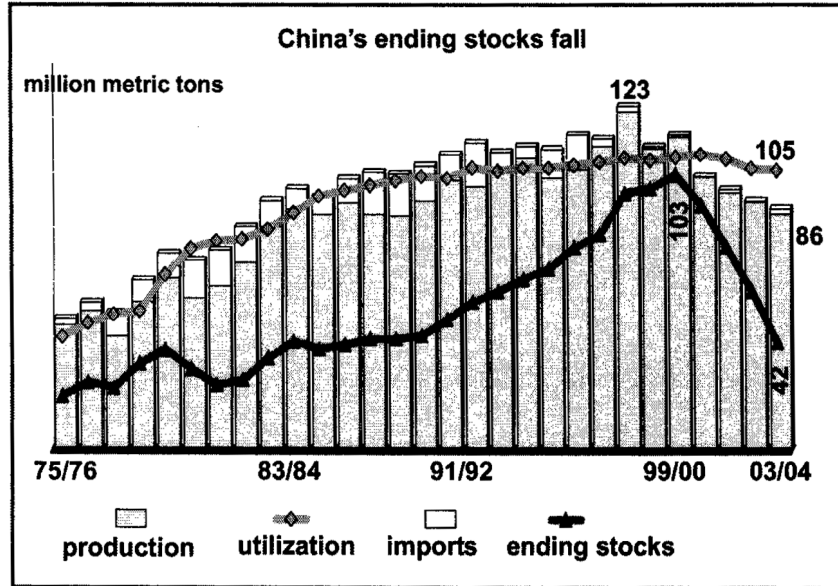
On April 9, 1999, the USTR announced the agreement that would allow U.S. wheat imports from any state to enter any Chinese port. The agreement allowed wheat imports that do not exceed a tolerance level of 30,000 TCK spores per 50 gram sample, a level that is easily met by U.S. wheat. That agreement was translated into Chinese, and the USTR and Chinese officials officially "confirmed" that version in early December 1999 while the countries were in Seattle for the World Trade Organization meeting.

Finally, in early 2000, the China National Cereals, Oils and Foodstuffs Corporation (COFCO), the official government buyer, announced their purchase of wheat, including wheat from the Pacific northwest. It was the first largely unrestricted commercial cargo of northwest wheat to be shipped to the Peoples Republic of China in 27 years. The bulk carrier "Miyama" left the Columbia River on June 2, carrying 52,678 metric tons of wheat: 30,000 MT of soft white wheat and 10,000 each of hard red winter and hard red spring.

Resolution to the TCK issue was absolutely vital to U.S. exports of wheat. With the agreement and with permanent Normal Trade Relation status for China, the United States could increase total wheat exports up to 10 percent each year.

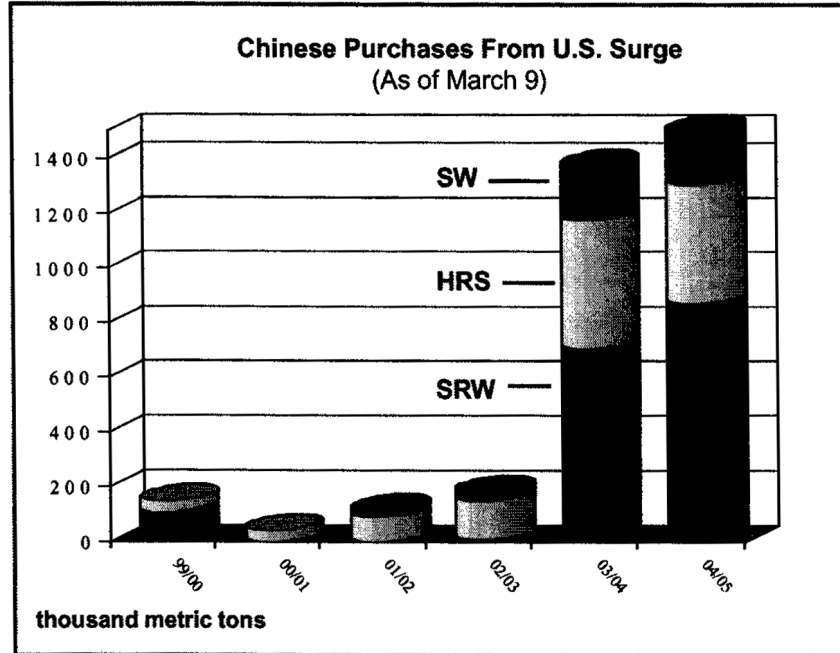
There is a huge market potential for U.S. wheat in China. Between 1985 and 1995, on average, China imported 10 million tons of wheat each year (ranging from 4 to over 15 million tons), relying on imports during this time for just over 10 per-

cent of its wheat needs. But then their domestic wheat production improved dramatically, and imports dropped steadily since 1996—until this year.



China has drawn down its wheat stocks in recent years, most recently with domestic sales of nearly a million tons of old crop. They now produce about 86 million metric tons annually (for comparison purposes, the United States produced 64 MMT during the current crop year), but their consumption is estimated at 105 million metric tons. These three factors—lower stocks, lower production, and steady demand—now come together, forcing China to import wheat in much larger quantities than in the past several years. This “draw down” in stocks has brought China back to the market as their domestic prices have increased.

China is buying wheat from the United States, purchasing nearly three million metric tons this year and next year. And COFCO representatives say there is more to come. But the question, until recently, was whether they would truly honor the agreement on TCK. Would they buy from the Pacific Northwest ports? Would they ship? Would they continue to discourage their buyers from purchasing wheat from the United States? And would they offload that wheat and put it into domestic circulation?



Last month, representatives from COFCO conducted a whirlwind U.S. buying tour. Before beginning its rounds of meetings in Washington, Chicago and Portland, however, the COFCO team graciously agreed to meet with members of the U.S. media in the nation's capital. The chairman directly addressed concerns about whether TCK was still an issue in purchasing decisions, stating flatly that "the TCK problem has already been resolved. It is not a problem." He went on to say that wheat from the PNW "gives us more variety, and provides wheat that China doesn't have." Also, he noted, "we want to cut shipment costs" and shipping out of Portland is less expensive for China than shipping from the Gulf. That freight savings is currently about \$20 to \$25 per metric ton. That's over a million dollar difference for a normal 50,000 metric ton shipment.

	03/04	04/05	TOTAL
SRW	705	870	1.575
HRS	479	435	914
SW	198	270	468
ALL CLASSES	1.382	1.575	2.957

thousand metric tons

U.S. Wheat Associates, the industry's export market development organization, which has maintained an office in Beijing since 1983, has worked for years just for this moment in history. Hopefully, the TCK issue is in the past, but we cannot be certain until volume shipments discharge at ports in China—until then it is difficult to confirm resolution of the issues. We still anticipate some problems for the private sector licensing and TRQ allocations, and we will continue to work with COFCO and other Chinese agencies, with the private entrepreneurs in China, and with the dedicated professionals at USTR and USDA, especially as wheat shipments arrive in China.

In the long-term, liberalization of China's import policies and internal reforms of the grain industry are expected to generate higher imports than at present, with estimates of import levels ranging from 5 to 10 million tons. Some estimates go even higher.

The opportunity for the U.S. wheat industry is immense. Under the U.S.-China agreement, the TRQ for wheat is 9.6 million metric tons. The tariff is 1 percent, lower than most other Asian countries. If the United States could get 40 percent of those sales, we would increase the total U.S. wheat annual exports by 10 percent.

SUBMISSION FOR THE RECORD

RESPONSE TO QUESTION FOR THE RECORD FOR PETER FERNANDEZ FROM SENATOR
GORDON SMITH

Question. China has yet to respond to a U.S. request for a pest risk assessment for Pacific Northwest pear exports to China. The United States submitted a pest list in 1995. We understand that USDA is unwilling to push this issue with China until the U.S. industry provides research on fireblight transmission on pears. The industry has started this research. However, a request for research prior to receiving a PRA documenting a country's concerns is like putting the cart before the horse. When will China provide a PRA on Pacific Northwest pears?

Answer. Under normal circumstances, APHIS would request that a country prepare a pest risk assessment for a new market access request from the United States. Then, once the importing country prepares its pest risk assessment, APHIS and industry officials would work together to prepare information that refutes the identified risks, or shows how the risks associated with the commodity can be effectively mitigated by a systems approach or other steps taken during the growing, packing, and shipping stages. In the case of pears from the northwestern United States to China, it is known that pear trees are more susceptible to fire blight than apple and plum trees. APHIS is also aware of reports that fire blight bacteria have been found on, and inside, pears. Therefore, APHIS and the pear industry agree that extensive data needs to be generated that shows that pears from the northwestern United States are not a pathway for fire blight bacteria. Even with such data, however, it will be a challenge for APHIS to convince Chinese officials that the pears do not pose a pest risk. For this reason, APHIS and the pear industry have determined that the Agency should not press this issue with China until the supporting data has been developed and thoroughly assessed. As the question indicates, APHIS understands that industry is currently conducting research on this issue, and the Agency looks forward to the results of these efforts, as well as continued dialogue with the pear industry. Again, the Agency can request a pest risk assessment from China, provided that industry concurs that such a request is supported by sound scientific information.

