

2010 REPORT ON SANITARY AND PHYTOSANITARY MEASURES



UNITED STATES TRADE REPRESENTATIVE

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LIST OF FREQUENTLY USED ACRONYMS AND ABBREVIATIONS

AI	Avian Influenza
APEC	Asia Pacific Economic Cooperation
APHIS	USDA's Animal and Plant Health Inspection Service
BSE	Bovine Spongiform Encephalopathy
CACM	Central American Common Market
CAFTA-DR	Dominican Republic-Central America-United States Free Trade Agreement
CAN	Andean Community
CARICOM	Caribbean Community and Common Market
Codex	Codex Alimentarius Commission
EPA	U.S. Environmental Protection Agency
EU	European Union
FAO	United Nations Food and Agriculture Organization
FAS	USDA's Foreign Agricultural Service
FDA	U.S. Food and Drug Administration
FSIS	USDA's Food Safety Inspection Service
FTA	Free Trade Agreement
GCC	Gulf Cooperation Council
HACCP	Hazard Analysis and Critical Control Points
HPAI	Highly Pathogenic Avian Influenza
IICA	Inter-American Institute for Cooperation on Agriculture
IPPC	International Plant Protection Convention
LPAI	Low Pathogenic Avian Influenza
MRL	Maximum Residue Limit
NAFTA	North American Free Trade Agreement
NTE	National Trade Estimate
OIE	World Organization for Animal Health
PRA	Pest Risk Assessment
PRT	Pathogen Reduction Treatment
SADC	South African Development Community
SPS	Sanitary and Phytosanitary
SRM	Specified Risk Material
STDF	Standards and Trade Development Facility
TBT	Technical Barriers to Trade
TIFA	Trade and Investment Framework Agreement
TPSC	Trade Policy Staff Committee
TWG	Trade Working Group
USDA	U.S. Department of Agriculture
USTR	Office of the U.S. Trade Representative
WHO	World Health Organization
WTO	World Trade Organization

I. EXECUTIVE SUMMARY

The *2010 Report on Sanitary and Phytosanitary Measures (SPS Report)* is a new, specialized report dedicated to describing significant barriers to U.S. food and farm exports arising from measures that foreign governments apply on the ground that they are necessary to protect human, animal, or plant life or health from risks arising from the entry or spread of pests, from plant-or animal-borne pests or diseases, or from additives, contaminants, toxins, or disease-causing organisms in foods, beverages, or feedstuffs. These measures, known in World Trade Organization (WTO) parlance as “sanitary and phytosanitary (SPS) measures,” play an increasingly critical role in shaping the flow of global trade. The United States strongly supports the right of governments to protect their people, animals, and plants from health risks of this kind. This report is focused on SPS measures that appear to be unscientific, unduly burdensome, discriminatory, or otherwise unwarranted and create significant barriers to U.S. exports. Many of these measures are hard to detect and can present particular challenges for small and medium sized enterprises (SMEs) that typically lack the resources to identify and address such barriers. This report is intended to describe and advance U.S. efforts to identify and eliminate these measures.

Section II of this report presents an overview of SPS measures, describes the relevant international agreements governing these measures, and discusses the U.S. and international mechanisms for addressing them. In particular, Section II covers the following topics: (1) the genesis of this report; (2) the growing importance of SPS measures in global trade; (3) rules governing SPS measures under the WTO’s *Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement); (4) rules and mechanisms regarding SPS measures in U.S. free trade agreements; (5) international standard setting in the SPS area; (6) the role of various U.S. Government agencies in addressing SPS-related trade issues; (7) sources of information about SPS trade barriers; and (8) U.S. trade policy mechanisms for considering and addressing SPS measures, including bilateral engagement and WTO dispute settlement.

Section III discusses important SPS issues that affect U.S. exports in multiple foreign markets. Among the most significant of these cross-cutting barriers are restrictions related to the H1N1 influenza virus, biotechnology, bovine spongiform encephalopathy (BSE), avian influenza (AI), ractopamine, and maximum residue limits (MRLs) on pesticides.

The heart of this report is Section IV, which identifies and describes significant unwarranted SPS-related trade barriers currently facing U.S. exporters, along with U.S. Government initiatives to eliminate or reduce the impact of these barriers. The report identifies SPS measures in the following countries and groups of countries: Argentina, Australia, Bolivia, Brazil, Chile, China, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, the European Union, Guatemala, the Gulf Cooperation Council, Honduras, Hong Kong, India, Israel, Jamaica, Japan, Kazakhstan, Kenya, Kuwait, Mexico, Morocco, New Zealand, Nicaragua, Norway, Peru, Philippines, Russia, Saudi Arabia, Singapore, South Africa, the South African Development Community, South Korea, Sri

Lanka, Switzerland, Taiwan (Chinese Taipei), Thailand, Turkey, Ukraine, United Arab Emirates, Uruguay, Venezuela, and Vietnam.

Section V discusses the U.S. Government's efforts to provide technical assistance to developing countries on SPS issues. Such assistance is instrumental to U.S. efforts to ensure that countries adopt and maintain science-based SPS measures.

II. INTRODUCTION

A. Genesis of this Report

Shortly after taking office in 2009, President Obama reaffirmed America's commitment to ensuring the effective implementation and enforcement of the World Trade Organization's (WTO) system of multilateral trading rules. The President's 2009 Trade Policy Agenda vowed an aggressive and transparent program of defending U.S. rights and benefits under the rules-based trading system as a key element in his vision to restore the role of trade in leading economic growth and promoting higher living standards. The President's Agenda also recognized that "behind the border" measures and other non-tariff barriers have grown in significance for U.S. exporters seeking access to foreign markets.

In a [major policy speech](#) delivered at the Edgar Thomson Plant of the Mon Valley Works in Pittsburgh, Pennsylvania in July 2009, the U.S. Trade Representative, Ambassador Ron Kirk, pledged more aggressive action to break down barriers to U.S. exports. Ambassador Kirk highlighted two kinds of non-tariff measures that pose increasing challenges to U.S. producers and businesses seeking to export products abroad: sanitary and phytosanitary (SPS) measures, which are measures that governments apply to protect human, animal, or plant life or health from risks arising from the entry or spread of pests, from plant- or animal-borne pests or diseases, or from additives, contaminants, toxins, or disease-causing organisms in foods, beverages, or feedstuffs; and standards-related measures, such as mandatory product standards and testing requirements.

In his speech, Ambassador Kirk pledged stepped up monitoring of trading partners' SPS and standards-related practices that act as obstacles to U.S. trade. He also vowed increased engagement to resolve trade issues and to help ensure that U.S. trading partners are complying with trade rules – particularly those relating to obligations under two WTO agreements: the [Agreement on the Application of Sanitary and Phytosanitary Measures \(SPS Agreement\)](#) and the [Agreement on Technical Barriers to Trade \(TBT Agreement\)](#). The goal of this intensified monitoring and engagement is to help to facilitate and expand trade in safe, high quality U.S. products.

Ambassador Kirk also relayed his determination to make USTR's annual reports to Congress "more than paperwork." To this end, he directed that the annual reports be used to bring new energy to the process of identifying non-tariff measures that act as significant barriers to U.S. exports; to provide a central focus for intensified engagement by U.S. agencies in resolving trade concerns related to non-tariff barriers; and to document the actions underway to give greater transparency and confidence to American workers, producers, businesses, consumers and other stakeholders with regard to the actions this Administration is taking on their behalf.

The *2010 SPS Report on Sanitary and Phytosanitary Measures* (SPS Report) serves these goals. This report is a new, specialized report dedicated to describing significant and unwarranted SPS foreign barriers. Many of these measures previously have been

addressed in the *National Trade Estimate Report on Foreign Trade Barriers (NTE Report)*.¹ By addressing significant foreign trade barriers in the form of SPS measures, the *SPS Report* meets the requirements under Section 181 of the Trade Act of 1974, as amended, to report on significant foreign trade barriers with respect to SPS measures. Accordingly, the *2010 NTE Report* itself does not contain information on these measures. A separate report addressing significant foreign trade barriers stemming from technical regulations, standards, and conformity assessment procedures (*2010 Report on Technical Barriers to Trade*) is being released in parallel with this report.

The *SPS Report* begins with an overview of SPS measures and the international trade rules that govern them. It then summarizes the manner in which the U.S. Government addresses foreign SPS trade barriers. Next, the *SPS Report* discusses certain SPS trade barriers that U.S. producers face in a number of different markets. The following section, comprising the heart of the *SPS Report*, identifies and describes SPS trade barriers on a country-by-country basis, along with a description of U.S. Government engagement on these issues. The *SPS Report* concludes with a discussion of the U.S. Government's efforts to provide technical assistance to developing countries on SPS issues.

Like the *NTE Report*, the source of the information for the *SPS Report* includes stakeholder comments that USTR solicited through a *Federal Register* notice, reports from U.S. Embassies abroad and from other federal agencies, and USTR's ongoing consultations with domestic stakeholders and trading partners. An appendix provides a list of entities that submitted comments in response to the *Federal Register* notice.

B. SPS Measures – What They Are, Why They Are Needed, and When They Become Trade Barriers

SPS measures are measures that governments apply to protect human, animal, or plant life or health from risks arising from the entry or spread of pests, from plant- or animal-borne pests or diseases, or from additives, contaminants, toxins, or disease-causing organisms in foods, beverages, or feedstuffs. For example, the United States and other governments routinely apply measures at the border to protect domestic crops or livestock from imported farm products or animals that may introduce a plant pest or animal disease into the country. As an illustration, many countries have established maximum residue limits for pesticide residues in food to promote food safety, as well as requirements that imported vegetables be treated to eliminate a particular pest to protect plant health. In addition,

¹ In accordance with section 181 of the Trade Act of 1974 (the 1974 Trade Act), as amended by section 303 of the Trade and Tariff Act of 1984 (the 1984 Trade Act), section 1304 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Trade Act), section 311 of the Uruguay Round Trade Agreements Act (the 1994 Trade Act), and section 1202 of the Internet Tax Freedom Act, the Office of the U.S. Trade Representative is required to submit to the President, the Senate Finance Committee, and appropriate committees in the House of Representatives, an annual report on significant foreign trade barriers. The statute requires an inventory of the most important foreign barriers affecting U.S. exports of goods and services, foreign direct investment by U.S. persons, and protection of intellectual property rights.

governments often require live animals to be subject to veterinary check-ups or quarantine before entering the country.

At times, however, some governments impose SPS measures that are really disguised barriers to trade, not grounded in science, or that are otherwise unwarranted, and which create substantial barriers to U.S. exports. For example, in 2009 a number of countries banned imports of U.S. pork and pork products, citing threats of the H1N1 influenza virus, despite the fact that there is no evidence that the virus is transmitted by food. Similarly, many countries have used the threat of avian influenza or bovine spongiform encephalopathy (otherwise known as BSE or “mad cow disease”) as a reason to block U.S. poultry and beef exports, respectively, ignoring international science-based standards that establish appropriate measures for addressing those diseases.

Maintaining dependable export markets for U.S. agricultural producers is critical to this nation’s economic health. Overall, U.S. producers export \$98.6 billion dollars worth of agricultural products annually. These exports support approximately 1 million U.S. jobs both on and off the farm. At the same time, however, SPS trade barriers prevent U.S. producers from shipping hundreds of millions of dollars worth of goods, hurting farms and small businesses. The elimination of unwarranted SPS foreign trade barriers is a high priority of the U.S. Government.

The U.S. Government’s pursuit of both goals – safeguarding the United States from risks to human, animal, or plant life or health as discussed above, and aggressively defending the interests of U.S. producers in exporting safe, wholesome products to foreign markets – are fully consistent. The United States and other governments have a legitimate right to adopt and enforce measures to protect their people, animals, and plants from SPS-related risks. At the same time, it is appropriate to question SPS measures that appear to be discriminatory, unscientific, or otherwise unwarranted and that, accordingly, do not serve to guard against legitimate health risks but rather act to protect domestic or favored foreign producers.

C. The World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement)

The SPS Agreement, to which all WTO Members are parties, explicitly recognizes that countries have the right to adopt regulations to protect human, animal, or plant life or health – including food safety regulations and measures to protect domestic crops, livestock, and poultry – and to establish the levels of protection from risk they deem appropriate. Starting from that premise, the SPS Agreement establishes a number of general requirements and procedures to ensure that governments adopt and apply SPS measures to protect against real risks rather than to protect local producers from import competition. The SPS Agreement also encourages harmonization of SPS measures among WTO Members, where appropriate.

Some of the more important elements of the SPS Agreement are described in this section.

The Scope of the SPS Agreement

The SPS Agreement applies only to those governmental measures that may directly or indirectly affect international trade. If a measure has no trade effect or is imposed by a private company or trade association, the SPS Agreement does not apply to it. The Agreement defines SPS measures as any measure that a WTO Member applies:

- to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms;
- to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins, or disease-causing organisms in foods, beverages or feedstuffs;
- to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or
- to prevent or limit other damage in the territory of the Member from the introduction, establishment or spread of pests.

SPS measures include all relevant laws, decrees, regulations, requirements, and procedures including, among others: end product criteria; processes, and production methods; testing, inspection, certification, or approval procedures; quarantine treatments, including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures, and methods of risk assessment; and packaging and labeling requirements directly related to food safety.

Appropriate Level of Protection

As noted above, the SPS Agreement explicitly recognizes the right of WTO Members to take SPS measures necessary to protect human, animal, or plant life or health. An important question is how much protection a Member may seek against a particular risk when it adopts an SPS measure. Under the SPS Agreement, each Member is free to choose its own “appropriate level of sanitary or phytosanitary protection.”

Science-Based Measures

Once a WTO Member has established its appropriate level of protection, the SPS Agreement provides that the SPS measures it takes to achieve that level of protection must be based on scientific principles, must not be maintained without sufficient scientific evidence, and may be applied only to the extent necessary to protect human, animal, or plant life or health. In cases where relevant scientific evidence is insufficient, a government may provisionally

adopt SPS measures on the basis of available information. In such circumstances, WTO Members shall seek to obtain the additional information necessary for a more objective assessment of risk and review the SPS measure accordingly within a reasonable period of time.

Risk Assessment

The SPS Agreement requires each Member to ensure that its SPS measures are based on a risk assessment, as appropriate to the circumstances, to assess whether a particular substance or product, including a process or production method, poses any risk to human, animal, or plant life or health.

Unjustifiable Discrimination and Disguised Restrictions on Trade

While each WTO Member is free to choose the level of protection it considers appropriate, the SPS Agreement requires Members to ensure that their SPS measures are not more trade-restrictive than required to achieve that level of protection, taking into account technical and economic feasibility. It also requires governments to avoid arbitrary or unjustifiable distinctions in the levels of protection in different situations if such distinctions result in discrimination against a good from another WTO Member or constitute a disguised restriction on international trade.

Harmonization

The SPS Agreement calls for governments to base their SPS measures on international standards, guidelines, and recommendations developed by international standard setting organizations. The objective in promoting the use of international standards is to facilitate trade by harmonizing different Members' SPS measures on as wide a basis as possible. The three recognized standard-setting bodies in the SPS Agreement are: (1) the Joint Food and Agricultural Organization of the United Nations (FAO)/World Health Organization (WHO) Codex Alimentarius Commission for food safety; (2) the FAO International Plant Protection Convention (IPPC) for plant health; and (3) the World Organization for Animal Health, formerly known as the International Office of Epizootics (OIE), for animal health and zoonoses. A Member may depart from an international standard, guideline, or recommendation if the Member chooses a level of protection that is higher than the level of protection that the international standard achieves, or if there is a scientific justification.

Transparency

The SPS Agreement requires WTO Members promptly to publish all adopted SPS measures in a manner that enables other interested WTO Members to become acquainted with them. The SPS Agreement also requires each Member to maintain an enquiry point that is responsible for providing relevant documents and answers to all reasonable questions from interested Members concerning SPS regulations adopted or proposed in the Member's territory. In addition, the SPS Agreement requires each WTO Member to publish

any proposed SPS measure that is not based on an international standard, guideline, or recommendation and that may have a significant effect on trade in order to provide other Members prior notice and an opportunity to comment on the proposal, except where “urgent problems of health protection” are involved.

The United States takes its transparency obligations very seriously and encourages other WTO Members to do the same. The United States submits, on average, 251 SPS notifications per year.

SPS Committee

The SPS Agreement establishes a Committee on Sanitary and Phytosanitary Measures (SPS Committee) to provide a regular forum for consultations about SPS measures that affect trade and to oversee the implementation of the SPS Agreement.

The SPS Committee is open to all WTO Members as well as governments that have observer status in higher level WTO bodies. The U.S. delegation to the SPS Committee is led by USTR, and includes representatives from the U.S. Department of Agriculture (USDA), the U.S. Environmental Protection Agency (EPA), the U.S. Food and Drug Administration (FDA), and the U.S. Departments of Commerce and State. In addition to participating WTO Members, the SPS Committee has invited representatives of several international intergovernmental organizations to attend as observers. Among the observers have been representatives from Codex, the OIE, the IPPC, and the WHO.

The agenda for SPS Committee meetings varies, but several items appear regularly on the agenda. Committee members routinely discuss matters related to how the SPS Agreement is being applied and implemented and specific trade concerns, such as the H1N1 influenza virus and pesticide residue level restrictions. Members also discuss and develop procedures and guidelines that help governments implement their obligations under the SPS Agreement. Recently, the SPS Committee adopted new guidelines to implement rights and obligations dealing with special and differential treatment and regionalization. All procedures and guidelines that the SPS Committee establishes must be adopted by consensus.

The United States is an active participant at SPS Committee meetings and regularly raises issues at meetings before all the Members. In 2009, for example, the U.S. delegation vigorously engaged with the more than 30 countries that had banned U.S. pork products due to unfounded fears over the H1N1 influenza virus. As discussed in section III.A, only a few trading partners continue to impose H1N1-related restrictions against U.S. pork exports. The U.S. delegation also raised its long-standing concern over Japan’s enforcement of certain pesticide regulations. As discussed in section IV, Japan and the United States signed a Memorandum of Understanding (MOU) regarding this issue in July 2009.

Technical Assistance

The SPS Agreement encourages all Members to facilitate technical assistance to developing country Members either bilaterally or through relevant international organizations, such as the Standards and Trade Development Facility (STDF) and the Inter-American Institute for Cooperation on Agriculture (IICA). The STDF is a joint initiative of the WTO, FAO, OIE, and WHO with respect to capacity building and technical cooperation aimed at raising awareness on the importance of SPS issues, increasing coordination in the provision of SPS-related assistance, and mobilizing resources to assist developing countries enhance their capacity to meet SPS standards. The IICA is a specialized agency of the Inter-American System, whose purpose is to encourage and support the efforts of its Member States to achieve agricultural development and well-being for rural populations.

D. Other SPS-Related International Agreements

U.S. Free Trade Agreements (FTAs)

Most of the free trade agreements that the United States has signed since the establishment of the WTO in 1995 include an SPS chapter.² While those chapters do not impose new or additional substantive rules or obligations, many of these agreements establish SPS committees that provide a forum for the parties' trade and regulatory authorities to resolve contentious SPS issues, consult on SPS matters that are pending before relevant international organizations, and coordinate technical cooperation programs.

For instance, in the U.S.-Australia FTA SPS Committee, the United States and Australia have worked together to secure market access for U.S. table grapes in several Australian states.³ This is a positive step forward, but additional work remains to be done, as discussed in section IV. In 2009, the United States and Chile used their FTA SPS Committee to forge common policy positions to promote adoption of an international maximum residue level for ractopamine at the Codex Commission.

The U.S. – Bahrain, U.S. – Morocco, and U.S. – Oman FTAs also create fora through which the respective agreements' ministerial-level Joint Committees periodically discuss SPS matters.

The North American Free Trade Agreement (NAFTA)

Because the NAFTA entered into force before the establishment of the WTO, and thus before countries' SPS measures were subject to multilateral SPS disciplines, the NAFTA has

² Among the U.S. Free Trade Agreements that include an SPS chapter are the U.S. – Australia FTA, the U.S. – Bahrain FTA, the U.S. – Chile FTA, the Central America – Dominican Republic – United States FTA (CAFTA – DR), the U.S. – Oman FTA, and the U.S. – Peru Trade Promotion Agreement (TPA). The U.S. – Morocco FTA does not have a stand-alone SPS chapter, but does include various SPS provisions in its agriculture chapter.

³ The U.S. – Australia FTA also establishes a Standing Technical Working Group on Animal and Plant Health Measures.

a much more detailed SPS chapter than other U.S. FTAs. For example, the NAFTA imposes specific disciplines on the development, adoption, and enforcement of SPS measures. As is the case with the SPS Agreement, the NAFTA SPS disciplines are designed to prevent the use of SPS measures as disguised restrictions on trade, while still safeguarding each country's right to protect consumers from unsafe products, or to protect domestic crops and livestock from the introduction of imported pests and diseases.

The NAFTA encourages the three NAFTA Parties (the United States, Canada, and Mexico) to adopt international and regional standards, while at the same time explicitly recognizing each country's right to determine its appropriate level of protection. Such flexibility permits each country to set standards that are more stringent than international guidelines, as long as those standards are scientifically based.

The NAFTA Committee on SPS Measures promotes the harmonization and equivalence of SPS measures between the three governments and facilitates technical cooperation, including consultations regarding disputes involving SPS measures. The Committee meets periodically to review and resolve SPS issues. For example, during the 2009 H1N1 outbreak, the Parties worked together with the OIE to ensure that no Party would require H1N1-related certification language for imports of live swine.

The NAFTA SPS Committee also hosts a number of technical working groups (TWGs) that have served to enhance regulatory cooperation and facilitate trade between the three NAFTA countries. TWGs address trade issues and national regulatory and scientific review capacity. They also coordinate regulatory decision-making to reduce the burden on industry. For example, the NAFTA TWG on pesticides has created a venue for collaboration between U.S. EPA's Office of Pesticides Programs and its counterparts in Canada and Mexico. The primary objective of this working group is to enhance cooperation and harmonize pesticide standards while maintaining and enhancing standards of food safety, public health, and environmental protection.

In January 2007, EPA and Canada's Pest Management Regulatory Agency (PMRA) announced the acceptance of the first NAFTA label for a conventional agricultural pesticide known as Far-Go Herbicide in the United States and Avadex MicroActive Herbicide in Canada. (A NAFTA label certifies that the pesticide has been approved for use on certain fruits or vegetables and specifies instructions concerning application.) Since then, six additional NAFTA labels have been approved. The development of a NAFTA label represents the culmination of years of work on pesticide regulatory harmonization that has been conducted by the NAFTA TWG. The United States remains committed to continued work with NAFTA partners to advance such pesticide harmonization efforts.

E. International Standard Setting Bodies

The WTO officially recognizes three standard setting bodies to deal with SPS matters: the Codex Commission for food safety, the OIE for animal health and zoonoses, and the IPPC for plant health. U.S. Government experts participate actively in these organizations, which

meet periodically to discuss current and anticipated threats to human and agricultural health, evaluate scientific issues surrounding SPS-related issues, and develop internationally recognized SPS standards based on science. These standards are voluntary and are intended to provide guidance for countries in formulating their own national SPS measures and, ultimately, to help avoid and resolve disputes over appropriate SPS measures. As discussed below, various USDA agencies lead the U.S. delegations to these three international bodies. The United States strongly encourages its trading partners to adopt the standards set by Codex, IPPC, and the OIE.

In recent years, the United States has supported a number of important standards developed by these international bodies. In 2009, Codex adopted more than 30 new international standards, codes of practice, and guidelines, such as criteria for *Salmonella* and bacteria in powdered formula for children six months or older, as well as new microbiological testing and environmental monitoring standards for *Listeria monocytogenes* in ready-to-eat foods. The United States was actively involved with the development of these food safety standards and has encouraged their adoption by trading partners.

Another important area supported by the United States has been OIE's work in promulgating science-based guidelines in the event that a potentially dangerous strain of avian influenza is detected. According to these guidelines, detections of low pathogenicity strains influenza viruses should not trigger trade restrictions, and the application of import measures with respect to poultry and poultry products are justified only when highly pathogenic strains are detected in domestic poultry. The OIE guidelines further delineate when trade in such products may resume.

F. U.S. Government Agencies

The Executive Branch has robust policies and procedures in place for addressing and resolving foreign SPS trade barriers. The following discussion describes the roles that the relevant federal agencies play in that effort.

Office of the United States Trade Representative (USTR)

USTR, a component of the Executive Office of the President, is responsible for developing and coordinating U.S. international trade policy, and overseeing negotiations with other countries, including with respect to foreign SPS measures. USTR meets with governments, business groups, legislators, public interest groups, and other interested parties to gather input on SPS issues and to discuss trade policy and negotiating positions. USTR then coordinates U.S. trade policy through an interagency structure (as discussed below). USTR fills a variety of roles in the engagement of trade barriers generally, including SPS ones, such as being the lead negotiator on bilateral and multilateral agreements and lead counsel in all WTO disputes.

The head of USTR is the U.S. Trade Representative, a Cabinet member who serves as the President's principal trade advisor, negotiator, and spokesperson on SPS and other trade issues. Created in 1962, USTR has offices in Washington and Geneva, and posts representatives in Beijing and Brussels.

U.S. Department of Agriculture (USDA)

USDA plays a key role in addressing foreign SPS trade barriers as the vast majority of these barriers are restrictions on U.S. agricultural exports. In particular, three USDA components, the Foreign Agricultural Service (FAS), the Animal and Plant Health Inspection Service (APHIS), and the Food Safety and Inspection Service (FSIS), are actively engaged in interagency deliberations and coordination as well as in the direct engagement with U.S. trading partners on SPS matters.

Foreign Agricultural Service (FAS)

FAS coordinates and executes USDA's strategy to address foreign market access for U.S. products (including addressing SPS barriers to U.S. exports), build new markets, improve the competitive position of U.S. agriculture in the global marketplace, and provide food aid and technical assistance to foreign countries. FAS has primary responsibility for USDA's international activities – market development, trade agreements and negotiations, and the collection and analysis of statistics and market information. To perform these tasks, FAS relies on its global network of overseas offices with staff in over 90 foreign countries that monitor policies and other developments that could affect U.S. agricultural exports. FAS collects and analyzes information that a number of U.S. agencies use to develop strategies to increase market access, monitor trade agreements, and improve programs and policies to make U.S. farm products more competitive. FAS provides significant funding to address SPS trade barriers under the Technical Assistance for Specialty Crops (TASC) program. The pest research, field surveys, and pre-clearance programs funded by TASC play an important role in supporting efforts to remove such trade barriers. FAS is a member of the U.S. delegation to the WTO SPS Committee and is an active member of all other SPS interagency teams.

Animal and Plant Health Inspection Service (APHIS)

APHIS works to prevent the entry, establishment, or spread of animal and plant pests and noxious weeds in the United States, thus serving to ensure an abundant, high-quality, and varied food supply. As a result of its expertise, APHIS plays a key role in addressing foreign agricultural trade barriers by developing and advancing science-based standards with U.S. trading partners to ensure that U.S. agricultural exports are protected from unwarranted SPS restrictions. APHIS leads the U.S. Government delegation to the OIE and IPPC and actively participates in helping shape the draft animal and plant health standards proposed by these international organizations. APHIS also serves as a member of the U.S. delegation to the WTO SPS Committee and is an active member of all other SPS interagency teams.

Food Safety and Inspection Service (FSIS)

FSIS is USDA's public health agency, responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged. FSIS has significant expertise in addressing SPS barriers that foreign governments apply to U.S. exports of these products. FSIS is the U.S. Government coordinator for Codex meetings, as well as an active member of the U.S. delegation to the WTO SPS Committee and other SPS interagency teams.

U.S. Environmental Protection Agency (EPA)

EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS)⁴ regulates pesticides use in the United States to protect human health and the environment; establishes maximum residue limits to ensure safety of both domestically produced and imported foods; promotes the use of safe means of pest control; and establishes standards and requirements regarding sound pesticide and chemical management practices based on science. OPPTS has the lead role in coordinating EPA activities with respect to foreign SPS measures, particularly pesticide maximum residue limits and biotechnology. EPA is a member of the U.S. delegation to the WTO SPS Committee and is an active member of all other SPS interagency teams.

U.S. Food and Drug Administration (FDA)

The FDA is the regulatory agency responsible for the safety of most of the nation's domestically produced and imported foods, as well as food additives and dietary supplements. In addition, FDA's regulatory authority also covers the manufacture and distribution of food additives and drugs intended for consumption by animals. FDA plays an active role in assessing foreign SPS measures and practices as part of the interagency process and as a member of the U.S. delegation for the WTO SPS Committee. FDA is also an active member of all other SPS interagency teams.

U.S. Department of Commerce

The U.S. Department of Commerce's Trade Agreements Compliance (TAC) Program coordinates efforts and resources to systematically monitor, investigate, and ensure foreign governments comply with the over 270 international trade agreements to which the United States is party. The TAC Program represents the U.S. Government's focal point for reducing or eliminating the foreign trade barriers that obstruct U.S. exporter market access. Commerce works closely with its interagency colleagues to address SPS-related trade barriers, as well as all matters at issue at the SPS Committee. In addition, the Department's U.S. Commercial Service works with U.S. companies to help them expand market access opportunities abroad. The Commercial Service operates in more than 100 U.S. cities and 80 countries around the world. The Department of Commerce is a member of the U.S.

⁴ EPA's Office of Prevention, Pesticides and Toxic Substances will be renamed the Office of Chemical Safety and Pollution Prevention as of April 22, 2010.

delegation to the WTO SPS Committee and is an active member of all other SPS interagency teams.

U.S. Department of State

Unnecessary barriers to agricultural trade can create friction in U.S. diplomatic relations and diminish U.S. efforts to improve global food security. Accordingly, the Department of State is an active participant in interagency deliberations and policy formulation concerning SPS measures as well as part of the U.S. delegation to the WTO SPS Committee. The State Department's Economic Bureau, as well as its diplomatic posts around the world, regularly provide information on foreign SPS measures.

G. Sources of Information about SPS Trade Barriers

The United States maintains a vigorous process for identifying SPS measures that create barriers to U.S. exports. USTR and other agencies learn of issues directly from concerned U.S. businesses and industries, consumer organizations, and other stakeholders. U.S. agencies also rely on an extensive network of U.S. Government officials stationed around the globe, particularly in embassies that house both State Department and FAS representatives.

In addition, the United States receives formal notifications under WTO procedures when WTO Members are considering making changes in their SPS measures. FAS leads an interagency team that reviews these notifications on a weekly basis and consults with stakeholders including industry and consumer organization advisers. Where warranted, the United States submits comments to the relevant WTO Members on the potential trade effects or scientific concerns that may arise from the changes they are considering. In 2009 alone, the interagency group reviewed 782 notifications by 57 countries and provided comments to these trading partners on 212 proposed or in force SPS measures.

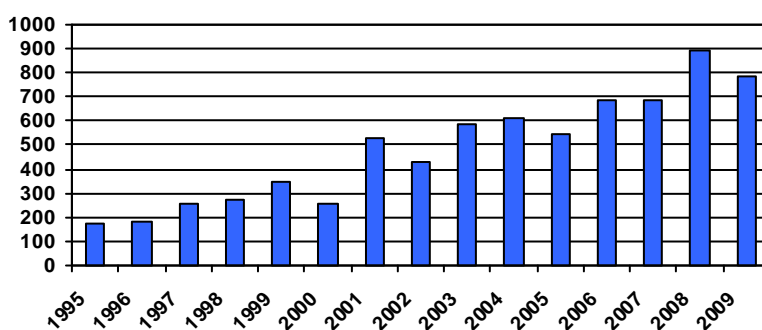


Table 1. Number of Foreign SPS Measures Reviewed by the United States

Nearly one-half of the comments were measures regarding processed products; one-third addressed requirements for live animals and fish (and their products, including dairy products); and almost one-quarter were for measures that introduced new standards or

entry requirements for plants, bulk commodities (including those made with biotechnology), and horticultural products. The leading recipients of U.S. Government comments included China with 77 comments, South Korea (18), Brazil (17), Taiwan (14), and Bahrain (13).

As part of these submissions, the United States requested its trading partners to take a number of actions, including the following: change product certification requirements; modify requirements of a measure; repeal an import ban; rescind entry requirements; reduce certification requirements; delay implementation of a measure; and reduce testing fees. The United States, of course, requested its trading partners to adopt the international standards of Codex, the OIE, and the IPPC where appropriate.

H. U.S. Government Engagement on Foreign SPS Trade Barriers

The United States maintains a broad and active agenda of engagement both to prevent the adoption of SPS measures that would create unnecessary barriers to U.S. exports and to resolve specific SPS trade concerns.

Interagency Consultation

Before formally engaging a foreign government with respect to a proposed or existing SPS measure, USTR generally consults with those federal agencies that participate in addressing SPS trade policy matters. USTR coordinates SPS policy through a multi-tiered interagency process. The Trade Policy Staff Committee (TPSC), with representation at the senior civil service level, serves as the primary operating body for this interagency process. A TPSC subcommittee specifically devoted to addressing SPS matters supports the TPSC's deliberations.

Levels of Engagement

The U.S. Government addresses SPS trade issues and unwarranted barriers in a variety of ways. As discussed above, the U.S. interagency provides comments on SPS measures that are notified to the WTO. In addition, FAS and State Department officials stationed at U.S. embassies frequently identify proposed foreign SPS measures and transmit U.S. Government comments on proposed foreign SPS measures to the relevant foreign government officials. In parallel with these comments, FAS and State Department representatives typically ask the government concerned to provide a formal written response and to arrange meetings between their relevant regulatory authorities and FAS representatives so that they can describe U.S. concerns in detail. FAS and State Department officials submit reports on these meetings to the relevant U.S. agencies for their collective consideration. Depending on the nature of the specific measure, the interagency team may request technical experts of the pertinent U.S. regulatory agency to meet with their counterparts in the relevant country to discuss U.S. concerns and, where appropriate, to propose reasonable alternatives that are less trade restrictive.

If the United States is unable to resolve an SPS concern through these methods, USTR, following coordination with the TPSC, may elect to request a meeting with the country's senior regulatory and trade agency representatives, or may decide to raise the matter during a regularly scheduled bilateral meeting with the trading partner at the WTO SPS Committee meeting in Geneva. USTR leads these discussions and works closely with the relevant regulatory agencies to address the relevant concern.

If the issue cannot be resolved through bilateral consultations, USTR may ask the U.S. Ambassador in the country concerned to raise the matter with the appropriate senior foreign government officials. Alternatively, USTR may opt to add the issue to the agenda of a meeting convened under the appropriate bilateral or regional U.S. FTA or decide to pursue the issue during the course of a formal WTO SPS Committee meeting where all WTO Members will have the opportunity to listen and comment on the issue at hand.

WTO Dispute Settlement

If none of these methods of engagement is successful in resolving a particular concern, USTR may conclude that a negotiated settlement is not possible on a bilateral basis. At that point, if the trading partner is a WTO Member, and if the United States considers that measure is inconsistent with WTO rules, the United States may decide to assert its rights under the SPS Agreement through the WTO's dispute settlement system. Since the WTO was established in 1995, the United States has successfully challenged foreign SPS measures in four separate proceedings, with a fifth proceeding currently underway. These proceedings are described below.

European Communities – Hormones⁵

In 1996, the United States challenged the European Union's (EU) ban on beef derived from U.S. cattle that have been treated with certain growth-promoting hormones. In 1998, the WTO found that the EU's ban was not supported by science and was thus inconsistent with the EU's obligations under the SPS Agreement. Accordingly, in 1999, following authorization from the WTO's Dispute Settlement Body, the United States raised its duties on a list of EU products.

In May 2009, the United States and the EU concluded an MOU that will enable U.S. producers to gain additional duty-free access to the EU market for high-quality beef produced from U.S. cattle that have not received growth-promoting hormones. The MOU, which took effect in August 2009, provides additional duty-free access to the EU market for high-quality beef produced from cattle that have not been raised with growth-promoting hormones – 20,000 tons in each of the first three years, increasing to 45,000 tons beginning in the fourth year. Under the MOU, the United States may maintain the additional duties it had in place on EU products in March 2009 and will not impose new duties on EU products during the initial three-year period, and will eliminate all sanctions during the fourth year.

⁵ Before 2010 the European Union was referred to for purposes of the WTO as the European Communities.

The MOU also provides for the two sides to refrain from further WTO litigation with respect to EU's beef ban for at least 18 months. Before the four-year period ends, the United States and the EU will seek to conclude a longer-term agreement.

Japan – Varietal Testing

In 1997, the United States challenged Japan's varietal testing requirement, which prohibited the importation of certain fruits and nuts on the basis that they could become potential hosts for codling moths. In 1999, the WTO found that Japan's restrictions were maintained without sufficient scientific evidence and that they were not based on a risk assessment. In response, Japan abolished its varietal testing requirement. In 2001, the United States and Japan reached a mutually agreed solution to end the dispute, allowing U.S. exporters to regain market access in Japan.

Japan – Apples

In 2002, the United States challenged Japan's restrictions on imports of U.S. apples, which was based on concerns over the introduction of fire blight. The WTO ruled in 2003 that Japan's restrictions were inconsistent with its obligations under the SPS Agreement. In particular, the WTO found that Japan's measures were maintained without sufficient scientific evidence and were not based on a risk assessment. A WTO compliance panel found in 2005 that Japan had not complied with the WTO's recommendations and rulings. Later that year, Japan and the United States reached a mutually agreed solution to ensure access for U.S. apples to Japan's market.

European Communities – Biotech

In 2003, the United States challenged the EU's *de facto* moratorium on approvals of U.S. biotechnology agricultural products, such as certain corn and soybeans varieties, and marketing prohibitions that individual EU Member States had imposed on biotechnology products that the EU had previously approved. In 2006, a WTO panel found that EU and Member State measures were inconsistent with WTO rules. This dispute remains unresolved. A large backlog of applications remains pending in the EU approval system, which has the effect of blocking U.S. exports of certain agricultural products. In recent months, however, the EU has shown progress by approving a number of long-delayed applications.

European Union – Poultry

At the request of the United States, the WTO established a dispute settlement panel in November 2009 to examine whether the EU's restrictions on imports of U.S. poultry are consistent with its obligations under the SPS Agreement. The dispute is focused on the EU's ban on the import and marketing of poultry meat and poultry meat products processed with certain pathogen reduction treatments used in the United States that both

U.S. and European scientists have judged to be safe. The United States will continue to pursue this matter through WTO dispute settlement proceedings in 2010.

Technical Assistance

In addition to these efforts, the U.S. Government has put in place a number of programs that provide technical assistance to developing countries to help these countries meet their international obligations with respect to SPS measures and thereby facilitate trade in agricultural products. In 2008, the U.S. Government obligated \$6.6 million in SPS trade capacity building assistance, and has provided a total of \$70 million since 2000 for this purpose. This assistance takes the form of training seminars, pest surveillance efforts, laboratory training, advice on drafting rules and regulations, staff internships and details, and data sharing. U.S. technical assistance is discussed in greater detail in Section V.

III. MAJOR CROSS-CUTTING SPS ISSUES

This section of the report discusses certain important SPS issues that restrict U.S. exports in multiple markets and describes the efforts the U.S. Government has made to address these issues. These cross-cutting issues are as follows: H1N1 influenza virus, biotechnology, bovine spongiform encephalopathy, avian influenza, ractopamine, and maximum residue levels for pesticides. Individual country reports in section IV provide further details on these barriers in specific markets.

A. H1N1 Influenza Virus

In April 2009, an outbreak of a new strain of human H1N1 influenza virus, sometimes referred to as the “swine flu,” occurred in Mexico and soon spread to other countries, including the United States. In June 2009, the WHO declared that the H1N1 influenza virus had attained the level of a global pandemic. In response to the appearance of H1N1, more than 30 countries prohibited imports of U.S. swine, pork, and pork products. Countries that imposed bans included Bahrain, China, Croatia, Ecuador, El Salvador, Guatemala, Honduras, Indonesia, Jordan, Kazakhstan, Russia, Serbia, South Korea, Thailand, and Ukraine, among others. Cumulatively, the countries who placed H1N1 bans on U.S. pork during 2009 had accounted for more than \$900 million worth of trade in pork and pork products in 2008. If these countries maintained their initial restrictions throughout 2009, these bans would have resulted in significant loss of trade.

Following the imposition of these import restrictions, the three major international health organizations – the WHO, OIE, and FAO – together with the WTO, issued an unprecedented joint statement and guidance. The joint statement, published on April 30, 2009, emphasized that pork import bans based on concerns over H1N1 were unjustified given the absence of scientific evidence indicating that the virus could be transmitted by eating properly handled and prepared pork and other swine products.

USTR worked closely with other U.S. Government agencies to lift these bans, emphasizing to our trading partners that U.S. agricultural products, including pork and live swine, are safe and that swine flu-related trade restrictions against such products are inconsistent with the policy recommendations of international public health, food safety, and animal health bodies. Senior members of the Obama Administration urged these governments to ensure that their food safety measures were based on scientific evidence and consistent with their international obligations.

Today, due in large part to these efforts, very few countries continue to block imports of U.S. swine, pork, and pork products based on concerns over H1N1 transmission. The United States continues to work bilaterally with these trading partners as well as through the WTO SPS Committee to lift the remaining H1N1 bans on U.S. swine, pork, and pork products.

B. Biotechnology

In recent years, farmers around the world have increasingly planted crops developed through biotechnology. Agricultural biotechnology encompasses a range of tools, including genetic engineering and traditional breeding techniques. These tools may be used to alter living organisms to make or modify products, to improve plants or animals, or to develop micro-organisms for specific agricultural uses.

According to the International Service for the Acquisition of Agri-Biotech Applications (ISAAA) the number of countries growing biotechnology crops has grown considerably, from six in 1996 to 25 countries in 2009. Crops produced using agricultural biotechnology that are consumed in the United States for food, fiber, or feed include corn, soybeans, cotton, canola, alfalfa, and squash. USDA's National Agricultural Statistics Service estimates that in 2009, 91 percent of soybean, 85 percent of corn, and 88 percent of cotton area planted in the United States were from biotech varieties. New genetically engineered crops and products, such as those intended for pharmaceuticals, phyto-remediation, and biofuel production, are likely to appear in the market in the next few years, and create acceptance and trade challenges for the United States and its trading partners.

U.S. exports of biotech corn and soybeans, as well as other agricultural products that contain – or may contain – biotech-derived ingredients, face a multitude of trade barriers. Some U.S. trading partners have continued to impose import bans on these products even though repeated dietary risk assessments have shown no food safety concerns and these biotech products have proven safety records. These unjustified import bans and restrictions applied to U.S. biotech products are discussed in the country-specific sections of this report. In addition, some trading partners impose mandatory labeling requirements on foods containing or derived from biotech products. Those requirements create the impression that the labeled food is different from or less safe than a comparable, unlabeled food not containing or derived from biotech products. The labeling restrictions are addressed more fully in the *TBT Report*.

The United States is actively engaged with trading partners in seeking to remove these unwarranted trade barriers, and more broadly, in efforts to share experiences related to biotechnology development, regulation, and trade. As part of these efforts, U.S. officials have helped shape the development of international standards related to safety assessment of, and trade in, agricultural biotechnology products. Specifically, the United States contributed to the establishment of Codex plant guidelines for assessing the safety of biotech crops and supported the development of Codex safety assessment guidelines for nutritionally enhanced biotech crops and for cases of low-level presence of unapproved biotech events. Although the United States is not a party to the Cartagena Protocol on Biosafety, which guides the transboundary movement of living modified organisms, the U.S. Government has consistently participated in meetings of the protocol parties and related capacity-building efforts. The United States is also actively involved in regulatory and policy dialogues in the Asia Pacific Economic Cooperation forum (APEC) addressing agricultural biotechnology.

C. Bovine Spongiform Encephalopathy (BSE)

History

BSE, commonly known as mad-cow disease, is a transmissible, fatal neuro-degenerative brain disease of cattle. BSE was first diagnosed in the United Kingdom (UK) in 1986. At its peak in 1992, there were 37,316 reported cases of BSE, 99.9 percent of which were in the UK. By 2009, the number of cases had decreased to 70 cases globally, only two of which occurred outside of Europe. Only three animals in the United States have tested positive for BSE – an animal imported from Canada in 2003, a U.S.-born animal in 2005, and another U.S.-born animal in 2006.

The World Organization for Animal Health (OIE)

The OIE is the intergovernmental organization responsible for improving animal health worldwide. OIE classifies the BSE risk status of cattle populations in particular countries on the basis of a risk assessment and other criteria. The OIE has established three risk categories: negligible risk, controlled risk, and undetermined risk, with different recommendations for the safe trade in beef and beef products from countries in each category. Based on a review of the United States' interlocking BSE-related controls, in May 2007 the OIE classified the United States as having a "controlled risk" status.

OIE guidelines specify that beef and beef products from a controlled risk country can be safely traded provided that certain slaughter and processing conditions are met, and appropriate "specified risk materials" (SRMs) are removed from the carcass before shipment. SRMs are tissues where the BSE agent is known to accumulate and can therefore pose a human health risk. For controlled risk countries, such as the United States, SRMs are the tonsils and distal ileum of all cattle regardless of age and the brain, eyes, spinal cord, skull, and vertebral column from cattle over 30 months of age. From a human health perspective, the removal of these tissues from cattle over the designated age is the single most significant measure in ensuring the production of safe beef and beef products. With respect to BSE, all cattle parts that the OIE has not designated as SRMs are considered safe for human consumption.

U.S. BSE-Related Controls

The United States implemented an OIE-consistent feed ban in 1997, which prohibits feeding most mammalian protein to ruminants. The U.S. feed ban was further strengthened in 2009 by prohibiting the use of the highest risk cattle tissues in all animal feed. Both of the indigenous BSE cases in U.S. cattle were in animals born before the 1997 feed ban. A ban of this type is the most important step a country can take to protect its cattle population against the transmission of BSE via feed. In 2004, the United States implemented BSE-related measures in U.S. slaughterhouses and meat production establishments, the most important of which requires SRM removal. As a result of these

interlocking measures, beef and beef products produced in the United States are safe for consumption.

Foreign Trade Barriers to U.S. Exports of Beef and Beef Products

In December 2003, as a result of the first case of BSE detected in the United States, at least 100 countries closed their markets to all U.S. beef and beef products, causing substantial harm to the U.S. beef industry, which at the time exported approximately ten percent of its total production. In 2003, U.S. producers exported \$3.86 billion of beef and beef products. The following year, as a result of the widespread import ban, U.S. exports fell by 79 percent, to \$808 million. By 2009, U.S. beef and beef product exports had rebounded, totaling nearly \$3.08 billion, which was just \$744 million short of pre-BSE levels.

U.S. beef producers currently export their products to a wide variety of markets around the world. Section IV of the *SPS Report* identifies 28 countries that continue either to ban U.S. beef entirely or impose other OIE-inconsistent restrictions on U.S. beef products. Such measures represent unwarranted foreign SPS trade barriers and greatly burden U.S. beef producers. Moreover, the discrepancy in BSE-related measures in different markets represents a separate burden and undercuts the comparative advantage of U.S. exporters. USDA currently maintains 11 country-specific export verification programs for U.S. beef exports, plus three additional programs covering beef for human consumption, and one program for SRM-free inedible material.

Restoring full access for U.S. beef and beef products consistent with science, the OIE guidelines, and the status of the United States as a controlled BSE risk country is a priority of the U.S. Government. The United States is continuing its efforts to negotiate bilateral protocols with trading partners to open their markets to U.S. beef. It has proven difficult in some instances to initiate and conclude these negotiations give the political sensitivity of the issue in some countries.

D. Avian Influenza (AI)

AI is a poultry disease that can infect chickens, turkeys, pheasants, quail, ducks, geese, and guinea fowl, as well as a wide variety of other birds.

AI virus strains are divided into two groups based on the strain's ability to produce disease and on the severity of the illness the strain may cause in poultry: low pathogenic avian influenza (LPAI) and highly pathogenic avian influenza (HPAI). LPAI naturally occurs in wild birds and can spread to domestic birds. In most cases it causes no signs of infection or only minor symptoms in birds. These strains of the AI virus pose little threat to human health.

HPAI is an extremely infectious and fatal form of the disease that, once established, can spread rapidly from flock to flock. HPAI is often fatal in chickens and turkeys. It spreads more rapidly than LPAI and has a higher death rate in birds. All HPAI strains, regardless of

where they are detected must be notified to the OIE. The HPAI H5N1 strain has spread rapidly in some regions of the world in recent years and affected human populations. Because of the potential health effects of HPAI, particularly the H5N1 strain, the OIE requires governments to report notifiable detections of AI within 24 hours. In addition, LPAI H5 and H7 strains detected in domestic poultry must also be notified to the OIE due to concerns that these strains could mutate to HPAI.

U.S. AI-Related Controls

While there have been three minor outbreaks of HPAI in U.S. poultry since 1924, none of these outbreaks has caused significant human illness, and there is no evidence that HPAI currently exists in the United States. Further, the United States has taken numerous actions to prevent the spread of AI consistent with the science-based standards, guidelines, and recommendations issued by the OIE, the international authority on AI issues.

U.S. regulatory authorities have put in place numerous safeguards to ensure that HPAI is not established in the U.S. poultry population. For example, federal agencies have worked with states and the poultry industry to monitor U.S. bird populations. These programs monitor four key areas: live bird markets, commercial flocks, backyard flocks, and migratory bird populations. Extensive testing occurs in live bird markets and commercial flocks. Additionally, any birds that show signs of illness are tested for HPAI. Finally, federal officials and their state and industry partners have also worked to establish an effective and coordinated emergency response plan that would mitigate the impact of any outbreak of HPAI in the United States.

Foreign Trade Barriers to U.S. Exports of Poultry and Poultry Products

Despite these measures, many countries have imposed AI-related import bans on U.S. poultry. For example, India prohibits imports of most U.S. poultry and poultry products (as well as live swine) for AI-related concerns. China has banned imports of poultry and poultry products from six U.S. states. Other trading partners, including Ecuador, Egypt, Kazakhstan, and Kuwait, have also banned U.S. poultry and poultry products based on concerns over AI.

The United States is concerned with these restrictions and the impact that they have had on U.S. poultry trade. Many of the import bans appear to be inconsistent with science and the relevant OIE guidelines. Those guidelines recognize that unprocessed poultry products from countries that report detections of LPAI may be traded with minimal restrictions, and countries reporting HPAI may trade safely in poultry and poultry products under specified conditions. The guidelines do not, however, recommend any type of import bans on poultry commodities from countries with non-notifiable subtypes of AI.

Accordingly, the United States has raised concerns over the various AI-related imports bans around world in numerous bilateral and multilateral fora with the trading partners concerned. The U.S. Government has successfully had 36 AI-related bans lifted since 2008.

It remains a high priority for the United States to remove the remaining AI-related import bans on U.S. poultry and poultry products that authorities in India, China, and other countries have imposed.

E. Ractopamine

Ractopamine is a veterinary drug used to promote lean meat growth in pigs, cattle, and turkeys. It is commonly used in the swine industry in the United States. The FDA approved ractopamine for use in U.S. pork production in 1999, after an extensive review of the scientific evidence related to its health implications. (The FDA has since approved the drug for use in cattle in 2003 and for use in turkeys in 2008.) Ractopamine is also approved for use in swine in 26 countries around the world, including Australia, Brazil, Canada, and Mexico.

The Joint FAO/WHO Expert Committee on Food Additives (JECFA), which provides scientific advice to Codex on food additives, contaminants, and residues of veterinary drugs, issued a report recommending the establishment of a maximum residue level (MRL) for ractopamine in animal feed. The report serves as further scientific evidence that this product is safe. Based on the report, the Codex Commission is in the final stages of an eight-step process aimed at establishing a recommended MRL for ractopamine in pork production.

At the July 2009 meeting, the Codex Commission did not adopt the MRL recommended by JECFA due to opposition from the EU and China. However, the Commission agreed that JECFA, as the international expert scientific advisory body to Codex for veterinary drug residues, would review a ractopamine study put forward by China. The next opportunity for the Codex Commission to approve an MRL for ractopamine is July 2010.

Despite the scientific evidence attesting to the safety of ractopamine, a number of important trading partners, including China, the EU, Taiwan, and Thailand continue to ban imports of pork and pork products containing residues of ractopamine. These measures pose a significant barrier to trade for U.S. pork products.

F. Maximum Residue Levels (MRLs) for Pesticides

MRLs, known as tolerances in the United States, represent the maximum concentration of residues (generally expressed as parts per million or mg/kg of residue on food/animal feedstuff) permitted in or on food and animal feedstuffs after the application of approved pesticides. Governments around the world, including the United States, set MRLs to ensure food safety.

EPA establishes MRLs for pesticides in the United States. Under U.S. law, EPA must ensure a “reasonable certainty of no harm” to consumers of the food, including special consideration of infants and young children and other potentially vulnerable populations.

All agricultural products produced in the United States or intended for consumption in the United States must comply with the tolerances that EPA establishes. Inspectors from the FDA and USDA monitor both domestic and imported food and feedstuffs to ensure that MRLs are enforced.

Codex develops and maintains international standards for MRLs. In principle, governments should base their tolerances on Codex MRLs. Nevertheless, it is not uncommon for countries – including the United States – to set their own, stricter standards. When a government sets an MRL that is more stringent than the relevant Codex standard, however, the SPS Agreement requires the MRL be based on scientific principles and a risk assessment.

Given the technical complexity of establishing MRLs, the United States works closely with trading partners to share data and assist them in establishing their own science-based MRLs. For example, the United States, Canada, and Mexico initiated a new level of trilateral regional regulatory cooperation on pesticides under the NAFTA framework by establishing a TWG. Since its creation, the NAFTA TWG has focused on facilitating cost effective pesticide regulations in the three countries through collaboration and sharing, while achieving a high level of environmental and human health protection. This collaboration has been instrumental in reducing trade barriers and increasing access to safer pesticides in all three markets.

In general, the United States believes that the creation of positive pesticide MRL lists or systems that defer to the Codex standards are best suited to facilitate trade. Unfortunately, positive list systems require a great deal of data, staff training, and financial resources. It takes countries years to establish credible and transparent MRL regimes and enforcement programs.

To ensure against trade disruptions while a pesticide is under evaluation, U.S. authorities often ask countries to adopt Codex MRLs on an interim basis until their permanent MRLs are established. If countries are unwilling to adopt the Codex MRLs, or to defer to the U.S. MRL in the interim, U.S. growers could be subject to onerous penalties and serious trade barriers for using pesticides that EPA has approved. For example, in 2009, U.S. celery and strawberry growers were unable to ship their products to Japan because the regulatory authorities had set an unwarranted default MRL of 0.01 ppm until a permanent MRL was established.

As discussed more specifically in the country reports that follow, a variety of countries have established pesticide MRLs without due regard to science, either setting MRLs at unjustifiably low thresholds or failing to set an MRL at all where Codex and/or the United States have established one. This has created significant trade barriers for U.S. horticultural exports. The MRL policies in the EU, Japan, and Taiwan are of particular concern.

IV. COUNTRY REPORTS

This section sets out specific SPS concerns in individual country reports. The issues included in these reports are the product of U.S. Government engagement at home and abroad with U.S. stakeholders concerning unwarranted SPS foreign trade barriers that U.S. exporters have encountered. The selection of issues for inclusion in the *SPS Report* reflects a considered process that is based on the U.S. Government's understanding and analysis of those measures. The measures and practices that the country reports identify raise significant trade concerns and, in some instances, give rise to questions concerning whether a trading partner is complying with its obligations under a trade agreement to which the United States is a party.⁶

In each instance, the U.S. Government's goal is to work as vigorously and expeditiously as possible to resolve the concern. The tools the U.S. Government uses vary depending on the particular issue and circumstances. As reflected in the country reports, in many instances the U.S. Government seeks to resolve specific concerns through dialogue with the pertinent trading partner – either bilaterally or through multilateral fora – and by working collaboratively to obtain changes that result in improved market access for U.S. exporters. In appropriate instances, dispute settlement under the WTO or in another relevant forum can be a tool to address specific concerns.

In response to USTR's outreach in compiling this report, stakeholders raised a number of new SPS concerns. In some cases, USTR lacked sufficient information about those concerns at the time of publication to include them in the report. For those issues, USTR will seek to compile additional information, including by following up with stakeholders, U.S. Embassies, and other Federal agencies. Stakeholders should not view the absence of an issue in the report as an indication that USTR does not believe the matter raises significant concerns; it may simply reflect the fact that USTR requires additional time or information to consider it.

The *SPS Report* provides more focused and structured reporting on country-specific issues than appeared in past years' *NTE Report*, which may have included SPS issues that USTR has not included in the report. Where possible, each listing sets out the United States' current understanding of the measure or practice, why it raises concerns, and how the United States is seeking to address it. The report is not simply a recounting of all outstanding issues that stakeholders have brought to USTR's attention this year or in the past. For purposes of this report, USTR included measures that represent significant and unwarranted SPS foreign trade barriers to U.S. exports and that the U.S. Government has devoted substantial resources to resolving. Regardless, the U.S. Government continues to gather information, and follow all concerns affecting U.S. stakeholders and pursue those issues as appropriate.

⁶ Nothing in this report should be construed as a legal determination that a measure included in the report falls within the scope of any particular WTO Agreement (*e.g.*, whether the measure is subject to the SPS as opposed to the TBT Agreement).

Finally, much of the U.S. Government's engagement in international and regional fora focuses on those trade-restrictive SPS measures that recur in a number of markets. Six of these measures are described in Section III of this report. The U.S. Government adopts a strategic approach to measures of this kind, deploying resources where they can be most effective. In some instances, the U.S. Government elects to focus its efforts on a few countries where the concern is the greatest. In other instances, the U.S. Government seeks to work with those countries with which the matter can be resolved most expeditiously or where engagement on the issue would produce maximum benefit for the United States and U.S. stakeholders.

ARGENTINA

Food Safety

Live Cattle, Beef, and Beef Products

Argentina bans all U.S. live cattle, beef, and beef products due to BSE-related concerns following the detection of a BSE positive animal in the United States in 2003. The United States continues to engage with the relevant Argentine government agencies to open its market for imports of all live cattle, beef, and beef products from the United States based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Plant Health

Apples and Pears

Argentina currently blocks imports of U.S. apples and pears due to concerns about the transmission of *Erwinia amylovora* (the bacteria causing fire blight). The United States has submitted technical information to Argentine plant health officials documenting the low risk of transmitting the bacteria on mature symptomless apple and pear fruit and will continue to work with Argentine officials to address the issue.

AUSTRALIA

Food Safety

Poultry

The United States believes that Australia's import risk assessment (IRA) for chicken meat overestimates the risk presented by imports of this product in a number of ways, resulting in mitigation requirements that are overly restrictive. For example, variant strains of infectious bursal disease (IBD) are present in both countries, yet Australia's IRA concludes that the U.S. strain is exotic to Australia, citing a research study that, in the U.S. view, had

not followed standard procedures to detect differences in immunogenicity (the effect of the virus on the bird). Moreover, Australia's cooking requirements to kill the AI virus are more stringent than those recommended by the OIE and do not appear to be based on science.

Beef and Beef Products

Australia currently prohibits the importation of bovine products from countries that have reported one or more indigenous cases of BSE. On March 1, 2010, Australia modified its food safety import policies to allow import of beef and beef products from countries that have been affected by BSE. Under these new requirements, a country interested in exporting beef and beef products to Australia must apply for individual country risk assessment, addressing human health and food safety issues from Food Standards Australia New Zealand (FSANZ). Biosecurity Australia (BA) also has announced that it must conduct a separate import risk analysis on each exporting country to address animal quarantine issues. The United States is concerned that this decision will likely result in further delays in the approval process that is required for the U.S. beef and beef products to regain market access. The United States has already raised its concerns with Australia. The United States expects to apply to both BA and FSANZ for U.S. beef and beef product access in the near future.

See section III.C for an explanation of the BSE trade issue.

Plant Health

Stone fruit

Australia bans imports of U.S. stone fruit (peaches, nectarines, plums, and apricots) due to concerns about four plant pests (the peach twig borer, apple maggot, cherry fruit worm, and lesser apple worm). Australia published its draft import risk assessment in April 2008, and the United States submitted formal comments in June 2008. Australia published its final import risk assessment for access of U.S. stone fruit (peaches, nectarines, plums, and apricots) in March 2010. The two countries continue an active dialogue on implementation of Australia's final policy. This issue remains a top priority of the United States in its SPS engagement with Australia and is regularly addressed in bilateral discussions.

Apples

Australia currently prohibits the importation of apples from the United States and New Zealand based on concerns about fire blight, a contagious, bacterial disease affecting apples, pears, and other rosaceous plants. For the past 15 years, the U.S. Government and U.S. apple industry have been working closely with Australian officials to demonstrate that U.S. mature apples pose no risk of transmission of fire blight. In October 2009, Australia published its pest risk assessment (PRA) for apples from the United States. This PRA includes overly restrictive fire blight mitigation measures. If the PRA is approved as

currently drafted, it will continue to prevent the commercial export of U.S. apples to Australia.

New Zealand requested a WTO panel in 2007 to determine whether Australia's fire blight mitigation measures as they apply to New Zealand apples comply with Australia's obligations under the WTO SPS Agreement. The United States is an active third party in the case and is monitoring the litigation closely.

Table grapes

The United States has been working with Australia for over 20 years to achieve access to the Australian market for California table grapes. Australia first opened its market under limited conditions in 2002. The United States has worked through the U.S.-Australia FTA SPS Committee to remove the majority of the remaining restrictions. However, one Australian state, Western Australia, continues to deny market access for U.S. grapes. This prohibition has been maintained despite the absence of significant pests during the first seven years of California table grape exports to Australia. Australia has indicated that it would complete a risk assessment to initiate the process access for California table grapes to gain access to Western Australia. The United States will continue discussions with Australia as it moves forward with this process.

Maximum Residue Limits

Certain U.S. agricultural products are prevented entry into Australia due to the applications of pesticides that are legal in the United States but are not approved in Australia. Australia and the United States are working together to address this issue.

See section III.F for an explanation of the MRL trade issue.

BOLIVIA

Food Safety and Animal Health

Live Cattle, Beef, and Beef Products

Bolivia continues to ban all U.S. live cattle, beef, and beef products due to BSE-related concerns following the detection of a BSE positive animal in the United States in 2003. Bolivia and the other three Andean Community (CAN) member countries (Colombia, Ecuador and Peru) maintain that CAN rules prevent them from lifting their BSE-related restrictions.

With regard to live cattle, in December 2007, the United States invited each CAN member country to send a technical representative to the United States to initiate the approval process for the import of U.S. cattle. Bolivia, along with Ecuador, Peru and a CAN

representative, participated in the resulting August 2008 trip organized by USDA to resolve issues that would facilitate the resumption of U.S. cattle imports.

In May 2009, the CAN published a proposed risk assessment stipulating that only live animals under 24 months of age could be imported. This proposed risk assessment departs from OIE guidelines. In August 2009, the United States submitted technical comments on the proposed risk assessment; these are currently under review by Bolivia and the other CAN member countries.

The U.S. Government continues to engage Bolivia to re-open its market for U.S. live cattle, as well as U.S. beef and beef products, based on science, the OIE guidelines and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

BRAZIL

Food Safety

Live Cattle, Beef, and Beef Products

Brazil bans the importation of all U.S. live cattle, beef, and beef products due to the detection of a BSE positive animal in the United States in 2003. In late 2008, Brazil notified the WTO of a draft regulation that establishes sanitary requirements for importation of ruminants and ruminant products from countries affected by BSE. The United States provided technical comments on the draft regulation and requested that Brazil realign its import regulation with OIE guidelines. Also in late 2008, the United States provided technical information to Brazil on U.S. control and surveillance systems for BSE. The United States continues to engage Brazil to open its market for all live cattle, beef, and beef products from the United States on the basis of science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Pork

Brazil requires plant-by-plant inspections to approve a plant to export U.S. pork to Brazil. This approach is extremely burdensome on the industry and significantly limits the market access of companies that are willing and able to export to Brazil. Brazil has been unable to explain why a plant-by-plant inspection system is required rather than a systems-based approach that analyzes the level of food safety protection afforded by the U.S. Government's pork plant inspection and approval system. The United States continues to discuss this issue with Brazil.

CHILE

Food Safety

Pork

Chile requires U.S. pork to be frozen or tested as a mitigation measure for trichinae. Chile's testing requirement is costly, and is a significant impediment to U.S. fresh/chilled pork exports to Chile.

The United States has proposed less trade restrictive risk mitigation measures to achieve the level of trichinae protection that Chile is seeking. The United States maintains high biosecurity protocols and modern pork production systems that serve to limit the incidence of trichinosis in the United States to extremely low levels. The United States will continue to work with regulatory authorities in Chile to resolve this trade concern.

Live Cattle, Beef, and Beef Products

In December 2003, Chile banned all U.S. beef and beef products, live cattle, and pet food containing beef due to the detection of a BSE positive animal in the United States in 2003. In July 2005, Chile agreed to partially re-open the market for U.S. deboned beef from animals under 30 months of age.

In April 2009, Chile revised its beef and beef products import statute to align with the recommendations set forth by the OIE for countries determined to be "controlled risk" for BSE, but continues to maintain unjustified restrictions on U.S. live cattle despite a commitment to fully adhere to OIE guidelines. The United States will continue to engage Chile to achieve full market access for live cattle, beef, and beef products from the United States based on science, the OIE guidelines and the United States' controlled risk status.

See section III.B for an explanation of the BSE trade issue.

CHINA

Food Safety

2009 Food Safety Law

China has enormous market potential for high quality U.S.-processed foods, but exporters are challenged by China's regulatory structure and processes, including confusion about authorities and responsibilities. In response to a series of high-profile domestic food safety incidents, China implemented a new Food Safety Law on June 1, 2009. China also released dozens of implementing regulations under the Food Safety Law that affected a wide array of products.

The U.S. Government and U.S. industry provided comments to China about the Food Safety Law. In response, China exempted U.S. exporters from changes to bulk and retail labeling requirements; waived certain meat and poultry inspection requirements; and permitted the continued use of pre-existing standards for processed foods. This engagement prevented an estimated \$95-million drop in exports of U.S. consumer-ready food exports due to labeling concerns; prevented U.S. exporters from incurring nearly \$3 million in reformulation and repackaging charges; and achieved the release of \$1.5 million of detained U.S. goods.

However, China continues to issue additional implementing measures, the scope and details of which are often unclear. The United States is concerned that these new requirements may unjustifiably decrease or delay new product introduction into the marketplace. Accordingly, the United States will continue to work with China on implementation of its new food safety law to ensure continued market access and to encourage consistency with science, international standards, and international obligations.

H1N1 Restrictions

China is one of the remaining countries to ban U.S. pork products due to H1N1 concerns. In October 2009, Ambassador Kirk, Secretary Vilsack, and Commerce Secretary Gary Locke participated in a meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) in Hangzhou, China, where China agreed to remove its H1N1 ban on pork products. Following that meeting, the United States pressed China to implement that commitment. On March 19, 2010, USTR and USDA announced that the United States and China had reached agreement to re-open the Chinese market to U.S. pork and pork products. Pork trade is expected to resume immediately once both sides finalize the necessary export documentation.

See section III.A for an explanation of the H1N1 trade issue.

Ractopamine

China bans the import of pork containing any residue of the growth hormone ractopamine. China has enforced this ban by barring imports from several U.S. producers that have previously shipped pork to China that contained trace amounts of the hormone. Although China maintains that there are serious concerns about the safety of ractopamine, China has not responded to repeated U.S. Government requests for risk assessments that support such concerns. In any event, the United States strongly disagrees with China's assertions.

At the September 16, 2009 meeting of the JCCT Agricultural Working Group, U.S. officials requested that China adopt an interim MRL while awaiting the Codex Commission's final adoption of an MRL. China's Ministry of Agriculture denied the U.S. request, claiming that China needs to await a final decision by Codex. Accordingly, even if China rescinds its current H1N1-related ban on U.S. pork imports, U.S. exports will continue to be unnecessarily restricted to ractopamine-free pork so long as China does not adopt an MRL.

on ractopamine. The United States continue to engage on this issue in bilateral discussions and at Codex.

See section III.E for an explanation of the ractopamine trade issue.

Meat and Poultry

China has imposed a zero tolerance limit for the presence of *Salmonella* bacteria, *E. coli* and *Listeria spp.* pathogens in imported meat and poultry. Such a zero tolerance standard for these pathogens appears to lack a scientific basis. In 2009, China's regulatory authorities assured the United States that they were in the process of revising China's standards for *Salmonella* in poultry, but China has yet to do so. The United States continues to engage on this issue.

Live Cattle, Beef, and Beef Products

In December 2003, China imposed a ban on U.S. live cattle, beef, and beef products due to the detection of a BSE positive animal in the United States in 2003. Since that time, the United States has repeatedly provided China with extensive technical information on all aspects of its BSE-related surveillance and mitigation measures, which the OIE has recognized as effective and appropriate, for both food safety and animal health.

At the end of June 2006, after three inconclusive rounds of negotiations, China's food safety regulators unilaterally announced a limited market opening, restricted to the entry of U.S. deboned beef from animals 30 months of age or less. One month later, China followed that announcement with a more detailed measure setting out 22 conditions for entry, many of which were unrelated to BSE mitigation. The cumulative effect of these restrictions is that the market remains closed to U.S. beef and beef products.

The United States continues to work to address this issue with China and has pressed China to reconsider and negotiate an appropriate protocol to allow trade to resume based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Bovine Products

In 2003, China banned imports of low-risk U.S. bovine products (*i.e.*, bovine semen and embryos, protein-free tallow, and non-ruminant feeds and fats) even though they are deemed safe to trade by the OIE regardless of a country's BSE status. By 2006, U.S. producers were exporting these products pursuant to protocols signed in 2004, with the exception of protein-free tallow.

U.S. exports of protein-free tallow have still not resumed as U.S. and Chinese officials have not yet reached agreement on provisions of a protocol. China's protein-free requirement is difficult to comply with and appears inconsistent with the science as well as the OIE guidelines, which allow for trade in tallow with maximum level of insoluble impurities of 0.15 percent in weight, regardless of the BSE status of the exporting country.

Poultry

China currently bans poultry from Arkansas, Idaho, Kentucky, Pennsylvania, Texas, and Virginia due to detections of LPAI in those states. Additionally, China bans the importation of U.S.-origin poultry products that are transshipped through these six states.

China's current AI-related import bans do not appear to be science-based and are inconsistent with OIE guidelines, which do not call for trade restrictions where LPAI detections have occurred. The United States continues to push for Chinese compliance with OIE guidelines and a total lifting of all bans on the importation of U.S.-origin poultry and poultry products due to these LPAI detections. The U.S. Government regularly raises this issue in discussions with China.

See section III.D for an explanation of the AI trade issue.

Animal Feed

In 2004, U.S. and Chinese officials signed a veterinary health protocol that authorized the shipment of U.S.-origin non-ruminant derived animal fats and feed (including pet food) to China. Since this protocol was signed, about 135 U.S. facilities (70 of which are pet food facilities) have been approved by the United States to export products to China. However, China's Ministry of Agriculture (MOA) maintains a duplicative, and cumbersome, product-based registration process for facilities that produce animal feed (including pet food) that has prevented products from these facilities from entering the Chinese market. Under MOA's registration process, facilities that desire to export U.S. pet food to China must first have U.S. authorities certify that the facilities meet the Chinese requirements in accordance with the veterinary health protocol. Second, facilities must register their products with China's MOA.

China originally claimed that the MOA requirements would apply only to domestic Chinese facilities, but is now applying the requirements to foreign facilities, which presents a significant barrier to U.S. pet food, animal feed, and feed additive exports. China has thus far not been receptive to USDA requests to either eliminate the MOA registration requirement or justify its duplicative requirements. However, the United States continues to engage China on the issue, both at WTO SPS Committee meetings and in bilateral fora.

Plant Health

Apples

Since 1995, China has allowed imports of two varieties of U.S.-origin apples from Idaho, Oregon, and Washington. In November 1999, U.S. officials requested China's General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) to allow imports of additional apple varieties from those states, and to permit imports of apples from California.

U.S. authorities have provided Chinese counterparts with a substantial amount of peer-reviewed scientific information indicating that there is no evidence that mature symptomless commercial apples can transmit fire blight. However, China continues to cite concerns about this disease as the reason for not approving additional apple varieties from the three approved states. Further, China has not provided a PRA for California-origin apples.

Pears

China prohibits the importation of U.S. pears produced in the Pacific Northwest region due to concerns over fire blight. In May 2007, U.S. officials provided AQSIQ with research confirming that mature asymptomatic pear fruit are not a pathway for fire blight and they supplemented this with additional information in December 2009. AQSIQ has initiated a risk assessment and is reviewing additional information the United States regarding pest management.

Potatoes

China bans the import of U.S. potatoes due to concerns regarding the spread of certain pests. The United States has been waiting for AQSIQ to share the results of its PRA of Pacific Northwest potatoes. In 2000, the United States officially requested China to allow imports of fresh potatoes from Idaho, Oregon, and Washington. AQSIQ has not yet completed its risk assessment. The U.S. Government continues to engage China on this issue, including during SPS Committee meetings.

Strawberries

In 2008, China granted special permission for importations of fresh strawberry fruit from California in advance of the 2008 Beijing Olympics. U.S. growers successfully shipped approximately 2,168 pounds of strawberries to China, and the shipments raised no apparent concerns. After the Olympics were concluded, however, China refused to accept any additional shipments from the United States. The United States will continue to press Chinese authorities to complete their review of the U.S. Government's request for permanent market access. In the interim, the United States has requested that China grant

temporary access (similar to 2008 Olympic Games) during the Shanghai World Expo, which will take place from May 1 – October 31, 2010.

Biotechnology

Pursuant to China's regulatory system for products of agricultural biotechnology, a biotechnology product developed in a country other than China must first be approved in the country of export before it can be the subject of an application for use in China. The United States has concerns that this requirement creates an automatic delay in China's biotech approval process that may lead to significant disruption in exports of U.S. biotechnology products that are approved for marketing in the United States but not yet eligible for use in China. Chinese government restrictions on investment, such as joint venture requirements and limits on ownership, also constrain foreign companies' ability to engage in biotechnology product development in China and maintain control over important genetic resources.

See section III.B for an explanation of the biotechnology trade issue.

COLOMBIA

Food Safety

Poultry

In August 2007, the Colombian Ministry of Health began implementing a zero tolerance standard for *Salmonella* on imported raw poultry products, which restricted imports of U.S. raw poultry. Such a zero tolerance standard for these pathogens appears to lack a scientific basis. In response to growing complaints, Colombian authorities implemented an agreement with Colombian food processors to eliminate the zero tolerance requirement for mechanically deboned poultry meat imports for further processing. The agreement, however, does not cover imports of raw poultry products intended for retail sale. The United States will continue to work with Colombia to address U.S. concerns about these requirements.

Animal Health

Live Cattle

Colombia continues to ban U.S. live cattle due to BSE-related concerns following the detection of a BSE positive animal in the United States in 2003. Colombia and the other three CAN member countries (Bolivia, Ecuador and Peru) maintain that CAN rules prevent them from lifting their BSE-related restrictions.

In December 2007, the United States invited each CAN member country to send a representative to the United States to initiate the approval process for the import of U.S.

cattle. Colombia did not attend, but the other CAN member countries and a CAN representative did participate in the resulting August 2008 trip organized by USDA to resolve issues that would facilitate the resumption of U.S. cattle imports.

In May 2009, the CAN published a proposed risk assessment stipulating that only live animals under 24 months of age could be imported. This proposed risk assessment departs from OIE guidelines. In August 2009, the United States submitted technical comments on the proposed risk assessment; these are currently under review by Colombia and the other CAN member countries.

The U.S. Government continues to engage with Colombia to re-open its market for U.S. live cattle based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Poultry

In 2006, the United States and Colombia formalized their recognition of the equivalence of the U.S. poultry inspection systems, and reached agreement on the specific contents of U.S. sanitary certificates accompanying U.S. poultry and poultry products exported to Colombia. However, the Ministry of Agriculture through its SPS regulatory agency, the Colombian Agricultural Institute (ICA), has imposed separate import requirements related to AI that do not follow OIE recommendations. U.S. officials have expressed concerns about these requirements, which do not appear to be supported by science, and have resulted in a ban on imports of poultry and poultry products from a number of U.S. states.

COSTA RICA

Food Safety

Poultry

In April 2008, the Central American Common Market (CACM) member countries, including Costa Rica, notified the WTO of their intent to establish microbiological criteria for a number of foods. In response to the notification, the United States outlined a series of concerns that some of the proposed microbiological criteria (specifically zero tolerance for *Salmonella* on poultry meat) appeared to lack a scientific basis, and had the potential to be a trade barrier for U.S. poultry exports. In February 2009, U.S. officials met with Central American government authorities to further discuss their zero tolerance policies. The United States and Costa Rica are cooperating on setting a science-based standard for *Salmonella* in raw poultry through prevalence survey training courses. The United States will continue to work with government officials in Costa Rica and the other CACM member countries to address U.S. concerns regarding the zero tolerance policy.

DOMINICAN REPUBLIC

Food Safety

Poultry

In April 2008, the Dominican Republic notified the WTO of its intent to establish microbiological criteria for a number of foods. In response to the notification, the United States outlined concerns that some of the proposed microbiological criteria (specifically zero tolerance for *Salmonella*) appear to lack a scientific basis, and had the potential to be a trade barrier for U.S. exports. The United States will continue to work with the Dominican Republic to address U.S. concerns regarding the zero tolerance policy.

Live Cattle, Beef, and Beef Products

The Dominican Republic prohibits imports of U.S. beef and beef products from cattle over 30 months of age due to concerns about BSE. In August 2009, U.S. and Dominican officials discussed market access for all U.S. beef and beef products as well as the Dominican Republic's import requirements for U.S. live cattle. In October 2009, the Dominican Republic allowed market access for the entry of live cattle from the United States over 30 months of age, but it continues to ban U.S. beef and beef products from animals of any age. The United States continues to engage the Dominican Republic to provide full market access for all live cattle, beef, and beef products from the United States based on science, the OIE guidelines and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

ECUADOR

Food Safety

Live Cattle, Beef, and Beef Products

Ecuador continues to ban all U.S. live cattle, beef, and beef products due to BSE-related concerns following the detection of a BSE positive animal in the United States in 2003. Ecuador and the other three CAN member countries (Bolivia, Colombia and Peru) maintain that CAN rules prevent them from lifting their BSE-related restrictions.

With regard to live cattle, in December 2007, the United States invited each CAN member country to send a technical representative to the United States to initiate the approval process for the import of U.S. cattle. Ecuador, along with Bolivia, Peru and a CAN representative, participated in the resulting August 2008 trip organized by USDA to resolve issues that would facilitate the resumption of U.S. cattle imports.

In May 2009, the CAN published a proposed risk assessment stipulating that only live animals under 24 months of age could be imported. This proposed risk assessment departs from OIE guidelines. In August 2009, the United States submitted technical comments on the proposed risk assessment; these are currently under review by Ecuador and the other CAN member countries.

The U.S. Government continues to engage with Ecuador to re-open its market for U.S. live cattle, as well as U.S. beef and beef products, based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Poultry

Ecuador continues to ban imports of poultry products and live animals from Arkansas and West Virginia due to LPAI. U.S. officials have expressed concerns about these restrictions, which do not appear to be science-based and consistent with OIE guidelines given that these states are currently free of HPAI.

See section III.D for an explanation of the AI trade issue.

EGYPT

Food Safety

Beef and Beef Products

Egypt imposes strict import requirements on U.S. beef and beef products based on concerns about BSE. Egypt only accepts imports of boneless beef, including livers, hearts and kidneys, from cattle less than 30 months of age that originated in Mexico, Canada, or the United States. These requirements do not appear to be science-based or consistent with the OIE guidelines for trading with a "controlled risk" country.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Poultry

Egypt currently bans certain U.S. poultry products due to concerns about AI. While Egypt currently allows imports of whole frozen U.S. poultry, U.S. poultry parts, and offal products, which remain prohibited, would be competitive in Egypt's market. The United States had

been negotiating with Egypt to allow imports of U.S. turkey parts and offals, but Egypt has postponed the completion of these negotiations.

See section III.D for an explanation of the AI trade issue.

EL SALVADOR

Food Safety

Poultry

In April 2008, the CACM member countries, including El Salvador, notified the WTO of their intent to establish microbiological criteria for a number of foods. In response to the notification, the United States outlined a series of concerns that some of the proposed microbiological criteria (specifically zero tolerance for *Salmonella* on poultry meat) appeared to lack a scientific basis, and had the potential to create a trade barrier for U.S. poultry exports. In February 2009, U.S. officials met with Central American government authorities to further discuss their zero tolerance policies. The United States will continue to work with government officials in El Salvador and the other CACM member countries to address U.S. concerns regarding the zero tolerance policy.

Live Cattle, Beef, and Beef Products

El Salvador continues to prohibit imports of U.S. beef and beef products from cattle over 30 months of age, as well as live cattle over 30 months of age due to concerns about BSE. El Salvador also requires that any cattle shipped from the United States to El Salvador must have been born and raised in the United States. The United States continues to engage with El Salvador to open its market based on science, the OIE guidelines and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

ETHIOPIA

Biotechnology

In September 2009, Ethiopia established a biosafety law which has the potential to become an unnecessary barrier to trade in biotech products by imposing what appear to be unduly burdensome documentation and testing requirements. U.S. officials have engaged with Ethiopian officials to express concerns about the restrictive biosafety legislation and to seek clarification regarding implementation procedures.

See section III.B for an explanation of the biotechnology trade issue.

EUROPEAN UNION

Biotechnology

Since 1998, the EU's Council of Ministers has not assembled a qualified majority of EU Member States in support of the approval of any agricultural biotechnology food, livestock feed, or seed product, even though the European Food Safety Authority (EFSA) has offered a positive safety assessment. In addition, while the European Commission has granted approval for the import and marketing of a limited number of biotechnology products under its own authority, the EU has approved only three biotechnology products for cultivation since 1998. In recent months, however, the EU has shown progress by approving a number of long-delayed applications.

In May 2003, the United States initiated a WTO dispute settlement proceeding regarding the EU's *de facto* moratorium on approvals of biotechnology products and the existence of individual Member State marketing prohibitions on biotechnology products that had previously been approved by the EU. The WTO panel issued its report on September 29, 2006, finding that EU and Member State measures were inconsistent with WTO rules. The WTO Dispute Settlement Body adopted the report on November 21, 2006. The Parties agreed on a one-year "reasonable period of time" (RPT), expiring on November 21, 2007, for the EU to come into compliance with the Dispute Settlement Body's recommendations and rulings; the RPT was subsequently extended to January 11, 2008. When the RPT expired, the United States took the first steps toward a resumption of dispute settlement procedures, submitting a request to the WTO for authority to suspend concessions. Under an agreement with the EU, however, proceedings on the U.S. request were suspended to provide the EU an opportunity to demonstrate meaningful progress on the approval of biotechnology products. U.S. and European Commission officials have held several rounds of consultations on the EU's biotechnology application backlog.

Even when the EU approves a particular biotechnology product, EU biotechnology legislation provides that individual Member States may invoke their own national bans, under a so-called "safeguard" clause. The WTO panel found nine of those Member State bans to be WTO-inconsistent. Nonetheless, in the years since the initiation of the WTO dispute, Member States have continued to adopt additional bans. Although each ban that has been reviewed by the EFSA has been determined to lack scientific justification, the Commission has been unable to secure the qualified majority support required to lift the bans.

Continuing delays in the EU's biotechnology product approval process exacerbate the already substantial disparity between U.S. and EU approvals, creating further trade problems. Under the EU's implementation of its biotechnology legislation, the presence in U.S. crop shipments of traces of biotechnology crops that have been approved in the United States, but not in the EU, can make U.S. crops unmarketable in the EU. The European Commission has announced that efforts are underway to develop a threshold that would allow this low level biotech presence in both food and feed shipments. The U.S.

Government will continue to engage with the EU on this matter in an effort to resolve the potential for trade disruption as a result of asynchronous approvals.

See section III.B for an explanation of the biotechnology trade issue.

Food Safety

Food Additives

On July 2, 2009, the EU notified the WTO of adoption of its final regulations on food additives. The final regulations contain a provision, not present in the draft regulations, that mandates the inclusion of warning statements regarding hyperactivity on products containing six synthetic colors (Sunset Yellow, Quinoline Yellow, Carmoisine, Allura Red, Tartrazine, and Ponceau 4R). Manufacturers will now have to include on products containing any of these six colors a statement that the color “may have an adverse effect on activity and attention in children.”

The certified equivalents of three of the six colors (Sunset Yellow, Allura Red, and Tartrazine) are approved for use in food by FDA and are widely used by the global food industry. (FDA also has approved the use of Quinoline Yellow’s certified equivalent for use in drugs, cosmetics, and medical devices.) The inclusion of such a statement on a warning label is neither required in the United States nor suggested in the applicable international standards (either adopted or currently proposed).

The EU’s list of colors and the subject of hyperactivity was addressed in a much criticized research piece known as the Southampton Study. This study concluded that these six color additives presented a risk of hyperactivity. In November 2009, EFSA released scientific opinions on the color additives evaluated in the Southampton Study. EFSA’s opinions contradicted the results of the Southampton Study, concluding that the currently available data did not substantiate a link between the individual color additives and possible behavioral effects.

The United States disagrees that these color additives, if FDA-certified, have negative health impacts for children when these colors are included in food products in amounts prescribed under U.S. law, and therefore does not believe a warning label is necessary. The United States continues to urge the EU to delay implementation of this measure to minimize negative effects on trade, while technical discussions are underway. The United States recently raised this issue on the floor during the March 2010 SPS Committee meeting.

Beef and Beef Products

During 2008, the United States and the European Commission also continued longstanding talks on a possible interim settlement of the beef hormone issue, under which the United States would lift the additional duties on EU imports in exchange for additional access to

the EU market for so-called "hormone-free" beef. In November 2008, the United States initiated a formal review of the beef hormones retaliation list. USTR sought and received a large number of public comments on the possible revision of the list, which had not changed since 1999.

In January 2009, USTR announced additions to and deletions from the list of EU products subject to additional duties, changed the list of EU Member States whose products were subject to the duties, and, for one product, increased the level of the additional duties. All of these modifications were scheduled to go into effect in March 2009, but USTR repeatedly delayed imposing the new additional duties in order to encourage further settlement discussions.

In May 2009, the United States signed an MOU with the EU to resolve the dispute on a provisional basis. The MOU, which took effect in August 2009, provides additional duty-free access to the EU market for high-quality beef produced from cattle that have not been raised with growth-promoting hormones – 20,000 tons in each of the first three years, increasing to 45,000 tons beginning in the fourth year. Under the MOU, the United States may maintain the additional duties it had in place on EU products in March 2009 and will not impose new duties on EU products during the initial three-year period, and will eliminate all sanctions during the fourth year. The MOU also calls for the two sides to refrain from further WTO litigation concerning the beef trade dispute for at least 18 months. Before the end of the four-year period, the United States and the EU will seek to conclude a longer-term agreement.

Poultry

In 1997, the EU began blocking imports of poultry products that have been processed with chemical treatments designed to reduce microbial surface contamination. The EU has further prohibited the marketing of poultry as "poultry meat" if it has been processed with these pathogen reduction treatments (PRTs). In late 2002, the United States requested the EU to approve the use in processing poultry intended for the EU market of four PRTs that are approved for use in the United States and that U.S. poultry processors use to improve the safety of U.S. poultry products: chlorine dioxide, acidified sodium chlorite, trisodium phosphate, and peroxyacids.

Between 1998 and 2008, various EU agencies issued scientific reports concerning poultry processed with these PRTs. Taken together, the reports conclude that residues of these PRTs do not pose a risk to the health of the poultry consumer.

In May 2008, the European Commission, after years of delay, prepared a proposal that approved the use of the four PRTs for processing of poultry, but imposed highly trade restrictive conditions that did not appear to be based on science. EU Member States rejected the Commission's flawed proposal, first at the regulatory committee level and then, in December 2008, at the ministerial level.

In January 2009, the United States requested consultations with the EU on whether the EU's failure to approve the four PRTs was consistent with the EU's commitments under various WTO agreements, including the SPS Agreement. The United States and the EU held those consultations in February 2009 but failed to resolve the matter. In November 2009, the WTO Dispute Settlement Body established a panel to address the matter. That litigation is pending.

Ractopamine

The EU currently maintains a ban on pork produced with ractopamine, a protein synthesis compound that promotes lean meat growth in pigs and certain other farm animals, despite scientific evidence indicating the ractopamine is safe. Accordingly, U.S. pork exporters must participate in the burdensome Pork for the EU Program to verify that the pork has not been produced using ractopamine. In addition, U.S. pork shipments to the EU must undergo expensive testing at a laboratory in Canada to verify the absence of ractopamine residue. These requirements, which appear to lack a scientific justification, act as a major impediment to U.S. pork exports to the EU, confining U.S. exports to a small group of U.S. suppliers.

See section III.E for an explanation of the ractopamine trade issue.

Animal Health

Animal By-Products

The United States continues to be concerned about the EU regulation that addresses the safety of animal by-products that are not intended for human consumption, such as by-products to be included in consumer or industrial products (*e.g.*, soap, candles, biodiesel, and industrial lubrication applications) or for use in animal feed. U.S. exports most affected by this regulation include dry pet food, tallow, other animal protein products, and some hides and skins. For example, the United States continues to be concerned that the regulation requires U.S. producers to ensure that any tallow they sell to the EU for uses other than human consumption is nevertheless processed in a manner appropriate for products intended for human consumption. Such requirements do not appear to have a scientific basis, a point that appears to be supported by the EU's own risk assessment.

The United States understands that the European Commission is developing an amendment to this regulation that may address certain U.S. concerns, such as removing the pressure cooking requirement for tallow sold for reasons other than human consumption. However, the United States remains concerned that the amendment would not address other trade impediments the regulation creates, including the restrictions it imposes on dry pet food, and other products containing animal by-products. The United States continues to engage with European regulators on this issue and to monitor EU regulatory activity on this issue very closely.

Plant Health

Almonds

Since September 2007, U.S. almond shipments to the EU have been subject to requirement for the testing of aflatoxins, a naturally occurring mycotoxin that is produced by a number of different fungi. According to this requirement, almonds with a voluntary aflatoxin sampling plan (VASP) certificate were subject to 5 percent mandatory testing. Almonds without a VASP certificate were subject to 100 percent mandatory testing upon import into Europe. Previously, there were no specific requirements for testing imported almonds under EU regulations.

U.S. regulatory authorities have worked with the industry to strengthen confidence in the VASP. As a result of these efforts, effective January 1, 2010, the EU returned to random testing of almonds with a VASP certificate allowing U.S. almond exports to flow more freely into the EU. Almonds without a VASP certificate continue to be subject to mandatory 100 percent testing.

Country Specific Issues

Austria

Biotechnology

Since 1997, Austria has maintained a series of cultivation and import bans on products of agricultural biotechnology. The United States challenged several of these bans at the WTO, which found them inconsistent with Austrian and EU obligations under the SPS Agreement. In May 2008, Austria lifted its import bans on MON 810 and T25 biotech corn varieties, but left in place its cultivation ban on these varieties. Moreover, in July 2008, Austria issued new import bans on MON 863 corn as well as on three rapeseed (canola) lines.

See section III.B for an explanation of the biotechnology trade issue.

France

Biotechnology

Cultivation in France of MON 810 (a pest-resistant corn variety) grew from 500 hectares in 2005 to 22,000 hectares in 2007. However, in January 2008, following a review by a new “interim” biotechnology authority, France banned the cultivation of MON 810 and invoked the “safeguard” clause under EU regulations. In October 2008, EFSA found that France had presented no scientific basis to justify the safeguard measure. Nonetheless, France has left in place its ban on the cultivation of MON 810.

See section III.B for a fuller explanation of the biotechnology trade issue.

Germany

Biotechnology

In 2009, Germany banned the cultivation of MON 810 corn and invoked the “safeguard” clause under EU regulations. EFSA determined that Germany had not presented any scientific evidence to justify the new ban. Despite the EFSA evaluation, the German Agricultural Ministry has maintained the MON 810 ban.

See section III.B for an explanation of the biotechnology trade issue.

Greece

Biotechnology

Since April 2005, Greece has implemented and extended bans on MON 810. In July 2008, EFSA determined that Greece’s ban lacked a scientific basis. In August 2009, Greece extended the ban for another two years and expanded the measure to include both importation and cultivation.

See section III.B for an explanation of the biotechnology trade issue.

Hungary

Biotechnology

Since 2005, Hungary has banned the import and cultivation of MON 810. On several occasions, the European Commission has attempted to require Hungary to lift the ban, but has not received adequate support from EU Member States.

See section III.B for an explanation of the biotechnology trade issue.

Luxembourg

Biotechnology

In March 2009, Luxembourg banned the cultivation of MON 810. EFSA found that Luxembourg’s ban lacked a scientific basis, yet the ban remains in place.

See section III.B for an explanation of the biotechnology trade issue.

GUATEMALA

Food Safety

Poultry

In April 2008, CACM member countries, including Guatemala, notified the WTO of their intent to establish microbiological criteria for a number of foods. In response to the notification, the United States outlined a series of concerns that some of the proposed microbiological criteria (specifically zero tolerance for *Salmonella* of poultry meat) appeared to lack a scientific basis, and had the potential to be a trade barrier for U.S. poultry exports. In February 2009, U.S. officials met with Central American government authorities to further discuss their zero tolerance policies. The United States will continue to work with government officials in Guatemala and the other CACM member countries to address U.S. concerns regarding the zero tolerance policy. As a result of U.S. outreach, Guatemala has said that it will not apply a zero-tolerance *Salmonella* standard on U.S. poultry exports.

GULF COOPERATION COUNCIL

Food Safety

Food Safety Requirements

In May 2007, Bahrain notified the WTO of proposed procedures meant to harmonize food safety import requirements among Gulf Cooperation Council (GCC) Member States (Bahrain, Kuwait, Oman, Saudi Arabia, and United Arab Emirates). The United States and other WTO Members provided comments outlining significant concerns with the procedures, which did not appear to have a strong scientific basis and would substantially disrupt food exports to GCC Member States. The GCC Member States have indicated that they have modified key provisions of the draft import procedures in light of trading partner comments and are continuing to work on a revised set of procedures. The United States has established a dialogue with technical experts in the GCC Member States and continues to monitor the situation and suggest alternate procedures that are consistent with international guidelines.

HONDURAS

Food Safety

Poultry

In April 2008, CACM member countries, which include Honduras, notified the WTO of their intent to establish microbiological criteria for a number of foods. In response to the notification, the United States outlined a series of concerns that some of the proposed

microbiological criteria (specifically zero tolerance for *Salmonella* on poultry meat) appeared to lack a scientific basis, and had the potential to be a trade barrier for U.S. poultry exports. In February 2009, U.S. officials met with Central American government authorities to further discuss their zero tolerance policies. The United States will continue to work with government officials in Honduras and the other CACM member countries to address U.S. concerns regarding the zero tolerance policy.

HONG KONG

Food Safety

Beef and Beef Products

Hong Kong banned imports of U.S. beef and beef products following the detection of a BSE positive animal in 2003. After two years of intensive efforts on the part of the United States, Hong Kong announced in December 2005 the partial re-opening of its market to deboned beef from cattle less than 30 months of age, with numerous restrictions and additional measures that are not consistent with OIE guidelines or are science-based. These unwarranted restrictions have discouraged most qualified U.S. beef exporters from shipping to Hong Kong.

In October 2009, Hong Kong authorities conducted a verification visit to beef processing facilities in the United States. The United States awaits Hong Kong's technical findings of this visit. The United States continues to engage with Hong Kong to open fully its market for all U.S. beef and beef products in accordance with science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

INDIA

Food Safety

Dairy Products

Since 2003, India has imposed questionable SPS requirements on dairy imports, which have essentially precluded U.S. access to one of the world's largest dairy markets. For example, India requires certifications that dairy products are free of recombinant bovine somatotropin (rBST) and animal-derived rennet. However, Codex has approved for use both rBST and animal-derived rennet, and India has not provided to the United States a scientific basis for applying more stringent measures than those standards approved by Codex. India has similarly failed to provide scientific justifications for other dairy MRLs that are more stringent than the relevant Codex standards.

The United States has raised these concerns in bilateral and multilateral meetings over the past seven years, but without success. For example, the United States has proposed several health certificates, including the Codex model certificate, attesting that U.S. milk and milk products are safe for human consumption. In a continued effort to re-open the market to U.S. products, the United States has developed alternative certification options for India's consideration. In 2009, the United States again suggested export certificate language, which remains under consideration by the Indian government.

Pork

The Indian import certificate for pork requires that importers make an attestation that the imported pork does not contain any residues of pesticides, drugs, mycotoxins, or other chemicals above the MRLs prescribed in international standards. However, these certificates fail to identify specific compounds and their corresponding international limits. India also requires specific feeding requirements, slaughter plant requirements, and packaging material specifications without providing a scientific justification for those requirements. Further, certificates are valid for only six months, and a separate import permit must be obtained for each imported lot.

Animal Health

Poultry and Swine

Since 2007, India has banned imports of U.S. poultry, swine, and related products due to the detection of LPAI in the United States. Despite repeated requests from the United States and other major trading partners, India has not yet provided a scientific justification for its ban. India's ban is inconsistent with the OIE guidelines, which do not provide for the imposition of trade restrictions based on the presence of LPAI in the exporting country. The United States, other countries, and OIE representatives have repeatedly raised concerns about India's measures at the WTO SPS Committee and will continue to press India to rescind its measures.

Although dry processed pet food is exempt from India's AI ban, Indian officials continue to require AI certification statements, which do not appear to be science-based and that do not follow OIE guidelines, as well as impose other requirements, which have effectively stopped imports of U.S. dry processed pet food.

See section III.D for a fuller explanation of the AI trade issue.

Plant Health

Wheat and Barley

India maintains overly restrictive standards for certain plant quarantine pests, such as for weed seeds and ergot, which have blocked U.S. wheat and barley imports. Bilateral

technical level discussions to resolve these issues have been ongoing, but little success has been achieved to date.

ISRAEL

Food Safety

Live Cattle, Beef, and Beef Products

Israel bans imports of U.S. beef and beef products due to the detection of a BSE positive animal in the United States in 2003. As a result of this incident, work on an agreement that would have allowed imports of live cattle was suspended. Despite regular bilateral consultations, all U.S. live cattle, beef, and beef products remain banned. Israel is in the process of reviewing its BSE policy. The United States continues to engage with Israel to fully open its market for all live cattle, beef, and beef products from the United States on the basis of science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Pet Food

Israeli regulations prohibit the import of pet food from the United States containing ruminant materials. These regulations do not appear to be science-based or consistent with OIE guidelines. Israel is currently reviewing its BSE policy and has indicated its intent to align its policies with the OIE. The United States continues to engage with Israel on this issue.

See section III.C for an explanation of the BSE trade issue.

Plant Health

Cherries

Israel does not allow imports of U.S. sweet cherries citing various plant pests and diseases of concern. U.S. officials are working with Israel to complete its risk assessment on cherries in an attempt to resolve this longstanding issue, which has blocked U.S. exports for nearly eight years.

Table Grapes

Israel does not allow imports of U.S. table grapes citing various plant pests and diseases of concern. U.S. officials are working with Israel to complete its risk assessment on grapes in

an attempt to resolve this long standing issue, which has blocked U.S. exports for nearly five years.

Apples and Pears

In March 2009, Israel's Plant Protection and Inspection Service (PPIS) informed the United States that U.S. apples and pears would have to follow new cold treatment requirements to mitigate the risks of apple maggot and plum curculio despite the fact that Israel has not conducted a pest risk assessment and these pests have not been found in shipments from the United States. Israel has granted the United States an exemption from these requirements until June 1, 2010. U.S. officials are currently working with industry and state officials on proposals for submission to Israel that would lessen the requirements that will be imposed following the expiration of the exemption period.

JAMAICA

Animal Health

Pork

Jamaica currently bans imports of U.S. pork due to concerns about pseudorabies, a viral disease that can affect swine. The United States has engaged Jamaica on this issue and explained that this disease has been eliminated in commercial production in the United States since 2004. However, to date, U.S. efforts to persuade Jamaica to remove its ban have been unsuccessful.

JAPAN

Food Safety

Beef and Beef Products

In December 2003, Japan banned U.S. beef and beef products following the detection of a BSE positive animal in the United States. In July 2006, Japan partially re-opened its market to U.S. beef and beef products from animals aged 20 months or younger. However, the protocol, which implemented this limited re-opening, has not proved to be commercially viable and has prevented the United States from regaining all but a small portion of its historic level of exports to the Japanese market. Before the ban, Japan was the largest export market for U.S. beef and beef products, which totaled nearly \$1.4 billion in 2003.

The U.S. Government has repeatedly urged Japan to bring its BSE-related measures in line with the OIE guidelines and open its market to the full range of U.S. beef and beef products consistent with the United States' "controlled risk" status. The U.S. Government remains highly concerned by Japan's unwillingness to open its market fully and is working

vigorously to normalize exports to this important market on the basis of science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Potatoes

Japan's standards for microbial content on frozen foods are, in certain instances, impractical and overly restrictive, particularly for foods that require cooking before consumption. For example, Japan has occasionally rejected shipments of U.S. frozen French fries, which it classified as a finished product, due to the presence of coliform bacteria. The United States has contended that any coliforms detected are minimal and within industry-specified limits. Moreover, the French fries are destined for further processing by cooking in oil, which would eliminate the presence of coliforms, and thus any risk of negative health effects.

In February 2009, Japan informed United States that it was willing to move frozen French fries into a different frozen food category, which would recognize that frozen French fries are not a source of coliform bacteria. This new categorization is aimed at protecting Japanese consumers while ensuring rejections of imported U.S. frozen fries would not occur for unnecessary reasons.

Food Additives

Japan's regulation of food additives has restricted imports of several U.S. food products, especially processed foods. Many additives that are in wide use in the United States and throughout the world are not allowed in Japan, including many newer additives that are considered safer than older alternatives. In addition, Japan has imposed conditions on many of the food additives it has approved, further limiting the use of these specific food additives on a product-by-product basis.

U.S. manufacturers have complained about the prolonged approval process for indirect food additives (*i.e.*, additives that do not remain on food, such as solvents). In 2002, Japan created a list of 46 food additives for expedited review, but 25 additives still have not been reviewed and approved, notwithstanding the availability of extensive data on safety. The U.S. Government has urged Japan through the U.S.-Japan Regulatory Reform Initiative to complete its review of the list of food additives and to expedite the review process for food additives.

Post Harvest Fungicide (PHF)

Japan's Food Safety Commission requires a risk assessment for the pre-harvest application of a fungicide. However, Japan classifies fungicides that are applied post-harvest as food additives and requires them to undergo an entirely independent risk assessment. As a result, registrants who use a fungicide pre- and post-harvest must assure that two risk

assessments are performed, which can take as long as five to six years to complete, and deters registrants from pursuing approval for newer (and potentially) safer products. In addition, Japan often delays initiating the second risk assessment until after the first is complete. Japan's dual risk assessment policy has not impacted domestic producers, as Japanese farmers do not routinely apply fungicide after harvest.

Japan's policy appears to be inconsistent with Codex standards and widely-accepted procedures among countries with robust pesticide regulatory systems. Countries assessing the risk posed by a fungicide generally perform one risk assessment regardless of the time of application to the crop. Japan has advised the United States that it is reviewing its current regulatory approach and may announce changes in its review policies in the near future.

In addition, food labeling laws in Japan require the notification at the retail point of sale of all food additives, including PHFs. The effect of this requirement is that a U.S. horticultural product will carry a label notifying the consumer that certain fungicides were used in the production of the product where the competing Japanese product will carry no such label, even though both products may have been treated with the same fungicide. Such a requirement unnecessarily discourages Japanese consumers from purchasing U.S. products.

The United States continues in the U.S.-Japan Regulatory Reform Initiative to work with Japan to eliminate these costly and unnecessary requirements.

Maximum Residue Limits

Prior to 2009, Japan's enforcement of its MRLs could subject all exports of a commodity from a country to increased testing based on MRL violations incurred by other exporters from that country. Under the previous Ministry of Health, Labor, and Welfare (MHLW) policy, MHLW increased testing after a single violation to 30 percent of the particular agricultural commodity originating from the country in question, even for growers/shippers that had no history of violations. If a second violation occurred within a 12 month period of the first violation for the same commodity and country, MHLW imposed a 100 percent test and hold requirement on all shipments of the commodity from the exporting country.

In July 2009, the United States and Japan concluded an MOU that addressed certain concerns of the United States. Under the MOU, in the event there is an MRL violation on a U.S. horticultural product where the U.S. MRL is equal to or more stringent than Japan's MRL, Japan will take action only against the producer, exporter, or shipper whose product has violated the MRL. Where there has been an MRL violation on a U.S. horticultural product where the U.S. MRL is less stringent than Japan's MRL, the MOU provides that Japan may take action against the violator, but not the whole U.S. industry, unless there is sufficient evidence of an industry-wide concern. Notwithstanding the MOU, however, there continue to be serious concerns about the amount of time it takes Japan to establish

permanent, science-based MRLs, unreasonably low default MRLs that are in place until permanent MRLs are established, and enforcement practices where the U.S. MRL is less restrictive than Japan's MRL. The United States continues to press Japan to adopt MRL enforcement measures that conform to Codex international standards.

See section III.F for an explanation of the MRL trade issue.

Rice

Japan's rice import regime limits the competitiveness of U.S. rice in the Japanese market by increasing the cost of U.S. rice through excessive testing requirements. MHLW, Japan's food safety regulator, tests imported rice at the port of arrival for hundreds of chemicals. In addition, the Ministry of Agriculture, Forestry and Fisheries (MAFF), as the rice importer of record, also tests 100 percent of the rice it purchases at the pre-loading and loading stages to comply with food safety regulations. These tests are mandatory and paid for by MAFF. However, as the buyer of record, MAFF can, at its option, require an additional test for shipment insurance purposes. Although technically optional, MAFF is the only legal buyer of imported rice and always requires the insurance test, effectively making it non-optional. The large number of chemicals tested and the number of times these tests must be performed during the import process do not appear to be based on risk. The United States will continue to urge Japan to streamline these excessive testing requirements.

Animal Health

Poultry

U.S. poultry and poultry products, including egg products, are currently exported to Japan in accordance with a 2002 animal health protocol. Japan unilaterally implemented the protocol, which limits market access for these U.S. products in a manner that is inconsistent with the OIE guidelines for avian influenza. The United States continues to press Japan to agree to an OIE-consistent revised protocol.

See section III.D for an explanation of the AI trade issue.

Plant Health

Cherries

Japan individually approves each new variety of fresh cherry following fumigation trials, a burdensome process that restricts entry of new varieties of cherries. Japan has not provided a scientific basis for testing of each variety given that the pest list for all varieties is the same. The United States is working with Japan to encourage Japan to accept fresh sweet cherries as a single commodity, all varieties of which may be imported without the need for separate testing.

KAZAKHSTAN

Animal Health

Poultry

In July 2009, Kazakhstan banned imports of meat derived from birds raised and shipped from Minnesota on or after July 26, 2009 due to concerns about LPAI. This ban, which is still in place, does not appear to be science-based or consistent with the OIE guidelines, which do not allow for the imposition of trade restrictions for LPAI. The United States is engaging Kazakhstan on this issue in a number of fora, including in Kazakhstan's WTO accession talks.

See section III.D for an explanation of the AI trade issue.

KENYA

Food Safety

Beef and Beef Products

Kenya maintains a complete ban on imports of U.S. beef and beef products due to concerns over BSE, which Kenya maintains despite the United States' status as a "controlled risk" country.

See section III.C for an explanation of the BSE trade issue.

KUWAIT

Animal Health

Poultry

Kuwait has banned imports of live fowl, hatching eggs, and one-day old chicks from Kentucky and Minnesota, citing concerns about the detection of LPAI in those states. This restriction does not appear to be science-based or consistent with the OIE guidelines, which do not allow for the imposition of trade restrictions for LPAI. The United States has raised this issue with officials in Kuwait and will continue to press Kuwaiti officials to resolve this matter.

See section III.D for an explanation of the AI trade issue.

MEXICO

Food Safety

Live Cattle, Beef, and Beef Products

In December 2003, Mexico banned imports of U.S. beef and beef products following the detection of a BSE positive animal in the United States. In March 2004, Mexico was the first foreign country to announce that it would accept imports of U.S. deboned beef from cattle less than 30 months of age, and it subsequently lifted restrictions on a number of offal and processed deboned beef products. In early 2006, Mexico lifted its ban on U.S. bone-in beef from animals less than 30 months of age, and in October 2008, the United States and Mexico reached an agreement allowing imports into Mexico of U.S. breeding cattle born after 1999.

However, Mexico continues to ban or restrict imports of live cattle (non-breeding animals), all beef and beef products from animals 30 months of age and older, ground beef, and certain offal. The United States continues to engage with Mexico to allow for the import of a full range of U.S. beef and beef products from animals of any age, consistent with science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Pork

Fresh chilled meats for processing are exported from the United States to Mexico in “combo bins” or “combos” at the request of the Mexican meat processing sector. Combos are large, plastic-lined, palletized cardboard boxes that contain a single meat product from a single establishment. After U.S. engagement, Mexico delayed implementing – most recently until May 2010 – intrusive 100 percent sampling of combos at the border. However, due to the legal requirement for 100 percent testing as well as other issues involving combos, Mexico has yet to develop a risk-based inspection system that does not unnecessarily burden trade. Uncertainty surrounding the nature of a new inspection system as well as its date of implementation has been a cause of concern among U.S. meat exporters.

Plant Health

Stonefruit

U.S. peach, nectarine, and apricot growers are encountering problems with respect to Mexico's approach for controlling oriental fruit moths despite the fact that the oriental fruit moth has never been detected in shipments to Mexico. The United States reached agreement with Mexico in 2008 to review the current bilateral operational work plan. However, Mexico has subsequently failed to make any significant changes that would benefit California stone fruit exports for the upcoming shipping season. In January 2009,

Mexico added several new pests of concern. The United States will continue to work with Mexican authorities to address this important issue.

Potatoes

Mexico continues to prohibit U.S. fresh potatoes to be shipped beyond a 26 kilometer zone along the U.S.-Mexico border. Although the two countries came to an agreement in 2003 that provided a road map for market access of U.S. potatoes to the whole of Mexico over a three-year period, Mexico has been slow to implement the agreement. The United States continues to work closely with the U.S. potato industry to address Mexico's pest concerns that will justify the removal of the 26 kilometer border zone restriction. As part of this engagement, the United States has submitted substantial technical data to Mexico, and Mexico has completed a promised risk assessment. The United States is analyzing this risk assessment to determine the next steps it will take to help achieve more complete market access for U.S. exporters. The United States raised this issue with Mexico in bilateral meetings with Mexico in July 2009.

MOROCCO

Food Safety and Animal Health

Morocco restricts imports of U.S. live cattle, beef, and beef products, and poultry and poultry products through requirements related to growth hormones, BSE, AI, and *Salmonella*. Morocco and the United States are working to reach agreement on sanitary certificates that are consistent with international standards to accompany U.S. exports of such products to Morocco.

See section III.C for an explanation of the BSE trade issue and see section III.D for an explanation of the AI trade issue.

NEW ZEALAND

Animal Health

Pork

New Zealand restricts imports of U.S. pork to consumer-ready high value cuts and pork for further processing due to concern about porcine reproductive and respiratory syndrome (PRRS) and post weaning multi systemic wasting syndrome. In April 2009, after several years of consultation and analysis, New Zealand issued four provisional import health standards for pig meat, pig meat products, and by-products from the United States, Canada, the EU, and Mexico. The standards would have allowed for the importation of high-value, consumer-ready cuts of uncooked pork from countries not considered free of PRRS. However, later that year New Zealand established an independent panel to review the provisional import health standards. The panel must complete its review before the

process can continue. The United States will continue to engage with New Zealand on this issue.

Plant Health

Stone fruit

In 2006, the United States requested New Zealand to expand its import health standard for California stone fruit to include fruit from the Pacific Northwest. New Zealand's risk assessment is expected to be completed in the first half of 2010, and the import health standard, which is based on the risk assessment, will likely be completed later this year.

NICARAGUA

Food Safety

Poultry

In April 2008, the CACM member countries, including Nicaragua, notified the WTO of their intent to establish microbiological criteria for a number of foods. In response to the notification, the United States outlined a series of concerns that some of the proposed microbiological criteria (specifically zero tolerance for *Salmonella* on poultry meat) appeared to lack a scientific basis, and had the potential to be a trade barrier for U.S. poultry exports. In February 2009, U.S. officials met with Central American government authorities to further discuss their zero tolerance policies. The United States will continue to work with government officials in Nicaragua and the other CACM member countries to address U.S. concerns regarding the zero tolerance policy.

Beef and Beef Products

After intensive engagement by the U.S. Government, Nicaragua fully opened its market to all U.S. beef and beef products in line with the OIE guidelines for BSE controlled risk countries in February 2009. Prior to fully opening the market, Nicaragua prohibited imports of U.S. deboned beef from cattle 30 months of age and older and bone-in beef from cattle of any age.

See section III.C for an explanation of the BSE trade issue.

NORWAY

Biotechnology

Since 1996, Norway has adopted policies that effectively ban the import of agricultural biotechnology products. The United States will continue to press Norway to open its market to U.S. exports of those products.

See section III.B for an explanation of the biotechnology trade issue.

Food Safety

Beef and Beef Products

Norway implements EU regulations that ban imports of meat from animals treated with growth hormones. See the discussion of the EU's hormone ban for more detail.

PERU

Animal Health

Live Cattle

Peru continues to ban all U.S. live cattle due to BSE-related concerns following the detection of a BSE positive animal in the United States in 2003. Peru and the other three CAN member countries (Bolivia, Colombia, and Ecuador) maintain that CAN rules prevent them from lifting their BSE-related restrictions.

With regard to live cattle, in December 2007, the United States invited each CAN member country to send a technical representative to the United States to initiate the approval process for exporting live cattle from the United States. Peru, along with Bolivia, Ecuador, and a CAN representative, participated in the resulting August 2008 trip organized by USDA to resolve issues that would facilitate the resumption of U.S. cattle imports.

In May 2009, the CAN published a proposed risk assessment stipulating that only live animals under 24 months of age could be imported. This proposed risk assessment departs from OIE guidelines. In August 2009, the United States submitted technical comments on the proposed risk assessment; these are currently under review by Peru and the other CAN member countries.

The U.S. Government continues to engage with Peru to re-open its market for U.S. live cattle based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

PHILIPPINES

Food Safety

Meat and Poultry

In 2008, Philippine authorities issued an administrative order that requires accreditation of foreign rendering plants that export animal proteins to the Philippines. As a result of the order, the Philippine Department of Agriculture (DA) conducted an audit of a number of U.S. rendering plants in September 2009. In October 2009, the DA formally allowed the entry of U.S. meat and bone meal to the Philippines, which had been banned since 2004 due to BSE concerns.

The new guidelines require all exporting countries or individual establishments to obtain either systems or individual plant accreditation to be eligible suppliers. In July 2009, the United States received formal accreditation from Philippine authorities for exports of meat and poultry products, following an audit of U.S. meat and poultry establishments that produce for export to the Philippines. All U.S. meat and poultry establishments that are regulated and inspected by U.S. regulatory authorities currently are eligible to export meat and poultry to the Philippines.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Sheep and Goat Exports

In October 2009, the Philippines accepted a U.S. proposal for health requirements on imports of sheep and goats, which allowed U.S. exports to continue to flow.

Plant Health

Quarantine Clearance

The Philippine Department of Agriculture now requires a plant quarantine certificate (PQC) for processed plant products (*e.g.*, frozen French fries and raisins), which are already regulated by the Philippine Food and Drug Administration. This requirement appears to be duplicative because existing Philippine FDA requirements appear to already address the safety issues associated with these products. The United States continues to engage with the Philippines on this issue.

RUSSIA

Systemic Issues

Russia's SPS standards are extremely prescriptive with detailed requirements for facilities and production processes. Russia has attempted to impose these requirements on trading partners by accepting imports only from facilities that are certified as complying with Russian requirements. Since these requirements are not always based on science or consistent with international recommendations or guidelines, this has created difficulties for U.S. exporters of a range of products, including dairy, feed, and pet food. Russian government resolutions directing that international standards, guidelines, and recommendations of the OIE and IPPC be respected could prove helpful, but in practice they are not always followed, and often no justification is provided for departures. Overall, Russia's application of unwarranted SPS measures has had a significant negative effect on U.S. exports. The entry into force of the proposed Russia, Kazakhstan, and Belarus Customs Union could further complicate these matters as it is the three countries' intention to harmonize their SPS measures. The three countries have stated they will produce harmonized SPS standards by April 1, 2010 for implementation by July 1, 2010.

U.S. exporters face systemic issues in Russia related to the certification of agricultural products. For example, Russia requires phytosanitary certificates for shipments of processed products like soybean proteins, corn gluten and distiller's grain, which due to the nature of the processing process, do not appear to present a pest risk and consequently do not receive a phytosanitary certification from the U.S. Government. Likewise, Russia requests certification that the United States is free from various livestock diseases even when there is no risk of transmission from the product in question. Several requirements of various certificates are unattainable or involve information that is not available to U.S. officials. For example, with regard to export certificates for milk and milk products, Russia has asked for U.S. Government verification of the Russian port of entry, identification marks, and the absence of *Salmonella* and other bacterial disease agents.

In November 2006, the United States and Russia signed a number of bilateral agreements to address SPS issues related to the trade in pork; the certification of pork and poultry facilities for exporting products to Russia; trade in beef and beef by-products; and trade in products of agricultural biotechnology. There have been implementation problems with several of these agreements, however. For example, under the terms of the November 2006 United States-Russia bilateral agreement on the inspection of U.S. meat and poultry facilities, USDA has the authority to inspect and certify that poultry, pork, and beef facilities meet the agreed sanitary requirements and thus are eligible to export products to Russia. However, in October 2008, Russia's Federal Veterinary and Phytosanitary Surveillance Service (Rosselkhoznadzor) announced that it no longer recognized USDA's authority to inspect and relist plants that completed corrective actions.

Biotechnology

Although Russia has established a system for the approval of biotechnology food and feed products, the United States continues to have concerns with the implementation of Russia's biosafety system, including required re-registration of approved products, labeling of genetically engineered products, and its lack of an approval system for the cultivation of biotechnology crops. The United States is pursuing these concerns and greater cooperation on biotechnology with Russia through the U.S.-Russia Biotechnology Consultative Mechanism.

See section III.B for an explanation of the biotechnology trade issue.

Food Safety

Beef and Beef Products

Currently, U.S. producers may export boneless and bone-in beef to Russia from cattle under the age of 30 months and that otherwise meet requirements set out in the United States - Russia Bilateral Agreement on Trade in Beef. The United States and Russia continue to negotiate a certificate to allow for the export of deboned beef, bone-in beef, and beef by-products from cattle over 30 months of age from plants that have been inspected and certified to export to the Russian Federation.

See section III.C for an explanation of the BSE trade issue.

Poultry

Russia banned the importation and sale of chlorine-treated chicken on January 1, 2010, which essentially halted all imports of U.S. poultry. Russian regulations also place an upper limit on the amount of water content in chilled and frozen chicken. In addition, the Russian government has issued a resolution banning the importation and sale of poultry that has been frozen for more than three months and is intended for further processing into food intended for use in baby food and special diets. In 2011, the ban will extend to all further processing of poultry that has been frozen for more than three months. Russia has not provided a scientific justification for these restrictions. U.S. trade and agricultural officials have discussed these issues extensively with their Russian counterparts, urging them not to implement these regulations and to adopt, as soon as possible, SPS measures that are consistent with international standards of the OIE and Codex. Negotiations on these issues are ongoing.

Dairy

Russia is requesting that export certificates it requires for U.S. dairy products exported to Russia include a statement that the products meet Russian requirements for chemical, microbiological, and radiological residues that do not appear to have a basis in science. In

addition, Russia is requesting a list of exporters that meet Russian requirements and will be audited by Russian veterinarians. During meetings in January 2010, Russian authorities stated that without such a list by February 15, they would halt dairy imports from the United States. To date, Russia has not implemented this ban. The U.S. Government continues to actively engage with Russia on the dairy certificate language.

Animal Health

Pork Export Certificates

Russia maintains MRLs that are more stringent than accepted Codex standards, including many that are in effect zero tolerance standards, such as for tetracycline. Russia has thus far refused to provide risk assessments to support these more stringent standards. If left unresolved, these requirements will continue to be major barriers to trade to U.S. exports. These restrictions led to the delisting of over 30 facilities, most frequently for findings of tetracycline-group antibiotics at very low levels of less than 10 parts per billion, resulting in an effective ban on U.S. pork exports to Russia. Negotiations to remove these restrictions are ongoing.

Inspection of Facilities Producing Pork and Poultry

Under the November 2006 United States-Russia Plant Inspection agreement for meat and poultry facilities, Russia agreed to grant U.S. regulatory officials the authority to certify new facilities and/or facilities that had remedied a deficiency. In accordance with the agreement, the Russia also agreed to specific deadlines to respond to requests to list facilities that U.S. authorities had inspected and determined to be in compliance with requirements to export to the Russian Federation. Today, however, Russian officials question the reliability of the current inspection and certification system for U.S. meat and poultry facilities that are eligible to export to Russia and have refused to relist facilities that U.S. regulatory officials have inspected. The U.S. Government continues discuss this issue with Russia's veterinary service.

Grains and Oilseeds

Exports of U.S. grain and oilseed products are severely limited due to Russia's requirement for veterinary certificates for many grains and seeds certifying that these plant products are free of animal diseases. The United States maintains that this certification is unnecessary as these products do not pose any animal health risks. As a result, to date the United States has not agreed to provide certificates for fodder grains, soybeans, soybean meal and animal feeds of plant origin and Russia permits imports of these products only on a case-by-case basis.

Pet Food

Russia does not allow U.S. beef to be included in pet food imported to Russia due to alleged BSE concerns, and requires unwarranted heat treatment processing procedures (in addition to microbial testing). In addition to requiring export certificates for this product from U.S. authorities, Russia recently demanded a list of exporters that meet Russian standards and are approved to export to Russia. The United States will continue to engage with Russian officials on this subject in 2010.

SAUDI ARABIA

Food Safety

See discussion of Gulf Cooperation Council food safety requirements.

Animal Health

Saudi Arabia has agreed to allow imports of U.S. beef and poultry under the following conditions. First, all shipments must contain an FSIS export certificate. Second, producers or manufacturers must self-certify additional requirements not related to food safety or animal health issues, such as an animal protein-free declaration for animal feeds. In addition, Saudi Arabia bans the import of therapeutic medicines used in animal feed without providing a scientific justification for the ban.

SINGAPORE

Food Safety

Beef and Beef Products

Singapore bans imports of U.S. bone-in beef from animals under 30 months of age, and offals and variety meats and all beef and beef products derived from animals 30 months of age or older based on BSE concerns. The United States continues to press Singapore to open its market based on science, the OIE guidelines, and the United States' controlled risk status. Singapore has informed the United States that it is in the process of performing a risk assessment of U.S. beef and beef products. The United States continues to engage with relevant Singapore authorities and to urge Singapore to complete this risk assessment.

See section III.C for an explanation of the BSE trade issue.

SOUTH AFRICA

Food Safety

Beef and Beef Products

South Africa continues to ban the import of all U.S. ruminant animals and products, including all beef and beef products, following the detection of a BSE positive animal in the United States in 2003. The United States is actively engaging with South Africa to fully re-open its beef market to U.S. beef and beef products consistent with science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Pork

The risk of transmission of pseudorabies to domestic herds through imported U.S. pork is extremely low. In 1989, the United States started a voluntary eradication program for pseudorabies. The disease was eliminated in commercial production in all 50 states by 2004. Nevertheless, South Africa imposes a freezing requirement to prevent the transmission of pseudorabies. The U.S. Government and U.S. pork industry have worked with South Africa to eliminate this and other restrictions, but so far little progress has been made.

SOUTH AFRICAN DEVELOPMENT COMMUNITY

Biotechnology

Since 2005, the South African Development Community (SADC) has banned the importation of agricultural biotechnology products.⁷ Under the SADC's agricultural biotechnology ban, importers of agricultural products must present documents certifying that their goods do not include agricultural biotechnology products. There are limited exceptions to the ban on imports of agricultural biotechnology products. Grain from biotechnology-derived varieties can be imported for food aid, but must be milled or sterilized to render the grain incapable of germinating after arriving in the country. In addition, products of agricultural biotechnology imported for scientific research may be allowed, subject to regulations and controls to be established by the various countries.

See section III.B for an explanation of the biotechnology trade issue.

⁷ The SADC is a 15-country socio-economic cooperation and integration group composed of Angola, Botswana, the Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

SOUTH KOREA

Food Safety

Food Additives

The Korean Food and Drug Administration's (KFDA) March 2009 proposal to ban artificial synthetic colors, also known as "tar colors," from use in foods preferred by children garnered the attention of many countries and the international food industry because the proposal appeared to lack a scientific basis. The synthetic colors listed in the proposed ban are widely used by the international food industry and are in compliance with international standards, such as the FAO/WHO Joint Expert Committee on Food Additives (JECFA) and the Codex standards. After extensive consultation with the U.S. Government and other stakeholders in 2009 and 2010, Korea has decided not to pursue this proposal at this time.

Beef and Beef Products

In April 2008, the United States and Korea signed an agreement to fully re-open Korea's market to U.S. beef and beef products in a manner consistent with international standards and science. In June 2008, following massive street protest in Seoul, Korean beef importers and U.S. exporters reached a commercial understanding that temporarily limits U.S. exports to beef and beef products from cattle less than 30 months of age, as a transitional measure, until Korean consumer confidence improves. Since U.S. beef sales resumed in June 2008, Korea has proven to be a reliable export market. In 2009, U.S. exports of beef and beef products to Korea reached 55,540 metric tons, valued at \$216 million, making Korea the fourth largest U.S. beef export market.

Sales of higher-value U.S. chilled beef have been rising in Korea, indicative of increasing confidence among Korean importers (since chilled beef is perishable and requires a quick sale). One example of this trend of growing confidence by Korean retailers, hotels and restaurants is a recent promotion by one of Korea's largest retailers that resulted in a 300 percent increase in one week's sales of U.S. beef and beef products. The U.S. industry has also publicly expressed its growing confidence in the Korean market. The U.S. Government will continue to work with Korea to normalize fully U.S. beef exports.

See section III.C for an explanation of the BSE trade issue.

Plant Health

Cherries

Korea requires that exports of U.S. cherries undergo fumigation with methyl bromide before shipping for the control of various pests of quarantine concern. Removal of the fumigation requirement will increase shelf life and allow cherries to be shipped via ocean vessel rather than air freight, thus reducing costs. Lower cost combined with improved

fruit quality should help increase sales. The United States has been engaged with Korean quarantine officials since 2008 to address this issue and will continue to work with Korea on finding an alternative approach to methyl bromide fumigation.

Maximum Residue Limits

In June 2009, Korea notified the WTO that it was initiating a process for updating its MRL regulatory system by proposing to eliminate existing MRLs if pesticides are not registered for domestic use in Korea. This includes MRLs that have been established through a scientific risk assessment and pose an unacceptable level of risk to human and animal health. The United States is concerned that certain pesticides will be prohibited in Korea that are approved for use in the United States and do not present human health concerns, disrupting trade in products that are treated with these pesticides. The United States will continue to encourage Korea to maintain the current list of import MRLs, based on risk assessments provided by U.S. regulatory authorities using the most current available scientific data, or until risk assessments in Korea are complete. The United States will continue to seek guidance from Korea on how exporters and governments with objections regarding acceptable MRLs may submit relevant information and requests for import tolerances.

See section III.F for an explanation of the MRL trade issue.

Biotechnology

Korea's regulatory system for biotechnology has become increasingly trade disruptive in recent years. In 2008, Korea implemented the Living Modified Organisms Act (LMO Act), which regulates trade in agricultural biotech products. The United States has a number of concerns with the LMO Act and its implementation, including concerns that certain import documentation requirements go beyond the current provisions of the Cartagena Protocol on Biosafety. The United States is also concerned with Korea's definitions for "multi-trait events" and "adventitious presence," as well as aspects of Korea's risk assessment review, which may lead to delays in new product approvals. The U.S. and Korean governments are working together to address these concerns, and have made some progress, particularly related to certain product approvals. Nevertheless, remaining concerns with the LMO Act will require continued engagement to avoid significant disruptions in U.S. exports.

See section III.A for an explanation of the biotechnology trade issue.

SRI LANKA

Food Safety

Beef and Beef Products

Sri Lanka has banned all imports of all U.S. beef and beef products following the detection of a BSE positive animal in 2003 in the United States. The United States continues to engage with Sri Lanka, most recently at the October 2009 TIFA Council meeting, to open its market for all U.S. beef and beef products on based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Microbiological Testing of Meat Imports

In September 2009, Sri Lanka started 100 percent testing of all imported meat products for various pathogens. Importers have complained that the additional demurrage costs associated with the testing are unnecessary, and that government testing methods are unsound. During the October 2009 Trade and Investment Framework Agreement (TIFA) meeting, the United States requested that Sri Lanka to provide its regulation on microbiological testing, especially as it relates to the testing protocol, targeted pathogens, and acceptable pathogen levels.

Plant Health

Seed Potatoes

Sri Lanka currently bans imports of U.S. seed potatoes. USDA and Sri Lanka's Department of Agriculture officials are currently in technical discussions to resolve this issue. In July 2009, USDA requested Sri Lanka to consider a virus tolerance of two percent for all viruses, and allow import of G4 and G5 seed potatoes if they meet certain high level standards.

SWITZERLAND

Biotechnology

Switzerland has a burdensome and slow process for approving agricultural biotechnology products for food and feed use. In addition, starting in November 2005, Switzerland implemented a five year moratorium on approvals for cultivation of biotechnology crops. U.S. officials will continue to urge Switzerland to address cumbersome aspects of its regulatory review system and remove the moratorium on cultivation.

See section III.B for an explanation of the biotechnology trade issue.

TAIWAN (CHINESE TAIPEI)

Food Safety

Beef and Beef Products

Taiwan began banning imports of U.S. beef and beef products following the detection of a BSE positive animal in 2003. In 2006, Taiwan began allowing imports of U.S. beef to boneless products derived from animals under 30 months of age.

During 2009, the United States continued to press Taiwan to provide market access for the full range of U.S. beef and beef products in a manner consistent with the OIE guidelines for BSE, as well as with Taiwan's own risk assessment, which concluded that U.S. beef and beef products are safe. In October 2009, as a result of these efforts, the United States and Taiwan concluded a new science-based and OIE-consistent bilateral protocol providing for expanded market access for U.S. beef and beef products. Shortly after the Protocol entered into force, however, Taiwan's legislature adopted an amendment to Taiwan's Food Sanitation Act that in effect banned imports of ground beef and certain offals from the United States, as well as certain other non-hazardous cattle parts. Such a ban is inconsistent with the Protocol. Furthermore, Taiwan authorities have taken a range of administrative measures that have created uncertainty in the market. The United States is pressing Taiwan to act consistently with its obligations under the Protocol and to refrain from taking measures that unnecessarily burden U.S. exports of beef and beef products.

See section III.C for an explanation of the BSE trade issue.

Pork

Ractopamine is not approved for use in Taiwan, and Taiwan has repeatedly delayed implementation of its proposed MRL for ractopamine, which had been notified to the WTO. Taiwan's action has forced U.S. pork producers to ship pork products sourced from animals not treated with ractopamine, which has caused a significant trade concern.

The United States has raised this priority issue at several meetings of the WTO SPS Committee and at numerous bilateral meetings with Taiwan. Taiwanese authorities have acknowledged in various meetings with the United States that trace amounts of ractopamine in pork do not present a health risk. However, Taiwan continues to maintain a zero tolerance policy for ractopamine.

See section III.E for an explanation of the ractopamine trade issue.

Maximum Residue Limits

Taiwan's slow and cumbersome process for adopting MRLs has resulted in a substantial backlog of over 1,500 MRL applications. This backlog has resulted in the rejection of

various U.S. agricultural shipments including wheat, barley, strawberries, corn, apples and several other fruits and vegetables. To avoid continuing trade disruptions, the United States has pressed Taiwan on several occasions to act consistently with the 1999 U.S. – Taiwan agreement on MRLs, which provides that Taiwan will defer to Codex MRLs or U.S. MRLs where Codex has not set a tolerance until Taiwan establishes a more comprehensive set of MRLs. As part of this agreement, the U.S. Government has worked extensively with Taiwan through data sharing and technical assistance to facilitate Taiwan in establishing MRLs for newer, safer chemicals.

See section III.F for an explanation of the MRL trade issue.

Animal Health

Pet Food

Taiwan bans the import of ruminant and non-ruminant products intended for use in animal feed and pet food, such as tallow (including protein-free tallow), lard, and porcine meal, for BSE-related concerns.

Plant Health

Apples

The Codling Moth (CM) is a pest of apples in the United States and a pest of quarantine concern to Taiwan, where it is not known to exist. Following a CM detection in Taiwan in November 2002, Taiwan suspended importation of all U.S. apples. In June 2003, the United States and Taiwan signed a protocol with a penalty structure that allowed Taiwan to suspend imports of U.S.-origin apples if three CM detections occurred in a single shipping season. While the current penalty structure (often referred to as “three strikes”) has facilitated some trade, the penalty structure is not tied to volume, and therefore risk to Taiwan, and improperly punishes small exporters. To date, Taiwan has not conducted a PRA for CM in apples. U.S. regulatory authorities have provided Taiwan with U.S. research demonstrating that the risk associated with CM transmission and establishment in Taiwan via U.S.-origin apples is extremely low. Taiwan authorities continue to review this research, but have not met with U.S. officials to discuss the U.S. findings in detail.

THAILAND

Food Safety

Pork

In January 2010, Thailand lifted its ban on U.S. pork and pork products that had been put in place based on H1N1 concerns. However, the United States is still unable to export unprocessed pork products and offals to Thailand due to its requirement for exporters to

complete a questionnaire that obligates the U.S. producer to agree to a number of burdensome requirements, including the requirement that each producer's facility will be inspected by Thai officials. The United States has argued that Thailand should adopt a system-based approach that analyzes the United States' entire food safety system relating to pork production, rather than relying on individual plant inspections for all exporting facilities. In addition, Thailand imposes other trade barriers on imports of U.S. pork and products, including a prohibition of even trace residues of ractopamine in pork imports.

See section III.A for an explanation of the H1N1 trade issue and section III.E for an explanation of the ractopamine trade issue.

Beef and Beef Products

Thailand bans the import of U.S. beef and beef products due to the detection of a BSE positive animal in the United States in 2003. Currently, Thailand allows imports of U.S. deboned beef from animals under 30 months of age. The United States continues to engage with Thailand to fully open its market for all U.S. beef and beef products on the basis of science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

TURKEY

Biotechnology

In October 2009, the Turkish Ministry of Agriculture and Rural Affairs published, with immediate effect, a regulation on trade in agricultural biotechnology products. In addition, the Turkish parliament recently adopted a related law on agricultural biotechnology. The regulation and draft law propose a comprehensive new authorization system for products derived through agricultural biotechnology. Several aspects of the new system present barriers to trade in biotechnology products. For example, the requirement that a product be commercialized in the country of development for three years prior to approval by Turkish authorities would appear to restrict trade regardless of the outcome of a scientific risk assessment by Turkish authorities. The United States has raised concerns with the Turkish government regarding specific provisions of the law and regulations. In addition, the U.S. Government and industry stakeholders have conducted outreach in Turkey regarding the biotechnology and biotechnology-derived products affected by the regulation and draft law. The United States will continue to raise U.S. concerns with Turkey regarding those provisions of its laws and regulations governing biotechnology products.

See section III.B for an explanation of the biotechnology trade issue.

Food Safety

Meat

Turkey has not allowed meat imports from any country since 1996. Turkey maintains that the ban on meat imports relates to health concerns, but has not established any public health requirements or provided a scientific justification for the ban.

Animal Health

Animal Breeding

In July 2007, the United States and Turkey concluded a protocol permitting imports into Turkey of live breeding cattle from the United States. Further, in 2009, the United States and Turkey signed an additional protocol permitting imports of live breeding bulls. However, Turkey enforces semen concentration requirements that appear to exceed accepted international standards. These restrictions limit sales and increase the per unit price. In addition, U.S. industry believes that Turkey imposes overly restrictive genetic requirements.

Plant Health

Wood Products

In February 2009, Turkey imposed regulations that require that wood products imported from the United States be free from bark; free from grub holes; contain less than 20 percent moisture or be kiln dried, heat treated, or fumigated; and be accompanied by a phytosanitary certificate stating that the product is from an area free from *Bursaphelenchus xylophilus* (pinewood nematode). The United States continues to discuss these restrictions with Turkey.

UKRAINE

Biotechnology

Although Ukraine's parliament passed a law establishing the framework for the creation, testing, and use of products of agricultural biotechnology in 2007, the implementing regulations necessary to open the market are still under development. The absence of a functioning approval process creates unpredictable sales conditions for U.S. processed food products, corn products, soybeans, and meal. The United States is working with Ukraine to establish procedures governing agricultural biotechnology that include science-based risk assessments.

See section III.B for an explanation of the biotechnology trade issue.

UNITED ARAB EMIRATES

Food Safety

See discussion of Gulf Cooperation Council for food safety requirements.

Beef and Beef Products

Since July 2009, the United Arab Emirates (UAE) has required all imports of fresh/frozen meat and meat products to be derived from animals less than 30 months of age due to BSE-related concerns. The United States continues to engage with UAE to fully open its market for all U.S. beef and beef products on the basis of science, the OIE guidelines, and the United States' controlled risk status.

URUGUAY

Food Safety

Live Cattle, Beef, and Beef Products

Uruguay bans all live cattle, beef, and beef products due to the detection of a BSE positive animal in the United States in 2003. The United States continues to engage with Uruguay to open its market for all beef and beef products from the United States based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Poultry

Uruguay currently bans imports of many U.S. poultry products due to concerns over AI and Newcastle's disease. In October 2007, the United States and Uruguay reached an agreement that permitted exports of U.S. turkeys to resume. The United States' consent to the agreement, however, was premised on the understanding that the two countries would complete negotiations that would include all poultry and poultry products, consistent with science and the relevant OIE guidelines. The United States raised the issue during the November 2009 Consultative Committee on Agriculture meetings with Uruguay. The United States continues to engage with Uruguay on this issue.

See section III.D for an explanation of the AI trade issue.

VENEZUELA

Food Safety

Live Cattle, Beef, and Beef Products

Venezuela bans all U.S. live cattle, beef, and beef products following the detection of a BSE positive animal in the United States in 2003. The United States has provided relevant information to Venezuela and continues to engage where possible with Venezuela to open its market based on science, the OIE guidelines, and the United States' controlled risk status.

See section III.C for an explanation of the BSE trade issue.

Animal Health

Poultry

Venezuela does not issue sanitary import permits for U.S. poultry on the basis that it may have been infected with AI. Venezuela's action does not appear to be consistent with OIE guidelines.

See section III.D for an explanation of the AI trade issue.

VIETNAM

Animal Health

Beef and Beef Products

Vietnam currently accepts all U.S. beef and beef products from cattle less than 30 months of age. Since 2007, the United States and Vietnam have been working to agree on the animal health requirements to facilitate the trade in live cattle, beef, and beef products consistent with the science, OIE guidelines, and the United States' status as a "controlled risk" country.

Throughout 2009, technical experts from the United States held extensive consultations with officials from Vietnam's Department of Animal Health seeking to facilitate greater access for U.S. exports to the Vietnamese market including: beef and beef products, live cattle, pet food, hide and bone derived gelatin, and swine and swine semen, among others. The United States and Vietnam continue to discuss and make progress on these commodities with a view to increasing trade consistent with international standards.

V. TECHNICAL ASSISTANCE

The United States is committed to cooperating with trading partners on SPS issues and to providing technical assistance, where appropriate, to help other countries meet their international obligations and facilitate trade in agricultural products. To accomplish these goals, the United States has incorporated SPS objectives into a wide variety of bilateral cooperation and assistance programs. The United States seeks to ensure that other governments base their SPS measures on scientific risk assessments and refrain from using SPS measures as disguised restrictions on international trade. The technical assistance provided by the United States has helped many developing countries build their SPS regulatory infrastructure, which in turn has opened new markets for U.S. agricultural products. In 2008 alone, the U.S. Government obligated about \$6.6 million in SPS trade capacity building assistance, for a total of approximately \$70 million since 2000. This assistance took many forms, including training seminars, staff assistance, and data sharing.

Article 9 of the SPS Agreement provides that “Members agree to facilitate the provision of technical assistance to other Members, especially developing country Members, either bilaterally or through the appropriate international organizations.” This type of assistance is intended to help Members to comply with various SPS measures that they face in export markets. The SPS Agreement, however, does not refer to technical cooperation and assistance in relation to Members’ efforts to implement the SPS Agreement itself. In the SPS Committee, Members have raised concerns about technical constraints affecting developing countries’ ability to comply with certain provisions of the SPS Agreement. In particular, some Members have noted the substantial technical and resource demands associated with quantitative or other advanced risk assessment techniques and have requested assistance in improving the capabilities of developing countries to conduct such assessments. The United States strongly supports increased technical cooperation and assistance in advancing Members’ risk assessment capabilities, including efforts in the STDF and the APEC forum.

Trade Capacity Building

U.S. trade capacity building activities focus on providing technical assistance and outreach to other WTO Members, particularly developing countries. In the SPS area, the United States seeks to foster an understanding of the SPS provisions in international and bilateral trade agreements, including the key requirement that SPS measures be supported by science; the fundamentals of risk assessment; and the most effective way to build and administer SPS regulatory programs. Forms of assistance include regional trade capacity building workshops, conferences, hands-on training programs, and visits.

The United States administers a number of programs to build foreign expertise in biotechnology, food safety, animal health, and plant health. For example, the U.S. Cochran Fellowship Program provides training opportunities for individuals from middle-income countries and emerging democracies in agricultural trade and policy; agribusiness development and management; animal, plant, and food sciences; extension services;

agricultural marketing; and many other areas. Individuals selected for U.S. Cochran Fellowship Program trainings come from both the public and private sectors. All training occurs in the United States. Training programs are designed and organized in conjunction with U.S. universities, USDA and other government agencies, agribusinesses, and consultants.

Trade capacity building is one way that the U.S. Government works to ensure that foreign governments do not use SPS measures to restrict trade. By supporting the adoption and effective implementation of science-based standards in other countries, the U.S. Government helps to lower unjustified barriers to trade and expand market access for U.S. agricultural and food products.

The following section provides a country-by-country description of U.S. technical assistance on SPS-related issues. This list is not meant to be comprehensive, but highlights some of the most important activities during 2008-09.

Algeria

During 2008-09, the United States provided roughly \$500,000 in SPS-related assistance to Algeria, including regional trade capacity building workshops, conferences, and hands-on training programs. In order to support U.S. dairy-related exports to Algeria, the United States sponsored dairy regulation and dairy export certification training. This training provided an in-depth review of, and offered hands-on experience with, U.S. dairy processing facilities, U.S. regulations, and U.S. dairy export certifications.

Argentina

During 2008-09, the United States provided over \$600,000 in SPS-related trade capacity building assistance to Argentina, including close to 20 regional workshops, conferences, and hands-on training programs. As part of these activities, the United States facilitated Argentina's participation in a regional Codex meeting. The United States also sponsored fellows under the U.S. Cochran Fellowship Program for training on U.S. food inspection and control systems, import and export certification and risk analysis, and U.S. meat and poultry inspection procedures that are used to ensure food safety.

Bahrain

During 2008-09, the United States contributed just over \$301,000 for SPS-related regional and country-specific programs that benefitted Bahrain. For example, officials from Bahrain attended training on regional transboundary diseases of livestock and poultry that affect international trade.

Barbados

During 2008-09, the United States held SPS-related regional trade capacity building seminars and hands-on training programs to assist Barbados. The United States contributed approximately \$174,600 towards these activities. In one three-week seminar, government officials from Barbados were trained in meat and poultry inspection. This seminar highlighted pathogen reduction; import and export policies and procedures; and animal production. The U.S. Cochran Fellowship Program also sponsored two officials from Barbados, who received training in veterinary epidemiology, focusing on risk analysis and diagnostics for animal diseases.

Bolivia

During 2008-09, the United States contributed about \$103,000 towards SPS-related regional trade capacity building workshops and courses for Bolivia. Two of these programs addressed animal health. In addition, the U.S. Cochran Fellowship Program sponsored a course focused on veterinary epidemiology and laboratory diagnosis, control, and eradication of transboundary animal diseases.

Brazil

During 2008-09, Brazil received approximately \$507,000 in SPS-related assistance in the form of regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States hosted two separate workshops on agricultural biotechnology and related labeling requirements in which Brazilian officials participated. The United States also provided additional training for veterinary epidemiology and meat and dairy inspection, including instruction in Hazard Analysis and Critical Control Points (HACCP). The United States has also sponsored Brazilian officials under the U.S. Cochran Fellowship Program to study citrus, dairy and meat inspections, as well as wine regulatory issues.

Cambodia

During 2008-09, the United States contributed just over \$279,000 for various SPS-related activities benefitting Cambodia, including regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. Four programs offered training in avian veterinary epidemiology and included more than 72 Cambodian district veterinarians and 15 participants from the Cambodia National Veterinary Research Institute and its regional laboratory network.

Chile

During 2008-09, Chilean officials participated in close to a dozen SPS-related regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided nearly \$689,000 for these activities. The United States

sponsored multiple trainings for inspection officials regarding U.S. meat and poultry inspection with the aim of facilitating U.S. exports of these products. This training included sponsorship of Chilean officials under the U.S. Cochran Fellowship Program. Chilean animal and plant health authorities received support and training in pre-clearance programs and pest risk assessment and analysis. The United States also sponsored a program, in which Chilean officials participated, to create a common Western Hemisphere position on biotechnology standards.

China

During 2008-09, Chinese officials and researchers participated in over 20 SPS-related trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided roughly \$817,000 for these activities. The United States sponsored programs to promote food safety and sound management of pesticides, including procedures for conducting human health and environmental risk assessments when regulating new chemical pesticides. The United States also hosted several delegations of pesticide officials, representing both China's national pesticide regulatory body and provincial authorities. These officials observed U.S. technical programs and learned about the use of science in U.S. risk assessment and risk management decisions.

The United States sponsored other capacity building projects for China to promote animal health, including training on veterinary epidemiology and biologics to encourage the improvement of global animal health, safety, and surveillance procedures. Biotechnology programs addressed labeling standards and regulatory issues on agricultural biotechnology, including intellectual property rights, seed genetics, and biotechnology safety.

Colombia

During 2008-09, Colombian officials, researchers, and industry representatives participated in over a dozen SPS-related trade capacity building programs, for which the United States provided approximately \$917,000. Programs included workshops, seminars, conferences, hands-on-training, and visits to increase knowledge of food safety, animal health, plant health, and biotechnology. In order to increase U.S. exports of plants to Colombia, the United States has conducted multiple programs addressing fruit and vegetable regulations and pest management. Food safety programs have included hands-on training for inspection procedures and regulations used to ensure the safety of meat, poultry, and egg products. The United States also funded Colombian officials to participate in training under the U.S. Cochran Fellowship Program, focused on meat and poultry inspection, as well as other food safety issues.

Costa Rica

The Trade Capacity Building (TCB) program in Costa Rica is part of a broader U.S. capacity building effort in CAFTA-DR countries, and includes SPS-related activities. Under this

program, the United States is helping Costa Rica develop its institutional capacities to implement a science-based regulatory system consistent with international standards. Such systems create a more transparent, open, and favorable trade environment for U.S. exports. SPS assistance to Costa Rica is based on the national and regional needs identified during the CAFTA-DR negotiations and through the ongoing work of the CAFTA-DR Trade Capacity Building Committee. The United States uses fellowship and exchange programs such as the U.S. Cochran Fellowship Program and the Norman E. Borlaug International Science and Technology Fellows Program to complement the SPS program.

During 2008-09, Costa Rican officials participated in over thirty SPS-related regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States contributed just over a \$1 million to these regional programs. In order to facilitate trade, Costa Rican plant health authorities received support and training in plant pest diagnostics that utilize operational and testing methods to meet U.S. standards. Animal and human health programs included a “train-the-trainer” workshop on swine fever and new methods of testing for *E. coli* in meat and *Salmonella* in poultry. Additional courses were designed to ensure the application of internationally-recognized analytical methods and testing to ensure food safety.

Dominican Republic

The TCB program in the Dominican Republic is part of a broader U.S. capacity building effort in CAFTA-DR countries, and includes SPS-related activities. Under this program, the United States is helping the Dominican Republic develop its institutional capacities to implement a science-based regulatory system consistent with international standards. Such systems create a more transparent, open, and favorable trade environment for U.S. exports. SPS assistance to the Dominican Republic is based on the national and regional needs identified during the CAFTA-DR negotiations and through the ongoing work of the CAFTA-DR Trade Capacity Building Committee. The United States uses fellowship and exchange programs such as the U.S. Cochran Fellowship Program and the Norman E. Borlaug International Science and Technology Fellows Program to complement the SPS program.

During 2008-09, the United States sponsored over thirty SPS-related trade capacity building workshops, seminars, conferences, hands-on training programs, and visits to assist the Dominican Republic.

In 2009, USDA’s Food for Progress grant program began a three-year, \$8 million grant in the agricultural and livestock sectors. Programs under this grant include SPS infrastructure improvement through the upgrading of laboratory infrastructure, operations, and analytical testing capabilities. The Food for Progress grant program will also assist the Dominican Republic in developing animal health surveillance, inspection, and sanitary standards for animal programs; risk mitigation methods; and product traceability standards. Additionally, U.S. authorities conducted multiple swine fever “train-the-trainer” workshops.

Egypt

In 2007, the United States initiated a two-year, government-to-government technical assistance program to facilitate Egypt's ability to meet WTO SPS obligations, including WTO enquiry point training. During 2008-09, the United States contributed about \$1.4 million for activities benefitting Egypt, including close to a dozen regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. In one program, U.S. officials responsible for pesticide safety met with their Egyptian counterparts to discuss the U.S. pesticide regulatory system and worked to develop a longer term pesticide laboratory training project for Egyptian chemists.

El Salvador

The TCB program in El Salvador is part of a broader U.S. capacity building effort in the CAFTA-DR countries, and includes SPS-related activities. As part of this program, the United States is helping El Salvador develop its institutional capacities in the areas of plant and animal health and food safety. SPS assistance to El Salvador is based on the national and regional needs identified during the CAFTA-DR negotiations and through the ongoing work of the CAFTA-DR Trade Capacity Building Committee. The United States uses fellowship and exchange programs such as the U.S. Cochran Fellowship Program and the Norman E. Borlaug International Science and Technology Fellows Program to complement the SPS Program.

During 2008-09, officials from El Salvador participated in close to 40 regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits sponsored by the United States. The U.S. contribution to these SPS-related activities totaled over \$1.5 million. In 2008, the United States sponsored a visit by a Salvadoran delegation to Washington, D.C. to learn about U.S. poultry inspection systems. The program aimed to demonstrate that U.S. poultry products are safe. The United States also conducted bovine health laboratory training for Salvadoran officials to help ensure that they use quality-controlled, standard laboratory practices in animal health in El Salvador.

Ethiopia

During 2008-09, the United States provided funding of over \$377,000 for SPS-related trade capacity building activities benefitting Ethiopia, including workshops, seminars, conferences, hands-on training programs, and visits.

Ethiopia is also a participant in a comprehensive program to enable members of the FAO and WHO Coordinating Committee for Africa (CCAFRICA) to participate more effectively in Codex and to adopt Codex and other internationally-recognized standards related to agricultural trade. For example, in September 2009, the U.S. Codex office organized a colloquium for CCAFRICA members on effective participation in the Codex Committee. Ethiopian officials participated in this event. The United States also is helping to establish

functional national Codex offices, which will promote adherence to international standards and participation in the specialized Codex committees. In 2003, with U.S. assistance, Ethiopia established a National Codex Committee, which advises the Ethiopian government on food safety standards. All of these U.S. activities complement the implementation a CCAFRICA strategic plan designed to strengthen and enhance the participation and effectiveness of CCAFRICA in Codex and of individual countries in CCAFRICA.

Guatemala

The TCB program in Guatemala is part of a broader U.S. capacity building effort in the CAFTA-DR countries, and includes SPS-related activities. The United States is helping Guatemala develop its institutional capacities in the areas of plant and animal health and food safety. SPS assistance to Guatemala is based on the national and regional needs identified during the CAFTA-DR negotiations and through the ongoing work of the CAFTA-DR Trade Capacity Building Committee. The United States uses fellowship and exchange programs such as the U.S. Cochran Fellowship Program and the Norman E. Borlaug International Science and Technology Fellows Program to complement the SPS Program.

During 2008-09, Guatemala participated in close to 50 regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided over \$2.6 million for these SPS-related activities.

In 2008, a Food for Progress grant funded a NGO-run training and technical assistance program on food safety and hazard assessment for meat and vegetables. The United States sponsored a fellowship program for government officials to foster an understanding of U.S. meat and poultry regulations and procedures used to ensure a safe food supply. The United States also conducted a training program concerning biotechnology that addressed technology development, acceptance and management of biotechnology, intellectual property rights and technology transfer, biotechnology commercialization, and regulatory policy.

Honduras

The TCB program in Honduras is part of a broader U.S. capacity building effort in the CAFTA-DR countries, and includes SPS-related activities. The United States is helping Honduras develop its institutional capacities in the areas of plant and animal health and food safety. SPS assistance to Honduras is based on the national and regional needs identified during the CAFTA-DR negotiations and through the ongoing work of the CAFTA-DR Trade Capacity Building Committee. The United States uses fellowship and exchange programs such as the U.S. Cochran Fellowship Program and the Norman E. Borlaug International Science and Technology Fellows Program to complement the SPS Program.

During 2008-09, Honduras participated in close to 40 regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided around \$2.5 million for these SPS-related activities. In 2009, the United

States hosted regional microbiology laboratory training, which focused on the proper procedures for detecting the presence of *Salmonella* in poultry samples. The United States also conducted two concurrent poultry health activities in Honduras. In the first, a technical expert provided guidance on the Honduran poultry surveillance system and assisted Honduran officials with preparations for an official U.S. audit. The goal of this activity was to help Honduras meet international animal health standards. The second activity helped to ensure that Honduras uses quality-controlled, standard laboratory practices, while strengthening overall poultry health surveillance efforts. A team of U.S. animal health laboratory experts also provided specific training to Honduran officials on bio-security, vaccination, pathogens and serology testing, and disease diagnosis.

India

During 2008-09, the United States provided roughly \$464,000 for SPS activities benefitting India. This assistance included over a dozen trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States sponsored an SPS workshop for Indian government officials and industry representatives focusing on science, risk assessment, and the foundations of rulemaking. This workshop aimed to facilitate greater Indian acceptance of U.S. health certification of agricultural exports and to reduce SPS barriers to trade. Biotechnology workshops examined how to design socio-economic assessments for biotech products, as well as the role of these assessments in the new biosafety regulatory framework in India. U.S. animal health officials addressed appropriate technology for AI vaccine development, among other topics. Representatives of India's Food Safety and Standards Authority also met with U.S. Government pesticide regulators to discuss risk assessment and registration process issues for biopesticides.

Indonesia

During 2008-09, Indonesia participated in nearly 20 U.S.-sponsored trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. These SPS-related activities were funded in the amount of approximately \$1.8 million. The United States also spent \$1.2 million on AI field epidemiology workshops in Indonesia. U.S. authorities sponsored five Indonesian officials to study current technological procedures used for handling fruits, nuts, vegetables, and ornamentals, as well as U.S. food safety and quarantine issues. Indonesia also participated in an APEC regional workshop funded by the U.S. Government, which addressed the low-level presence of biotech material in agricultural commodity shipments and its implications for trade.

Jamaica

During 2008-09, the United States provided more than \$76,000 for SPS activities benefitting Jamaica, including Caribbean Community and Common Market (CARICOM) trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States is collaborating with CARICOM in a project to help member countries, including Jamaica, expand intra-regional trade by strengthening animal and

plant health and food safety systems. Jamaican officials have also participated in training provided under the U.S. Cochran Fellowship Program, focusing on pesticide residue issues, and have visited U.S. pesticide regulators to discuss pesticide registration issues with respect to children's health and environmental protection. U.S. authorities also hosted a regional workshop on agricultural biotechnology.

Jordan

During 2008-09, Jordan participated in a regional SPS conference and a U.S. fellowship program, for which the United States provided over \$194,000. A U.S. trade capacity building program provided training to Jordanian officials on the creation of plant health systems that satisfy international plant health standards.

Kazakhstan

During 2008-09, the United States provided close to \$369,500 to fund SPS-related activities benefitting Kazakhstan, including several regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. In September 2009, the United States trained government officials who have a role in Kazakhstan's WTO National Notification Authority and Enquiry Point. This training addressed SPS obligations and SPS enquiry point management. The U.S. Cochran Fellowship Program also sponsored Kazakh fellows in training in the area of advanced plant protection, quarantine, and phytosanitary practices. The training covered topics related to pesticide development and regulation, as well as pesticide use regulations in U.S. agriculture.

Kenya

During 2008-09, the United States provided over \$1 million in assistance to Kenya related to SPS issues, including over a dozen trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. Multiple workshops addressed standards, processing, and genetics in the area of dairy production. Other animal health programs focused on world-wide meat and poultry inspection practices. Plant health training courses addressed subjects such as pest mitigation protocol procedures and led to the establishment of a national plan in Kenya for phytosanitary surveillance. The United States also briefed a representative from Kenya's Food Safety Administration on regulation of plant-incorporated protectants in foods derived from biotechnology.

Kuwait

During 2008-09, the United States provided funding of just over \$308,000 for SPS trade capacity building activities benefitting Kuwait. Animal health training for Kuwaiti officials focused on AI and trans-boundary diseases of livestock and poultry that affect international trade.

Kyrgyzstan

During 2008-09, the United States funded provided close to \$203,000 in SPS-related trade capacity building assistance to Kyrgyzstan. The United States, as part of a project on customs and regional trade liberalization, provided expert advice to Kyrgyzstan on genetic engineering regulation and veterinary inspection, as well as other SPS issues. Animal health training for Kyrgyz officials addressed topics on advanced animal health standards and analysis of diseases. A delegation from Kyrgyzstan also visited with U.S. pesticide regulators to discuss pesticide food safety issues and tour U.S. analytical chemistry laboratory facilities.

Laos

During 2008-09, the United States provided \$32,000 for SPS-related trade capacity activities benefitting Laos. As part of U.S. capacity building efforts, U.S. regulatory authorities sponsored a training workshop for Laotian authorities on poultry slaughter and hygiene practices.

Malaysia

During 2008-09, the United States provided roughly \$503,000 for SPS-related activities benefitting Malaysia, including trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. Additionally, the U.S. Cochran Fellowship Program sponsored training in U.S. meat and poultry inspection to help Malaysian government officials learn and improve their knowledge of U.S. meat and poultry regulations and procedures. Malaysia also participated in an APEC regional workshop addressing the low-level presence of biotechnology materials in agricultural commodity shipments and its implications for trade.

Mexico

During 2008-09, Mexican officials participated in Latin American regional training under the U.S. Cochran Fellowship Program, which offered specific programs on meat and poultry inspection. Mexican officials learned about U.S. inspection procedures and regulations that are used to ensure that U.S. meat, poultry, and egg products are safe, wholesome, and properly labeled. The United States provided around \$74,000 for this training program.

Morocco

During 2008-09, the United States provided almost \$650,000 for SPS-related activities benefitting Morocco, including several regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. One training session was designed to help Morocco develop science-based SPS regulations in order to reduce barriers to agricultural trade. Another program provided information and technology to equip Morocco with diagnosis techniques for monitoring and evaluating BSE in the country.

Nicaragua

The TCB program in Nicaragua is part of a broader U.S. capacity building effort in the CAFTA-DR countries, and includes SPS-related activities. As part of this program, the United States is helping Nicaragua develop its institutional capacities in the areas of plant and animal health and food safety. SPS assistance to Nicaragua is based on the national and regional needs identified during the CAFTA-DR negotiations and through the ongoing work of the CAFTA-DR Trade Capacity Building Committee. The United States uses fellowship and exchange programs such as the U.S. Cochran Fellowship Program and the Norman E. Borlaug International Science and Technology Fellows Program to complement the SPS Program.

During 2008-09, Nicaraguan officials participated in close to 30 regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided approximately \$1.3 million to fund these SPS-related activities. In 2009, Nicaraguan officials participated in a regional workshop on agricultural biotechnology to help create a common position on this issue in the Western Hemisphere. The United States also conducted several training programs focused on improving pest diagnostic and pest risk assessment in Nicaragua, specifically addressing priority plant pests and diseases.

Nigeria

During 2008-09, Nigerian officials participated in a dozen U.S.-sponsored regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided over \$500,000 in funding for these SPS-related activities. The United States also conducted several training programs focused on improving pest diagnostic and pest risk assessment in Nigeria, specifically addressing priority plant pests and diseases. Another program involved an assessment of Nigeria's SPS policies. This assessment served as a tool to identify opportunities for further technical assistance programs and to help increase harmonization of SPS standards and policies in Nigeria.

Oman

During 2008-09, Omani officials and researchers participated in half a dozen U.S.-sponsored regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided approximately \$445,000 for these SPS-related activities. As part of a program funded by the U.S. Government, the University of Nebraska also hosted a governmental delegation from Oman to observe U.S. integrated food safety and quality management practices. The program included U.S. producers, processors, handlers, retailers, inspection agencies, and consumers.

Panama

During 2008-09, the United States provided slightly over \$1 million for SPS-related programs benefitting Panama, including close to 20 regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States also funded training in food safety for Panamanian officials under the U.S. Cochran Fellowship Program. In addition to sponsoring multiple microbiology laboratory training programs, the United States was instrumental in convening the “First National Laboratories Meeting of the Veterinary Services of the Americas” in Panama City, Panama in 2008 to assist and encourage governments in the region to implement OIE standards for animal health and zoonosis.

Paraguay

During 2008-09, Paraguayan officials participated in around half a dozen U.S.- sponsored regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided close to \$570,000 for these SPS-related activities. Under the auspices of the U.S Cochran Fellowship Program, Paraguayan officials also learned about U.S. inspection procedures and regulations used to ensure that U.S. meat, poultry, and egg products are properly labeled.

Peru

During 2008-09, Peruvian officials, researches, and industry representatives participated in a dozen U.S.-sponsored regional trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. The United States provided approximately \$809,000 for these SPS-related activities. Peru’s agency for national animal and plant health and food safety requested an expert team of U.S. regulatory officials to assist in developing specific regulations that included food safety monitoring and enforcement measures. The United States designed a program in response to this request. Under the auspices of the U.S. Cochran Fellowship Program, the United States also sponsored training for Peruvian officials in the area of food safety.

Philippines

During 2008-09, Philippines officials participated in a dozen regional SPS-related trade capacity building workshops, seminars, conferences, hands-on training programs, and visits. U.S. funding for these activities totaled over \$2.3 million. Philippines officials participated in a two-week and a three-week seminar on meat and poultry inspection procedures to improve knowledge of HACCP, pathogen reduction, and import and export policies and procedures for the United States and other countries.

Qatar

During 2008-09, Qatari officials participated in a few U.S.-sponsored regional trade capacity building conferences and a training program. The United States provided approximately \$301,000 for these SPS-related activities. One of these programs focused on trans-boundary diseases of livestock and poultry that affect international trade and that are particularly relevant for GCC countries.

Saudi Arabia

During 2008-09, the United States provided approximately \$412,000 in SPS-related trade capacity building assistance to Saudi Arabia in the form of regional workshops and training programs. One training program addressed trans-boundary diseases of livestock and poultry that affect international trade, while another covered methods of pesticide residue detection.

South Africa

During 2008-09, South African officials and industry representatives participated in a dozen U.S.-sponsored regional trade capacity building conferences, workshops, and trainings programs. The United States provided funding of just over \$545,000 for these SPS-related activities. These activities included biotechnology programs that addressed regulatory policy for biotechnology, relevant research, technology development, acceptance and management of biotechnology, and technology transfer.

Sri Lanka

During 2008-09, Sri Lanka officials participated in two SPS-related trade capacity building fellowships and training programs, funding for which totaled about \$35,500. The U.S. Cochran Fellowship Program also sponsored three Sri Lankan fellows to attend potato seed development training.

The United States also funded training in biotechnology and biosafety for several Sri Lankan scientists and regulators at Michigan State University. The most recent regulator to participate in this program was a senior regulator for agricultural biotechnology.

Thailand

During 2008-09, Thailand participated in over a dozen U.S.-sponsored regional trade capacity building conferences and training programs. The United States provided almost \$732,000 for these SPS-related activities. Programs included a conference on the WTO SPS Agreement. The United States also hosted three officials from Thailand's National Food Institute to discuss Codex and various aspects of U.S. food safety regulations and related programs. In November 2008, U.S. Government personnel traveled to Bangkok to discuss the risk assessment process for plant-incorporated protectants in agricultural

biotechnology with representatives of Thailand's National Center for Genetic Engineering and Biotechnology, the Ministry of Agriculture, and the Ministry of Natural Resources and Environment. The discussion focused on food and feed safety aspects of foods derived from biotechnology.

United Arab Emirates

During 2008-09, officials of the United Arab Emirates participated in U.S.-sponsored regional SPS-related trade capacity building conferences and training programs, including a workshop that focused on building regional capacity to meet international phytosanitary standards for pest risk systems. The United States provided about \$346,000 for these programs.

Uruguay

During 2008-09, Uruguayan officials, researchers, and industry representatives participated in a dozen U.S.-sponsored regional SPS-related trade capacity building conferences and trainings programs. The United States provided approximately \$916,000 for these activities. Programs included AI laboratory diagnostic training, as well as multiple trainings to improve the knowledge of Uruguayan officials with respect to U.S. meat and poultry regulations and procedures.

Uzbekistan

During 2008-09, Uzbek officials participated in two U.S.-sponsored regional SPS-related trade capacity building programs. The United States provided over \$136,000 for these programs. Under the auspices of the U.S. Cochran Fellowship Program, Uzbek officials also learned about animal health issues, including new diagnostic methods, advanced animal health standards, and services to control animal diseases.

Vietnam

During 2008-09, Vietnamese officials participated in over a dozen U.S.-sponsored regional trade capacity building conferences and trainings programs. The United States provided nearly \$955,000 to fund these SPS-related activities. These programs included training on biotechnology regulatory policy, research, technology development and transfer, and biotechnology commercialization and communication. The United States also conducted several training programs for Vietnamese officials that addressed meat and poultry inspection procedures. At a November 2008 ASEAN conference in Da Lat, Vietnam, the United States presented an overview of the U.S. regulatory system for agricultural products derived from biotechnology.

APPENDIX

USTR received public comments regarding this report from the following entities:

AgBiotech Planning Committee
American Farm Bureau Federation
American Potato Trade Alliance
Biotech Industry Organization
Blue Diamond Growers
California Cherry Advisory Board
California Table Grape Commission
Corn Refiners Association
Council for Responsible Nutrition
Distilled Spirits Council of the U.S.
Grocery Manufacturers Association
National Association of Animal Breeders
National Confectioners Association
National Pork Producers Council
National Milk Producers Federation
Northwest Horticultural Council
Pennsylvania Farm Bureau
Pet Food Institute
R-CALF USA
Society of Plastics Industry
Troy Corporation
Underwriters Laboratories
U.S. Hop Industry
U.S. Meat Export Federation
U.S. Wheat Association
USA Poultry and Egg Export Council
USA Rice Federation
Wine Institute
Yum Restaurants, Intl.

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