

**REVIEW OF THE USDA'S RULE
PROVIDING FOR CANADIAN BEEF AND
CATTLE IMPORTS**

HEARING

BEFORE THE

**COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES**

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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REVIEW USDA'S RULE PROVIDING FOR CANADIAN BEEF AND CATTLE IMPORTS

TUESDAY, MARCH 1, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC.

The committee met, pursuant to call, at 2:08 p.m., in room 1300, Longworth House Office Building, Hon. Bob Goodlatte (chairman of the committee) presiding.

Present: Representatives Lucas of Oklahoma, Moran, Gutknecht, Hayes, Osborne, Pence, Rogers, King, Musgrave, Neugebauer, Schwarz, Conaway, Fortenberry, Peterson, Holden, Etheridge, Baca, Case, Scott, Marshall, Herseth, Butterfield, Cuellar, Costa, Salazar, Pomeroy, Boswell, Larsen, and Chandler.

Staff present: William E. O'Conner, Jr., staff director; Brent Gattis, Pete Thomson, John Goldberg, Elizabeth Parker, Stephanie Myers, Ben Anderson, Pamilyn Miller, Tyler Wegmeyer, Ryan Weston, Debbie Smith, chief legislative clerk; Alise Kowalski, Robert L. Larew, Joh Riley, Andy Baker, Chandler Goule, April Demert, and Jamie Wexer.

OPENING STATEMENT OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA

The CHAIRMAN. Good afternoon. This hearing of the House Committee on Agriculture to review the U.S. Department of Agriculture's rule providing for Canadian beef and cattle imports will come to order.

I would like to welcome Secretary Johanns, who will join us later, as he has been unavoidably delayed, and our other witnesses to today's hearing to review the USDA's rule for providing for Canadian beef and cattle imports.

I believe all of our witnesses will agree that the discovery of a BSE-positive cow in Canada in May 2003 set in motion a string of events that have commanded our attention ever since. At the time my view was that we should rely on sound science to work our way through this problem. Since then I have not been swayed by arguments of those who would use this situation to create nontariff trade barriers or unnecessarily disrupt the free operation of our markets.

There have been some bumps along the way, and no doubt there will be some more. However, I remain convinced that if we abandon science as our guiding principle we will harm the long-term health of our beef and cattle community. Cattle producers, the peo-

ple who work in our processing plants and retail establishments and our Nation's consumers, will benefit the most from a committed course based on sound science.

During the vigorous debate since the publication of this rule, a couple of thoughts have continued to dominate my thinking. First, of course, is the need to return to normalized trade. I resist the notion that we should link the opening of the Canadian border to success in gaining access to Asian markets. Doing so would only result in complicating two efforts that are complex enough already.

At the same time, it is hard to deny that the two are inter-related. I don't see how we convince the Japanese Government and other Asian nations to open their markets if we were not making significant progress in normalizing trade with Canada. We can debate whether or not our system is interdefined with Canada's, and we can debate the backgrounds of the BSE-positive cows found to date all we want, but the fact is that the Japanese perceive that there is a North American beef production system. If we keep the border closed to Canada, I am concerned we give the Japanese a pretext to keep their border closed to us.

The other concern I have centers on the rapid structural changes that are occurring in North America's beef production system. From 2003 to 2004, slaughter capacity in Canada increased by a remarkable 22 percent. I am told that this has not been accomplished by a temporary increase in lines of beef, but by investments in bricks and mortar. These changes are a direct result of the economic disruption since May 2003.

Further, while these developments may be slowed by this rule, as modified, it is going to continue unless and until our trade across our border is normalized. As slaughter capacity in Canada expands, I am concerned that capacity in the U.S., particularly along our northern border, will wither. I believe it is valuable to preserve packing capacity for our cattle producers in their own regions. It is always an undesirable outcome when government actions result in economic disruptions. I would counsel my colleagues to remain cautious. I remain concerned that the current situation may have caused a trend that is not in the best long-term interests of our producers.

Now, having said all of that, I also believe it is important to remain vigilant. I anticipate that the Secretary's testimony will trace the long path to the final rule and its consideration of the facts as well as the input from interested parties.

I look forward to fully analyzing the reports from the two teams the Secretary has sent to Canada since the beginning of this year, and I anticipate further discussions about how trade across our border will be managed.

For those who have not had an opportunity to review the report of the trade team of the National Cattlemen's Beef Association, recently sent to Canada, I recommend it to you. In addition to reviewing animal feed and animal health issues, it includes a thorough discussion of the economic discussion. Our other witnesses have contributed to this discussion as well, and I encourage you to consider these observations.

The United States has in place an array of protective measures, including the feed ban, SRM removal and a robust BSE surveil-

lance system. These are designed to shield our herd and consumers from current risks and prevent the amplification of BSE if it was ever introduced into our herd.

It is important to remember that when the original BSE-positive cow was discovered in Canada our border closed within hours. The job is not over when the rule is finalized. Our ability to revisit this rule in the future is not impaired, and if science warrants it we reserve the right to close the border. Producers, consumers and trading partners deserve our continued vigilance, and I am confident that our neighbors in Canada understand this as well.

I look forward to the testimony of our witnesses today and the discussions which will occur as a result of our questions.

It is now my pleasure to yield to the ranking Democratic member of the committee, the gentleman from Minnesota, Mr. Peterson.

OPENING STATEMENT OF HON. COLLIN C. PETERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. PETERSON. I thank the chairman for holding this important hearing and welcome all of today's witnesses. To start, though, I have to say that this is one fine mess in which we find ourselves today. I read through much of today's testimony, and I have to admit that I am left with more questions than before I started that reading.

Now having said that, I want to say that I think that some good things have happened here. We have, by the Secretary moving back—so we have a 30-month rule across the board, I think is a positive thing, and I also, from my own perspective, think that we—there is no question in my mind that we have a safe meat supply in this country.

But having said that, USDA is going to implement this new rule, I guess next week, and we still don't know how a Canadian cow born after the implementation of Canada's ban on the feeding of meat and bone meal to cattle managed to get BSE.

APHIS states that the primary source of BSE's infections appear to be feed contaminated with infectious agent, and that a ban on the feeding of ruminant protein to ruminants is a most effective mitigation for contaminated feed.

APHIS also acknowledges the preeminent role of the OIE in recommending animal disease control measures. But rather than simply adopting the OIE recommendations for the length of time on a feed ban, a time a feed ban should be in place, which is 8 years, APHIS adopts a more ambiguous approach that does not set out a specific length of time a feed ban must be in place.

While the agency's approach gives it more flexibility, it comes at the cost of transparency in rulemaking that is necessary, I think, to ensure a fair process.

The lack of transparency in the rulemaking process, unfortunately, creates the appearance that the agency reached its conclusion that Canada was a minimal risk zone and then constructed a rationale to support that conclusion.

This unfortunate appearance has been compounded by the embarrassing series of missteps, including an admission that the

former Secretary of Agriculture was unaware of the agency's efforts to expand the opening of the U.S. market to Canadian beef.

So I would ask the Secretary that we should take a step back and reconsider the rush to implement this rule. Why don't we direct the resources to implement the national animal ID system that I have been talking about for some time? We have a pilot project in place that has been operating for 6 years with a proven track record. The pilot project even reads Canadian ear tags. Now, if you want to reopen the Japanese market it only makes sense to me to set up a system that would allow us to address Japanese demand that the U.S. ship cattle that are 20 months or younger, and I would have to say that I just came back from Japan and had some discussions over there about this situation. It seems a little—to point out the problem we have by not having an ID system, and the fact that we are constructing a deal in the Japanese situation where we identify cattle that are under 20 months, the case of the Canadian situation where we are identifying cattle that are 30 months, and I think we are creating a problem here for ourselves that could be solved if we had a mandatory ID system in place.

I just also note that the Japanese are considering a labeling system that would distinguish between beef from countries that have an animal ID system in place and those that do not.

So why not also take a little more time to try to find out why the feed ban failed to work in the case of the cow born 7 months after the implementation of the ban and 5 months after the phase-in period for the use of existing stocks was over?

I think it also would be helpful if the Secretary would clarify that protecting human and animal health is our top priority, as he stated in the fifth paragraph of his Senate testimony here a couple weeks ago. Rather than mixing this message with a statement that is in the first paragraph of that testimony that says that addressing BSE issues, particularly as they relate to trade distortions, would be the top priority of the Department.

So as I said earlier, a lot of questions that have been raised, not so much about the rule as regards to 30 months, but the rule-making that is going to take place from this point forward as it relates to those animals that are more than 30 months, and I am probably going to have, Mr. Chairman, about 20 pages of questions that I am going to be giving to the Secretary and to the other witnesses that have been raised in my reading of these different testimonies here today. Hopefully, we could be engaged in an oversight capacity as they go forward with that new rule.

So in conclusion, again I just want to make it clear that I think we have a safe meat supply in this country, and I think my concern is, and all of us on the committee here, that we maintain that safe meat supply and maintain the industry in the United States.

Thank you.

The CHAIRMAN. I thank the gentleman for his comments, and I certainly will work with you to seek the Secretary's response to any written questions you may submit to him.

Any other opening statements will be made a part of the record.

[The prepared statements of Messrs. Fortenberry, Hayes, Baca and Hayes follow:]

PREPARED STATEMENT OF HON. ROBIN HAYES, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NORTH CAROLINA

Chairman Goodlatte and Ranking Member Peterson, I want to thank you for holding this important hearing to review the U.S. Department of Agriculture's rule providing for the importation of Canadian cattle. I am pleased Secretary Johanns has delayed this portion of the rule and will now set forth a consistent policy for both live cattle and product from cattle over 30 months of age. I understand USDA is working on a risk assessment to resolve this issue.

I have heard some concerns regarding the rule that I want to address. First, we want to make sure we don't jeopardize our U.S. cattle economy by allowing a glut of Canadian cattle to come across the border and depress market prices. This issue has been examined by some cattle producers who have determined that USDA estimates were overstated because USDA did not take into account Canada's processing industry has increased by 22 percent and is projected to increase each year through 2007. Furthermore, some of our domestic processing facilities are not operating at "normal" capacity due to a lack of supply of Canadian cattle. While market prices could see a decline with the resumption of Canadian cattle imports, prices are not predicted to plummet as many originally thought as there won't be a tremendous amount of cattle streaming across the border. Second, I know it is vitally important that Canada prove they are in compliance with the feed ban. When the rule was announced in early January, eyebrows were raised when Canada coincidentally confirmed two more cases of BSE. USDA responded by sending a team of experts to Canada to verify the Canadian feed industry was complying with the feed ban implemented in 1997. Producers representing the National Cattlemen's Beef Association also went to Canada to review compliance. Both USDA and NCBA independently concluded that Canada has a robust inspection program and that overall compliance with the feed ban is good.

Third, we must reopen our export markets, especially to Japan. I want to commend Secretary Johanns for immediately calling upon Japan to resume trade as quickly as possible. The Secretary has said that regaining this market is a top priority for him, and I appreciate all he has done to hold their feet to the fire. I recognize this is a slow, bureaucratic process, but I want to encourage the Secretary not to back down and to continue his diligent efforts to resume our export markets overseas.

While some in the industry will continue to be skeptical of resuming imports of Canadian cattle and ruminant products, we must remember to let science, not protectionism and scare tactics, dictate our policies regarding animal diseases. It is imperative for the U.S. to use the appropriate guidelines, risk assessments and science to lead the way in resuming trade with minimal risk countries, like Canada. How could we ever expect countries to open their market to our products if we continue to uphold trade barriers that are not scientifically justified?

Mr. Chairman, I look forward to today's testimony, and I appreciate you holding this hearing on an issue that is dominating our cattle industry.

PREPARED STATEMENT OF HON. JEFF FORTENBERRY, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF NEBRASKA

Mr. Chairman, thank you for scheduling this important hearing. I look forward to hearing the testimony from Secretary Johanns as well as the other witnesses who will appear before the committee this afternoon.

With the March 7 deadline for reopening the border to Canadian cattle rapidly approaching, it is vital that we carefully review the USDA's plans to implement the new rule and continue to safeguard the U.S. supply of beef.

Americans continue to have great confidence in the beef they purchase and with good reason. The U.S. has worked hard to maintain and improve the safety and quality of American beef. Consumers and cattle producers deserve the assurance that nothing will be done to compromise that level of safety.

Obviously, the rule allowing the importation of cattle and beef products from regions posing a minimal BSE risk has generated strong concerns. This is clearly an emotional issue, but it is also important for us to carefully examine the matter from a factual perspective. We must review the effect of the new rule on U.S. beef exports, the effectiveness of the existing Canadian feed ban and BSE surveillance program, and the implementation and enforcement of safeguards at the border as well as in Canada and the United States.

It is easy to understand why this issue attracts such strong feelings, especially in a State such as Nebraska, which so heavily dependent on beef. In fact, beef is the single largest industry in the State and cattle outnumber people in Nebraska by nearly four to one. Issues involving cattle have an effect on each community in

the State. In addition, what happens in Nebraska with regard to beef affects the rest of country, since the State accounts for more than 20 percent of all beef produced in the United States. While our focus today is Canada, I would like to take this opportunity to commend Secretary Johanns for the high priority he has placed on resuming beef exports to Japan. Clearly, this is one of the most pressing issues for cattle producers in Nebraska. I am encouraged by some of the progress earlier this year which Secretary Johanns helped to develop. However, there is still much to be done before Japanese market is again fully open to American beef.

I recently joined a number of my House and Senate colleagues in contacting the Japanese ambassador to the U.S. urging him to push for the reopening of the Japanese market to U.S. beef. Japan had represented a \$1.2 billion market for American beef and the ongoing ban has a devastating effect on communities throughout Nebraska and the Nation. The U.S. has gone the extra mile to ensure the safety of its beef and now its time for Japan to work in a cooperative spirit with us to help the Japanese consumers get access to the American beef that they clearly desire.

PREPARED STATEMENT OF HON. JOE BACA, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Mr. Chairman: First, I would like to echo your comments and those of Mr. Peterson and thank Secretary Johanns for joining us today on this important issue. Should the Secretary ever find himself near southern California, I hope that he will allow me to demonstrate the great bounty that our region contributes to American agriculture.

Today's hearing is about two challenges that we are facing in the beef market due to mad cow disease—trade and food safety. To examine when it is appropriate to reopen our borders to beef and cattle from a country that continues to have confirmed cases of mad cow, and the policies that are guaranteeing that tainted beef will not be sold to American consumers

It is my opinion that USDA must identify and implement legal means to gradually resume trade with Canada. A gradual phase-in to Canadian beef exports will prevent a shock to the U.S. cattle marketplace and mitigate the very real potential for short-term economic harm to U.S. beef cattle producers.

Furthermore, we are obliged to protect American consumers from possible harm. The possibility of additional cases of mad cow in Canada is declining due to the feed ban, but—as we will discuss today—that feed ban didn't completely go into effect in August 1997. There is strong case for vigilance and caution in reopening our borders to Canadian beef.

Without question U.S. cattle producers will, in the long run, benefit from trade policies that are science-based and fair. In fact, the adherence by our trading partners to such science-based trade policies would likely have prevented the closure of their markets to U.S. beef after December 23, 2003.

It is the decidedly unscientific global approach to this disease that has cost cattle producers in the U.S. a total of \$4.8 billion in lost export value.

However, science-based trade policies should be established in a manner that not only provides long-term benefits to cattle producers, but also minimizes short-term negative impacts.

Cattle producers in California and throughout the Nation have expressed a tremendous amount of concern regarding the short-term market implications of the rule on the importation of live cattle and additional categories of beef from Canada that was published on March 7, 2005.

Opening trade to Canadian beef will result in large quantities of cattle and beef being imported into the U.S. in a short period of time, resulting in marketplace instability.

Importing cattle and beef from Canada will affect our negotiations to resume exports of U.S. beef to key export markets, including Japan and South Korea, and these imports will worsen the beef industry's current trade deficit position.

Cattle producers don't understand why the USDA is in such a hurry to renew imports of cattle and beef from Canada, especially in light of two additional cases of mad cow. Notably, one of these animals was born in March 1998—8 months after the implementation of Canada's ruminant-to-ruminant feed ban.

These concerns are validated by the economic analysis accompanying the final rule, which estimates that importation of live cattle and additional categories of beef would result in near-term price declines costing U.S. cattle producers up to \$3 billion per year over the next 5 years.

Lastly, I was also disappointed to learn last week that the United States and Canadian feed bans did not take place in August 1997, but instead took place when the feed supplies in the market were exhausted. I think it is prudent to conclude

that the gradual phase-in of the feed ban serves as a compelling argument for a gradual phase-out of the trade restrictions.

PREPARED STATEMENT OF HON. DOC HASTINGS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF WASHINGTON

Mr. Chairman, thank you for your leadership and for holding this hearing on the USDA's final rule to reopen the U.S. market to Canadian beef imports. As the Member of Congress who represents Mabton, WA, where the only case of mad cow in our Nation was detected in December 2003, I would like to express my concerns with the USDA's final rule to reopen the U.S. market to Canadian beef imports. While I believe the United States should continue working towards resuming trade with Canada, I am concerned that the USDA is acting before important questions have been answered.

As you know, the final rule finds that Canada presents a minimal risk for BSE based on mitigation measures including its ban on meat and bone meal feed. However, the efficacy of Canada's measures must be called into question given the repeated detections of BSE in that country and in the Mabton cow which was imported from Canada. While I agree that disease issues can be managed in such a way as to allow continued trade, I am not convinced that Canada has demonstrated that its safety measures are adequately protective against what is a significant threat to human and animal health.

The administration must implement a policy based on sound science that protects the safety of consumers and supports American ranchers and beef producers. I commend you for your aggressive efforts in reopening foreign markets to U.S. beef exports. The progress you have made in the Mexican and Asian markets has been encouraging. However, too many crucial markets, including Japan, remain inaccessible for U.S. beef producers. These countries are setting a very high standard of proof that U.S. beef is safe for their consumers, and the USDA should be very cautious as it considers opening our borders to the source of the BSE-infected cow found in Mabton. It is essential that we work with Canada to address the issues surrounding BSE. However, I believe it must be done in a way that does not unnecessarily harm our beef producers or risk our hard-won access to foreign markets.

Mr. Chairman, I thank you again for your leadership on this important matter.

The CHAIRMAN. At this time we will turn to our first panel, which as I indicated earlier was our second panel, but we are now moving you all up to the top spot. We will start by introducing this panel.

Mr. Chuck Kiker is the region 5 director of R-CALF, United Stockgrowers of America from Beaumont, Texas.

Mr. Jim McAdams, president of the National Cattlemen's Beef Association from Adkins, Texas.

Mr. Ken Bull, vice president for cattle procurement with Cargill Meat Solutions from Wichita, Kansas.

Mr. Carl Kuehne, president of the American Foods Group from Green Bay, Wisconsin.

Mr. Kiker, we will invite you to begin first and remind you that your entire statement will be made a part of the record and ask that you limit your oral remarks to 5 minutes. Thank you.

**STATEMENT OF CHUCK KIKER, REGION 5 DIRECTOR, R-CALF
UNITED STOCKGROWERS OF AMERICA, BEAUMONT, TX**

Mr. KIKER. My name is Chuck Kiker. I am a cow/calf producer from Beaumont, Texas, and a member of the Board of Directors of R-CALF U.S.A. We are a nonprofit trade association representing tens of thousands of independent cattle producers in 44 States.

Thank you, Chairman Goodlatte, Ranking Member Peterson and all the members of the committee, for having this hearing regarding USDA's final rule providing for Canadian beef and cattle imports. I very much appreciate the opportunity to share our views providing for Canadian beef and cattle imports.

I am one of the thousands of U.S. cattle producers that have concerns regarding this final rule that permanently relaxes the import restrictions that the U.S. has had in place since 1989. It is very important to note that these restrictions have effectively and successfully prevented BSE from entering the United States and contaminating the U.S. cattle herd in the U.S.-produced beef supply.

The effect of the final rule, if it is allowed to be implemented on March 7, will be to potentially threaten consumer confidence and the safety of beef available in the U.S. market. USDA initially threatened consumer confidence in the available beef in the U.S. market in August 2003, when it first began exposing the U.S. to beef products from a country known to have BSE, but where the severity of the BSE problem was uncertain.

Today the BSE problem in Canada is even more questionable. With three additional BSE cases detected under limited testing, now the USDA's proposed final rule increases the risk that consumer confidence in our beef supply will be jeopardized. R-CALF U.S.A. Believes the new rule falls short and potential problems lay ahead. If the new USDA rule results in the erosion of consumer confidence, then the cattle industry faces a potential disaster if the markets collapse.

We also believe that the U.S. must be a leader in harmonizing global standards on the importation of beef from countries affected by BSE. Without such action, the U.S. will become the dumping ground for beef in countries that have BSE.

In fact, we are seeing that right now. In 2004, U.S. beef exports dropped by nearly 85 percent, while at the same time Canadian beef imports to the U.S. rose 40 percent. The only way to correct this gross imbalance is to globally harmonize import and export standards from countries affected by beef from BSE.

We have submitted a detailed written statement that more comprehensively outlines our concerns and proposed resolutions to the proposed final rule. In the time that I have left I will highlight some of our key concerns.

APHIS has improperly classified Canada as a minimal BSE risk country. This is a major flaw in the final rule. APHIS sought the advice of OIE experts of whether or not the OIE would accept a relaxation of the OIE standards relating to the duration of the meat and bone meal feed ban and OIE experts rejected APHIS's request, stating one of the most important conclusions of the recent OIE group is that the scientific basis used in the present code is still valid. APHIS has now changed the U.S. safety standards from the maximum protection to the minimum.

Every other country in the world with BSE practices the maximum safety standards regarding BSE mitigation. They all remove SRMs in cattle in over 12 months of age and they all test a large portion of cattle that enter the human food chain. Canada does neither. The final rule does little to harmonize global beef trade and will require Canada to practice the least stringent BSE mitigation measures of any country in the world where BSE exists.

The OIE uses two combined factors to determine the severity of BSE risk mitigation measures necessary to manage the associated human and animal health risk of the affected country and the dis-

ease's prevalence within the cattle herd and the feeding practices of the country.

We know Canada's feeding practices have been less than stellar, and they have yet to conduct a comprehensive disease prevalence study within their cattle herd. The U.S., unlike Canada, has no known failures in its feed bans. Canada has documented four cases of BSE in its native cattle herd and the U.S. has had none.

The U.S. is considered provisionally a BSE-free country and should be able to export beef anywhere in the world. There is a difference between the BSE status of the U.S. and Canada. We are not an integrated cattle industry.

The final rule is inconsistent with previous U.S. trade policy. The final rule will allow cattle up to 30 months of age into the U.S. while at the same time the U.S. is negotiating an under 21-month age limit for exports to Japan. Where is the scientific justification for this action by USDA? Of the 14 cases of BSE confirmed in Japan, two have been in cattle under 30 months of age.

Presently all beef coming into the U.S. is deboned consistent with the risk mitigation measures recommended by the OIE. By designating Canada a minimal risk country, the final rule lowers the U.S.'s standards on boxed beef already coming into the U.S. from Canada. However, the final rule will illuminate the strenuous deboning requirement and will effectively lower the existing consumer protections against the risk of BSE from Canadian beef. Science-based BSE rules allowing beef trade must complement global harmonization.

R-CALF appreciates this opportunity to present its views to the committee concerning the important changes that need to take place in USDA's proposed rule to reopen the border with Canada as well as the critical issues facing the United States concerning BSE. Thank you very much.

[The prepared statement of Mr. Kiker is on file with the committee.]

The CHAIRMAN. Thank you, Mr. Kiker.

Mr. McAdams, welcome.

**STATEMENT OF JIM McADAMS, PRESIDENT, NATIONAL
CATTLEMEN'S BEEF ASSOCIATION, ADKINS, TX**

Mr. McADAMS. Thank you, Chairman Goodlatte, Ranking Member Peterson and the members of the House Committee on Agriculture. I am Jim McAdams, president of the National Cattlemen's Beef Association and a rancher from Texas.

BSE has been a priority issue for this Nation's cattlemen since it was first diagnosed years ago. Since that time, our Nation has erected many safeguards to protect the safety of our consumers and of our cattle.

In the past 9 months, we have tested over 250,000 head of cattle without finding a single positive case of BSE. These safeguards will work. In spite of the intense media coverage, we find that consumer confidence and the safety of our beef is at record levels. It is at 93 percent. The demand for our product continues to grow.

When the United Kingdom first diagnosed BSE in a cow there, the world adopted a policy for trade on BSE that was based upon fear, not upon a sound science. Since that time the science has

evolved to a point that we know a lot more about this disease. It is time for our global trading policies to evolve as well. The United States needs to be a leader in this evolution.

In December 2003, we discovered that a Canadian cow in the United States had BSE. Upon that discovery, we began to suffer the same fate as the other countries in the world that had BSE. We lost our export markets. The loss of these markets cost us \$175 a head and the cumulative loss to date to our cattlemen is now at \$4.8 billion.

In August 2004, NCBA members adopted a policy that advocated the world policy on trade evolve to a science-based one, getting away from this policy based upon fear.

This hearing was called to discuss the rule declaring Canada as a minimal risk country. The USDA rule is generally consistent with NCBA's policy. However, on the announcement of this rule, it was followed shortly thereafter by the discovery of two additional cases of BSE in Canada. This increased the concern among our Nation's cattlemen. To address those concerns NCBA sent a trade team to Canada to find out the facts. That trade team's report is included in our written testimony.

In the past month, we have had a convention of our membership. This trade team report was reviewed. This issue was debated and at the end of our convention our NCBA membership adopted an 11-point directive that outlined our concerns with the rule and how we felt it best to move forward with reestablishing our international trade.

We still have several concerns regarding this rule, but we are pleased that many of our concerns have already been addressed. We are appreciative of USDA under the leadership of Secretary Johanns and the fact that they delayed the implementation of the rule regarding the importation of beef from cattle over 30 months.

But we still are concerned and feel that it is imperative that we resolve once and for all the issue regarding anaplasmosis and blue tongue on all cattle that are traded between the two countries. We also have concerns that USDA will be able to effectively enforce their ban on the importation of breed heifers, and of paramount concern to us is how is this going to affect our ability to expand our access for products from the U.S.

We have to have access for access. We appreciate the efforts of you and Congress and the administration to get our export markets opened, but the fact remains that many of our major trading partners still will not allow our product. We cattlemen expect that the Government will ensure that we are treated fairly in the international arena, and when our trading partners do not use sound science to base their rules upon, when they don't follow the rules and when they don't negotiate in good faith, we expect our Government to defend us by using all the tools necessary, including economic sanctions.

The BSE policies of this country, we feel, are based upon sound science and the OIE guidelines, as they should be. We think it is important that all of us remember that the most important thing that we can do is to withhold specified risk materials from the food supply, and this is being done. I bring this up because we are concerned about some recent comments that infer that beef from the

U.S. is not safe. We feel this is not only irresponsible, it is inaccurate and it is dangerous, because it undermines the science that is the foundation for our safeguards, and we run the risk of undermining consumer confidence, and we endanger the livelihoods of the men and women of this country that depend on cattle and beef for their livelihoods.

NCBA prides itself on making knowledge-based decisions based upon the facts. We would urge that you would review the testimony that accompanies our written testimony from the leading scientists in this Nation that we feel reinforce the points that I have made.

I would like to thank you for allowing me this time with you, and I look forward to answering your questions.

[The prepared statement of Mr. McAdams appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. McAdams.

Now we are pleased to hear the testimony from Mr. Bull.

**STATEMENT OF KEN BULL, VICE PRESIDENT, CATTLE
PROCUREMENT, CARGILL MEAT SOLUTIONS, WICHITA, KS**

Mr. BULL. Thank you, Mr. Chairman, Mr. Peterson and members of the committee.

My testimony today will speak primarily to three important concerns, the absolute necessity that the U.S. continue its strict adherence to science-based sanitary and phyto-sanitary factors in its trade dealings; that market disruptions can and do seriously impact industry competitiveness and structure; and that the North American livestock and meat sector is interdependent and cannot be artificially divided along the 49th parallel or the Rio Grande River.

First, I want to offer a few comments on the science of this animal disease. There is near unanimous agreement in the scientific community that the BSE risk in the U.S. and Canada is now extremely low and will continue to decline further over time.

Experts believe the initial exposure was due to the importation and subsequent rendering of at least one animal infected from Europe from the early 1990's, years before feed control measures were implemented.

Scientists all agree that the most effective means to eradicating BSE is addressing it in the animal feed supply, something that the U.S., Canada and Mexico have taken steps to do. This action greatly reduced the potential for amplification of the disease and eliminated the potential for the kind of outbreak that has been witnessed in Europe and Japan.

BSE is a disease that when found is found primarily in much older animals. In order for the disease to manifest itself in a young animal, the animal would have had to have received a localized high dose of infective agent.

The most effective means of protecting human health is to remove specified risk materials, or SRMs, from the human food supply. The U.S. and Canada implemented this key step in a rapid manner after the first cases were detected in each country.

U.S. and Canada regulatory authorities are in the process of developing measures to enhance the existing animal feed controls.

These steps are meant to speed up the eradication of the disease from North America.

It is critical that harmonized North American measures be implemented in an environmentally sound and cost-effective manner, otherwise implementation will take time and the opportunity for quick action be lost.

The U.S. and Canada have undertaken a very aggressive surveillance exercise, targeting the older, dead, disabled population where BSE is most likely to be detected. To date, we understand USDA has conducted over 250,000 tests since its surveillance program was enhanced last year. Canada is testing proportionately in the same range.

Moving on to trade considerations. The U.S. has suffered for a generation now under the European ban of U.S. beef. It is based on a nonscientific prohibition of growth promoting hormones. Those that want to close the Canadian border by distorting science are guilty of the same behavior as the European Community.

The U.S. is now cut off from four of its top seven export markets because foreign governments have not moved to have a common understanding of the science of BSE. Our only large trading partners accepting U.S. beef today are Mexico and Canada.

These circumstances are really no different than other agricultural trade blocking efforts like our challenges exporting poultry to Russia and genetically enhanced soybeans and corn to Europe. We have fought for years to gain access for beef to Japan, and our fear is that any perpetuation of faulty science will end up costing us the market that is so important to the economy of a trade dependent industry.

The U.S. industry will prosper or wither with our success in growing trade, but trade is a two-way street.

There are no more powerful examples of trade distorting nonscientific actions than the Japanese beef ban in December 2003. Here the U.S. stood, with a single cow found to have BSE, and an aggressive globalized and increasingly strengthened surveillance program. Japan had nearly a dozen cases by that date and no system of high-risk animal surveillance. The leverage from these facts is yet to be made convincingly to the Japanese.

Moving on to market impacts. As the committee knows, U.S. cattle markets remained exceptionally strong for the past year and a half. Part of this is because of the border closure, low cattle supplies and high demand have a way of ensuring high prices. On the consumer demand side, we must give a lot of credit to the administration's handling of the BSE situation. Polling data will suggest that our knowledge of BSE in this country is extremely high and yet our confidence that the Government is handling this is extremely high as well.

But what the committee may not have focused on is that there is a quiet yet substantial change going on in the processing industry that does not bode well for the entire segment.

As Canada has been isolated, there has been a—with their large supply of cattle, cattle that ultimately could have come to the United States, there has been an increase in packing capacity in Canada. Yet you have also heard that many packing plants in the

United States have either had layoffs or slowed down their line speeds to adjust for the lower supply of cattle in the United States.

We have substantial structural changes that are occurring within our industry that if this were to persist we would be faced with excess capacity across the border and diminished capacity in the United States.

Finally, another concern is our mature animal processing facilities in the United States. We greatly share the concern that my fellow panelists from Wisconsin will address shortly.

In closing, I just want to say I appreciate the committee's concern in this matter. We think it is one that needs to be addressed and we appreciate any opportunity to answer questions.

[The prepared statement of Mr. Bull appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Bull.

Now, we will hear from Mr. Carl Kuehne. Mr. Kuehne, welcome.

**STATEMENT OF CARL KUEHNE, PRESIDENT, AMERICAN
FOODS GROUP, GREEN BAY, WI**

Mr. KUEHNE. Thank you, Chairman Goodlatte, Mr. Peterson and members of the committee. I appreciate the opportunity to be here. My name is Carl Kuehne, and I am the owner and chief executive officer of American Foods Group headquartered in Green Bay, Wisconsin. My company is also a member of a coalition called the Meat Equity Alliance for Trade Fairness or MEAT Fairness. Thirteen smaller and mid-sized companies who harvest primarily older cattle make up this coalition.

At the outset, I want the committee to understand that our coalition favors an open border with Canada, with cattle and beef to be treated equally.

In addition, a primary goal for all of us is to maintain consumer confidence in our beef products. Our Government must continue to maintain the consumer's confidence, basing its actions on science, not emotion, fear or political science.

All the scientific evidence is clear. BSE is not found in meat. We also believe that science supports the designation of Canada as a minimal risk country for BSE and normal trade should be resumed as soon as possible.

Of course, it is critical that trade be resumed in a rational fashion. Like many others throughout the U.S. industry, we were troubled by the USDA's final rule when it was published on January 4, since it permitted imports of beef from over 30-month-old cattle but not the cattle themselves. That would create a perverse but powerful incentive to harvest over 30-month old cattle in Canada, rather than in the United States. This would be to the significant detriment of U.S. packers and producers alike.

We appreciate Secretary Johanns' action to temporarily delay the effective date of that portion of the rule that would have permitted over 30-month cattle—or over 30-month beef pending review of the USDA studies on the Canadian feed ban and the epidemiological studies relating to the two infected cows.

It is now critically important to move forward without delay to create a regulatory structure that would allow both over 30-month

cattle and over 30-month beef to enter the United States at the same time.

The segment of the packing industry that harvests older nonfed animals is much less concentrated than the segment that harvests fed cattle. Twenty-eight companies operate facilities in 18 States to harvest nonfed beef. Twenty-four of these companies only have a single location to produce nonfed beef. A study conducted by Informa Economics, which is attached to my testimony, estimated that the proposed rule would have cost our segment of the packing industry over \$150 million and reduced income to cow producers by over \$330 million per year. If the final rule were to go into effect as published in January, some of the companies in our industry simply would not make it. Either plants would be permanently shut down with a loss of thousands of jobs in rural communities, or plants would move into stronger hands with larger companies swallowing smaller ones; however, the more likely scenario is the one in which U.S. plants shut down and Canadian plants take their place.

According to the report by the NCBA trade team, the Canadian cattle slaughter capacity expanded 22 percent in 2004 alone and is projected to increase each year through 2007. As many as 25 plants are being expanded, in the process of being constructed or on the drawing boards. We should not allow our portion of the industry to be exported to Canada. The long-term effect on producers would be devastating.

Mr. Chairman, I respectfully urge this committee to insist that USDA avoid such inequitable, devastating results. Instead, USDA should institute immediate science-based regulatory action to restore normal trade between the United States and Canada for both over 30-month beef and over 30-month cattle.

This step will also be critical to restoring all our trading relationships worldwide, not only in a highly publicized Japanese market but in other important markets like South Korea, Hong Kong and Taiwan. Open trade with Canada, based on science, is crucial to establishing export trade with our other trading partners. The U.S. must take a leadership role in establishing the standards for trade, and these standards must be based on science.

Trade with Japan is especially critical for the entire industry. Under the proposed rule now being discussed, only slightly more than 1 percent of the cattle harvested in this country would meet the Japanese customer's specifications. The industry cannot afford a hollow victory in reopening trade with Japan in minimal terms. We need to restore normal trade.

Taking action based on science will also be the best way to maintain consumer confidence in beef. In taking this regulatory action, it is critical that beef and cattle move on the same track and also critical that they move quickly.

Thank you for this opportunity. I look forward to your questions.

[The prepared statement of Mr. Kuehne appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Kuehne.

Mr. Kiker, most of the people that I visited with tell me that our major export markets of Japan and Korea view the U.S. and Canada as an integrated North American market. Further, it has been

stated by many knowledgeable experts that failure of the U.S. in reestablishing livestock and beef trade with Canada will be used as a pretext by the Japanese to keep U.S. beef out of their markets.

Are you willing to sacrifice our Asian export market in order to maintain a ban on Canadian cattle?

Mr. KIKER. As I said in our statements, in our written statements, we wish to globalize or harmonize the standards by which everybody lives by. We want to open the export markets as bad as anybody. But Japan has made several requests that would open our markets back up to Japan, of which we have never really even considered any of them, to my knowledge.

I just think—we have been trying to get Japan to take our beef now for sometime now, a little over a year, going on the assumption that Canadian beef is safe and it is OK to commingle U.S. beef with Canadian beef. Maybe we need to try a different direction and not—and give them pure U.S. beef and see if that will satisfy them. Because as I mentioned in my testimony, technically the U.S. is BSE provisionally free. We should be able to export anywhere in the world if we weren't commingling beef from other countries with ours.

The CHAIRMAN. So you do not want to sacrifice our export markets?

Mr. KIKER. No, sir, I don't.

The CHAIRMAN. Recent briefing papers and public statements made by your organization include a number of assertions about how the Office of International Epizootics, or OIE, standards argue against the rule. However, a recent filing by the OIE in your Montana court case would appear to repudiate the foundation of these assertions. I wonder if you would take the opportunity to resolve that apparent conflict.

Mr. KIKER. As the gentleman said, they are only guidelines, but what is the point of having the OIE standards if we aren't going to follow them? I mean, they are just that, guidelines, and when you lower the safety standards to the minimal standards, according to those guidelines, is that going to open that Japanese market? I think we stay with the maximum standards, and that is practiced by every other country in the world that has had BSE. I mean, everybody else is pretty much on board but us.

The CHAIRMAN. Well, your organization has argued that for low-risk countries, OIE standards for low-risk countries are not being met in the instance of Canada. However, the filing by OIE states, in part, and I quote, "OIE will only examine a member country's claim for BSE free or provisionally-free status."

In other words, there is no OIE low-risk standard in existence that Canada can fail to meet.

Mr. KIKER. Exactly. But the OIE standards error guidelines. Regardless of whether they will put a standard on them, the fact of the matter remains they have had four cases of BSE, and our export markets are closed.

The CHAIRMAN. Let me turn to Mr. McAdams and see if he would like to respond to any of those comments. But also, I wish you would tell us how and why the NCBA came up with its policy regarding the expansion of trade with Canada and also at your recent convention the NCBA adopted a directive listing 11 goals asso-

ciated with the live cattle rule. Are you satisfied with the progress made thus far on your 11 point directive?

Mr. MCADAMS. In response to your question regarding the 11 point directive, we have made substantial progress on most of the issues in that directive.

I outlined our concerns regarding the brucellosis and anaplasmosis and blue tongue rules. We think it is important that we have been working on this rule for 17 years, and we need to have a resolution to it once and for all. We also feel like that the rule needs to be consistent, and we are banning the importation of bovine needle sperm, and so we need to ensure that any heifers that are imported are not bred. We feel like the way to do that is through spaying. That would give the ultimate assurance until we develop the rule for breeding stock.

Those are two of the key concerns that are ongoing. We feel, though, that it is imperative that the United States be consistent in following the sound science, and we feel comfortable that the science supports, as long as Canada has effective safeguards in place, that we should allow the process to continue. It needs to be a process that assures that what we allow in we can enforce and effectively monitor, but with those parameters in place we think we do need to move forward.

We also are very much aware that it would do nobody any good to break the U.S. cattle market. It wouldn't help the Canadians and it certainly would be to our detriment. But we have studied this issue, we have studied the amount of cattle that are estimated to come in. We feel like the USDA overestimated the numbers of cattle that would be coming into this country by about double, and we have increased our comfort level in how they will allow those cattle to come in to the point that we can be supportive and moving forward, but we continue to press for the assurances that the concerns that we have outlined and how this rule is implemented are addressed.

The CHAIRMAN. Thank you.

Mr. Bull, the situation in Japan is enormously frustrating for all stakeholders. What is your perspective on where discussion between our two countries sit today and what would you describe as a meaningful resumption in trade and when would you expect to see it?

Mr. BULL. Well, I think the discussions have been ongoing for a long time, and maybe to comment a little bit on some of the earlier comments, we have been basically free of Canadian cattle in this country for a long time, and yet have still had the inability to get the Japanese Government to accept our meat.

So I don't think it is just the concern about whether the Canadian cattle or meat is in our country with the Japanese Government. What I perceive the problem is, is that the Japanese have lost their consumer confidence in their ability to adhere to standards, and the Japanese have gone way overboard to try to regain their consumer confidence. They have essentially done what Europe had to do, and that is go way beyond what science would dictate to try to solve their issue.

I think where we are at in the United States is that our consumers have high confidence in our ability, as we have been able to

demonstrate. The problem we have is convincing other governments that there needs to be a level playing field in understanding what the science is.

We do think there are efforts being made. We do think that we need to get the door open with Japan and then continue to aggressively pursue pulling Japan and the rest of the world into a common understanding of the science behind this disease.

The CHAIRMAN. Thank you very much.

The gentleman from Minnesota, Mr. Peterson, is recognized.

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. McAdams, maybe you answered this before, but in reading your testimony and these 11 points that the chairman alluded to, I was going to ask you whether you were for this rule or not after reading this, but apparently you are in favor of the rule and moving ahead?

Mr. MCADAMS. We feel that it is imperative that we have our concerns addressed, and I have outlined those concerns, and we are going to work hard to make sure that those concerns are addressed. However, we support the Government in basing this decision on sound science, and we are more concerned about the process and how it is implemented than we are about the rule.

We feel like we have to take the steps necessary to expedite the movement to normalcy in our international trade, and we realize that as big as the U.S. market is, the rest of the world will be looking at what we do, and we feel like as we move forward it will expedite our ability to move forward with exporting our product.

Mr. PETERSON. So, I guess I am understanding you that not all of these 11 points have to be met because some of the things on here, I think, are probably not too likely, like that the feeder cattle be branded and there be no USDA stamps on imported beef products and so forth.

Mr. MCADAMS. Well, sir, along—the USDA rule, as I understand it, feeder cattle must be branded with the CAN. When it comes to the stamps and the grades, it is our understanding that we have trade agreements that prohibit us from implementing that.

Mr. PETERSON. Right.

Mr. MCADAMS. So we have looked at each one of those points point by point. We have made progress on many. On some we realize we can't make progress on. On the others we are working hard to get resolution to them and if we don't get resolution we could well be coming back to you and saying we have ongoing rules about how these rules are being implemented and they need to be fixed.

Mr. PETERSON. OK. Also in your testimony you talked about these lost export markets cost \$175 a head, a cumulative loss of \$4.8 billion, these Asian markets. But wouldn't you concede that the closing of the Canadian market or border has probably raised prices considerably to offset that?

Mr. MCADAMS. It certainly was a contributing factor, but the unfortunate circumstance is that our cost is the function of cutting our domestic production by nearly 7 percent and the fortunate circumstance of our beef demand being up by about 7 percent. So that is why we feel those were the two dominant reasons for the outstanding prices that we have been enjoying. Our concern is that if we have to enjoy good prices only when we cut our production, we

are going to have a shrinking market, a shrinking industry, which doesn't give us the opportunity.

We feel like we need to be able to grow this industry by growing demand, growing our export markets. This allows us to produce more, sell at higher prices and we give a broader future not only of our producers today, but of our children if they want to return to this industry.

Mr. PETERSON. Maybe you could answer this or maybe somebody on the panel could, but could anybody explain to me why Hong Kong is accepting Canadian beef but not U.S. beef?

Mr. KUEHNE. Mr. Peterson, I could give you my view of that situation. I believe our USDA was very focused on Japan and opening the Japanese market first. I was informed that any deviation from their focus on Japan may end up undermining those situations.

Hong Kong was a market that was particularly important for my company. We had a recognizable share of that marketplace. The people that are now importing Canadian meat used to import ours. Before the BSE case in Canada, the Canadian industry exported about 600 metric tons per year to Hong Kong. In December alone, they imported or exported to Hong Kong 900 metric tons. It is a critical market for us, for our entire industry, and I believe one of the reasons that we do not have that market is because of our intense focus on Japan as opposed to looking at other opportunities in the world.

Mr. PETERSON. Well, that could be. Canada had the BSE cows; we didn't. And yet they have stopped our import. I don't get it. I mean, did they not stop both Canadian and U.S. beef?

Mr. KUEHNE. Yes.

Mr. PETERSON. And the Canadians got theirs opened up and we didn't.

Mr. KUEHNE. That is correct.

Mr. PETERSON. I just have to say, I was in Japan about a week ago and this A40 deal they got, whatever, to determine these 20-month cows or cattle first of all, I got the impression that our trade people are putting a much more positive spin on whether this is going to get done or not from what I picked up being over there. I think we are in an uphill situation.

But, second of all, what really struck me, that here we are setting up yet another process to try to get this meat into Japan; we have got 30 months that we are dealing with in Canada, now we have got 20 months we are dealing with in Japan. They are trying to set up this system to figure out how old the carcass is because we don't have any other way to do it.

I really was struck about how much a problem I think we are causing ourselves by not having an animal ID system in this country, you know, that we are having to set up all these other methods to try and get out a problem that wouldn't be a problem if we would have adopted an animal ID system back in July 2001 like the Canadians did.

Mr. PETERSON. Mr. Kiker, what do you think about that? Do you think the lack of an animal ID system is causing us some problems in these markets?

Mr. KIKER. I think a lack of standards, global standards for BSE, is causing us problems in the market. I think there is a lot of politi-

cal issues here that probably don't have anything to do with the cattle industry. But I think if the U.S. cattle industry thought they could get beef into Japan, we could implement an identification system. We have heard a lot of talk about how much that was expensive—how expensive that was going to be during the country-of-origin labeling debate. And then to put a date on the age of those cattle was going to make it a little bit harder. I mean, some of these big ranches, it is going to be real hard. They are going to have to use a time period instead of a specific date for births on cattle, I believe. So I am not sure if we can incorporate that in a timely manner.

Mr. PETERSON. Well, probably not at this point. But thank you, Mr. Chairman.

Mr. GOODLATTE. I thank the gentleman.

The gentleman from Kansas, Mr. Moran.

Mr. MORAN. Mr. Chairman, thank you. Thank you for your leadership on this issue, that I can't imagine there is a congressional district in the country that what happens in the livestock industry matters more to our economy.

Mr. Bull, especially, welcome to you, a Kansan. And I thank the witnesses for their testimony.

I know this is a hearing related to the issue of the Canadian border, but I would like to ask our panelists how do they see the effect upon our ability to regain the Japanese market based upon the adoption of this rule? Is it enhanced because we are utilizing sound science, or is it diminished because of concerns about BSE? So if this rule is fully implemented, would we expect our opportunities for our negotiators to be improved in reaching a satisfactory agreement with Japan?

Mr. BULL. I will go first. First of all, I don't think it is diminished in any way. I think we are trying to take a leadership role in telling particularly Japan, but the rest of the world, that we need to adopt sound science and sound science standards as a way of dealing with border issues; that if we allow nonscience activities to occur, you are not going to get anywhere. And it would be disingenuous for us to try and convince Japan to accept our ideology while we didn't apply sound science to our own Canadian border. So my take is that it will not diminish, it will only help, as we take a leadership role with the Japanese.

Mr. MORAN. Thank you, sir.

Mr. KUEHNE. I would agree with what Mr. Bull has said. I think it is critically important that the United States take this leadership role. We should have taken this leadership role much sooner than we have. We now have an opportunity base rules on science, base trade on science, and move forward with it. And it can only enhance our opportunity to gain markets. Thank you.

Mr. MCADAMS. Mr. Moran, I would just add that we need to remember that we have that Beef Export Verification Program that guarantees what we are sending is U.S. product. So we don't see that as being an impediment as we move forward with the Japanese, because they don't have to concern themselves that what we are sending is not a product of the U.S.A.

Mr. KIKER. I think it diminishes, because I think there is some question about whether we actually—that program is actually working and they aren't getting a little bit of product from Canada.

Mr. Bull said earlier that we haven't been getting any Canadian cattle. Well, that is not really completely true. Boxed beef imports from Canada are up 40 percent. We are taking beef from Canada right now. I think by lowering our standards it severely impedes our ability to open the Japanese markets and some of the rest of these markets around the world.

Mr. MORAN. The dilemma we the policymakers always face is two sides to the same question. Some think it enhances the opportunities with Japan, and you, Mr. Kiker, think it diminishes.

Let me ask another question, more market oriented. Is there any reason that if this March 7 date comes to fruition and the rule is implemented, that our Department of Agriculture ought to be looking at a phase-in of the opportunity for importing beef to the United States for market reasons, market reasons for our cattle producers? Mr. McAdams?

Mr. McADAMS. Well, thank you, sir. That is one reason that we have involved ourselves so much in the process. And we sent the trade team up there to examine and get comfortable with the numbers, look at the analyses from many different economists, and that is why it is important that any rule that we implement can be effectively enforced. We feel like that if it is effectively enforced, that we will not have a flood of cattle coming in this country; the market forces will work to the point that it will be an orderly flow. But we are very conscientious in the responsibility of monitoring to assure that we don't have unreasonable flow of cattle into this country. And we have gotten more comfortable, as we have examined the data and the facts, that we will be able to absorb these cattle if the rule is implemented in the right way.

Mr. MORAN. Mr. Bull, let me change the question before my time expires. I think one of the things that I hear from USDA consistently is concern about packing capacity being exported to Canada. Would you comment on that, the reality of that?

Mr. BULL. Well, I think it is a very real fact that is taking place, as I presented in my testimony. We have expanded our plant in Canada; our major competitor has expanded his. There is a number of plants that are at least in the developmental stage and other capacity that has already been expanded. So the market will move relatively quickly to take advantage of opportunities. While here in the States the packing industry has been under a lot of pressure, as you can note, there has been a number of plants that have been either temporarily idled or permanently idled, and chain speeds are down. Our packing capacity is probably running at about 85 percent capacity, which is disastrous for our industry if we were to continue in that manner.

Mr. MORAN. Thank you for your responses. Thank you, Mr. Chairman.

Mr. GOODLATTE. The gentleman from California, Mr. Costa, is recognized for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman.

After listening carefully to the testimony, it seems to me that there is an agreement, an overall agreement at least, that everyone

professes to believe in sound science. But it seems to me that what we are really talking about here is something that we are more engaged in, and that is political science.

The efforts to deal with focusing on what occurred on December 24, 2003 as it relates to the find that occurred in Washington State that has impacted the beef industry in the United States and the efforts by the USDA to deal with this issue not just as it impacts our relations with our Canadian border, but Japan. And Japan, thus South Korea and Taiwan I think, is at the heart of the issue that we are all struggling with. And people in California tell me that pending this March 7 deadline next week, that they cannot understand why we have not been able, with all the efforts that have been put forth and your comment about we weren't focused in Hong Kong because we were focused in Japan, I find hard to believe. I mean, we have a lot of resources in this country. It doesn't pass your Google test either, I see.

The fact is, is that what people, what my producers want to know in California is why can't we focus on not just the science but the political efforts to make movement in Japan? I mean—and it is nice to dance around here about the issues not being linked, but most folks I talk to believe there is a linkage. And I guess I would like the witnesses, beginning with the gentleman from Kansas, to tell us what your frustrations are in terms of whether or not you think we have been doing everything possible with the USDA and our other efforts to open the Asian markets, notwithstanding sound science.

Mr. BULL. I appreciate the opportunity to talk about that. I think our Government has invested a lot of time and effort into working with the Japanese. I concur with Mr. Kuehne that I think if we are to maybe knock the administration a little bit, it was focusing its entire attention on one market hoping to get it resolved.

I do think there is more that our Government can do. I do believe it is going to take elevating the talks to a higher level than they have been in the past. And not saying that the people we have sent haven't been talented in trying to resolve this. But I just believe it is over their station, and I do believe we need to put forth a bigger effort from this administration to get this opened.

Mr. KUEHNE. If I could respond to that as well. At this point in time, I think the pressures that are being brought by the congressional offices, the letters being sent to the Ambassador from the House as well as the Senate, are very helpful. I also understand that the administration is marshaling its forces, led by Secretary Rice, to determine what leverage we do in fact have, particularly with the Japanese market. I think that effort is, in fact, beginning to get underway.

Mr. MCADAMS. I would just add that we as cattlemen are frustrated by the progress that has been made. We appreciate all the efforts that have gone forward. But in the case of Japan, we have answered all of their technical questions. We have done everything that we know to do to show them how effective our processes are. They don't have disagreement about our processes.

We are very appreciative of the resolution introduced by Mr. Moran, because we think that once you have used all of the other tools available, we have to either have fair trade, or the world has

to understand that we are going to be looking at trade wars. So we feel if the Japanese cannot respond in a conscientious, forthright manner, we are going to have to ask that we have some sort of economic sanctions. And we are asking for those.

We do not want to—we understand their sovereign rights, but we also have the sovereign obligation to follow the rules that we have agreed upon. And in this case we feel like that is not happening.

Mr. COSTA. So you believe the science issues have been addressed?

Mr. MCADAMS. Yes, sir; I do.

Mr. COSTA. And do you believe there is linkage? Do you believe the Japanese believe there is linkage between the March 7 actions that will take place next week?

Mr. MCADAMS. We think that March 7 has served to create a sense of urgency. And this sense of urgency needed to have been created a long time ago, but sometimes we have to have deadlines to move forward. And the U.S. cattlemen realize we have concerns about the flow of product around the world. And for a beef industry to be a vibrant industry, we are going to have to have that flow of product.

And we can't have protectionism; that is why we are not advocating a protectionist attitude in the United States, but we do have to protect our industries and make sure that we have fair trade. And we have become convinced that if we don't move forward rapidly in opening these markets after we have addressed all the issues that have been brought up, then that is the only alternative that we see.

Mr. GOODLATTE. Thank you. The time of the gentleman has expired.

The gentleman from Minnesota, Mr. Gutknecht, is recognized.

Mr. GUTKNECHT. Thank you, Mr. Chairman. Mr. Chairman, I want to thank you for having this hearing, and I do apologize that I have another meeting to go to so I won't be here, I don't think, when Secretary Johanns comes to testify before us.

Let me say that the testimony has been excellent. I think all of the witnesses here have done a great job of expressing their point of view and they have done it very well. I think the issue, we have had some discussion already whether the issue is political science or sound science. I think the issue is consistency. And from my perspective I want to congratulate the Department. They have moved in a more consistent direction. But let me just say editorially that I think they have a ways to go.

It was hard for me to explain—and, Mr. Kuehne, I think I have some folks in my district who are in similar businesses to yours, and they explained to me very clearly why it was very difficult for them to understand, it became very difficult for me to understand, what the difference between boxed beef, hanging carcasses, live animals, and the way that the Department was going at it. So I think we are moving in the right direction.

But let me just throw something else out for the benefit of my colleagues and for those who may be here. We have another problem with consistency as it relates to the downer animals issue. And I was one, and I do believe this is ultimately about consumer confidence. And before we get critical of the Japanese or other poten-

tial customers of American beef, I think we have to understand that from my perspective I think that the Department overreacted when we got that sort of unexpected Christmas present a couple of years ago. But I supported that decision because I think if we had to err then, we had to err on the side of consumer confidence in the meat supply, because this is a serious disease. I mean, this is not something to be played with. And we wanted to make certain we erred on the safe side.

But now we have this almost inexcusable—and we had an example back in Minnesota a few months ago, or maybe about 6 weeks ago, we had a couple of serious ice storms, and a number of our folks had animals that broke their legs on the ice and they couldn't take those animals to the local locker to have them processed even for their own family's consumption. It seems to me that that is inconsistent.

Let me just also say one of the other things that I think is inconsistent, as long as I have a minute or two left, also for the benefit of my colleagues, I think we have to always be careful to set an absolutist standard, because there is no such thing. And we were meeting with some of our European counterparts in the last several days about biotechnology. We cannot absolutely prove anything. And I think our own Government is guilty of that as well because we have made this, as far as I am concerned, a preposterous standard for prescription drugs coming into the United States. We say, well, we can't guarantee that they are absolutely 100 percent all the time completely safe. Well, that is true. We can't make that claim about anything. And so ultimately all we can do is rely on the best science and be consistent.

And so I don't really have a question for any of the panelists, except I just wanted to make it clear that from my perspective, the Department is moving in the right direction in terms of consistency. And I think the rest of the world will look to the United States, and if we have a consistent explainable policy relative to this deadly disease and how we manage the feed supply and the beef supply in this country, I think ultimately it will yield benefits to beef producers here in the United States.

And, with that, I would yield back the balance of my time.

Mr. GOODLATTE. I thank the gentleman.

The Chair now recognizes the gentleman from Colorado, Mr. Salazar, for 5 minutes.

Mr. SALAZAR. Thank you, Mr. Chairman.

Thanks to all of you for being here. Over the recess that we just enjoyed, I happened to be out in the district in Durango, Colorado. And I thought I was going to have pretty good support for opening up the Canadian border, but out of 80 cattle ranchers that were there, only one was undecided and all the other ones were opposed. So they sent me here with a firm directive to tell you that it is important for us to protect our not only Colorado supplies of meat but also the supply of meat throughout the United States.

But I would like to talk a little bit about a recent newspaper article that has revealed that the Canadian Food Inspection Agency, CFIA, has found animal material in about 66 out of 110 feed ingredients, samples that were taken between January and March 2004. A CFIA official also confirmed that some of the material might

have come from ruminant proteins. Do you know what efforts the USDA has made to evaluate the significance of this find?

Mr. KIKER. Yes. They sent a team over there to investigate it. In fact—this is hard to read, it is a fax. But I think they tested 109 samples, and it says they found less than 10 that contained ruminant animal protein. The fact is they found some. And this is from John R. Clifford, Deputy Administrator of Veterinarian Services. So they are checking on it, but there are, as we have said, still problems in the Canadian feed ban.

Mr. MCADAMS. Mr. Salazar, I would urge you to read our NCBA Trade Team report. They looked at this issue thoroughly. They found that it was somewhat media hot. It gives a good explanation of how that came to be. The USDA team just issued a report last week and I would urge you to look at that.

I agree with you that when this rule was announced and the two additional cases in Canada were discovered, NCBA was getting the same feedback from our members. But those that attended our convention—and they were nearly 7,000 of them—and heard our trade team report, saw the documentation, and heard the facts, decided that except for the concerns that are outlined in our directive, we needed to move forward in our policy of trying to expedite return to normalcy in international trade.

And I would also reiterate that we share concerns about the loss of our infrastructure and the movement of that infrastructure to Canada, and we realize that we have had record prices, and we are grateful for them. But the problem is those record prices were driven by our domestic production being down 7 percent, due a lot to the fact that we have had a drought and a lot of your constituency have not been able to restock; and, due to the fact that we think in large measure from our check-off program, we have been able to build consumer demand to the point that it grew at nearly 7 percent last year.

Mr. SALAZAR. My question, I guess, is for Mr. Bull. In the potato industry we face a similar situation as what you are seeing in the meat packing industry, where much of the processing has actually moved to Canada. Is this not just a trend, or is it a consequence of closing off the Canadian border to the import of meat?

Mr. BULL. It is a consequence of the border closure. Canada's cattle herd is very similar to the U.S. herd. It tends to expand and contract at about the same level. The economics faced in both countries generally are about the same. So it is clearly a reflection or response to the Canada border closure. There has been excess need for packing capacity in Canada. The market has moved to take advantage of that excess capacity need and started building that supply. So it is in direct response to the closure.

Mr. KUEHNE. If I could respond to that as well. Prior to BSE, the market between Canada and the United States, as well as Mexico, was truly integrated. That integration allowed cattle to be raised in Canada, harvested into the United States. Since the cattle can no longer come across the border, it has created the opportunity and also forced Canadian packers to expand their businesses.

The exportation of this portion of the cattle industry to Canada, the packing industry to Canada, will be disastrous long term to the producers and is clearly a direct result of this border closure. And

any continuation in time of that border closure will only greatly exacerbate the situation. So we need to have the border opened quickly, and we need to have the border opened to cattle so we do not export the businesses and the jobs to Canada and make it very, very difficult for producers in the future.

Mr. SALAZAR. Thank you, Mr. Chairman. I yield back the rest of my time.

Mr. GOODLATTE. I thank the gentleman.

Before recognizing the next member, let me read one sentence from the executive summary of the USDA's assessment of the Canadian feed ban, the report just received.

They say based on their review of inspection records and on-site observations: "the inspection team found that Canada has a robust inspection program; that overall compliance with the feed ban is good; and that the feed ban is reducing the risk of transmission of bovine spongiform encephalopathy, or BSE, in the Canadian cattle population."

At this time it is my pleasure to recognize the gentleman from Oklahoma, Mr. Lucas, for 5 minutes.

Mr. LUCAS. Thank you, Mr. Chairman. And I too have returned from a series of a dozen town meetings out in the countryside this last week.

And in that spirit, let me turn to Mr. McAdams and Mr. Kiker and ask you first and foremost, gentlemen, assuming the rule moves forward on the 7th day of March, the border opens up, how is that going to impact the prices that your constituents, my constituents, will receive as those calves start to come off wheat pasture in central west Oklahoma around the 15th day of March?

Mr. KIKER. I think it is going to affect them negatively. The first thing that is going to happen, we are killing less numbers because we don't have our export numbers. And everybody pretty much knows that there is a certain amount of supply out there each week and a certain amount of cattle procured. And if that supply tips over to the other side, suddenly the packers are going to have the leverage. And instead of getting 87, 88, and 89, and fluctuating back and forth, they are going to have the supplies to drop that price back somewhere in the 70's, low 80's. And as a result of that, people feeding those cattle are going to quit paying \$1 to \$1.20 for the calves out in the country. So we feel like it is going to dramatically affect the prices. It is going to bring those cattle producers to their knees within a year if we don't get those export markets back open.

Mr. LUCAS. Mr. McAdams.

Mr. MCADAMS. Well, Mr. Lucas, what we need to bear in mind is this past year we had record imports of beef and cattle into the United States. Mexico exported a near record volume of feeder cattle. Per capita consumption was up 2 pounds this past year and prices were up as well. So we have been having increased supplies; it is just decreased domestic supplies. That concerns us. We pulled together a myriad of different analysis of what the market would do based upon the opening to Canada, and it was estimated by those projections that it would be \$2 to \$3 a hundredweight. What we need to bear in mind is the uncertainty that we have operated under due to these rules has created the volatility of the market

that has been greater than anytime in our history. And this volatility is equally dangerous for someone that is trying to operate a business.

The biggest concern we have is the loss of consumer confidence and the loss in demand. And we all know that we can talk a market down as well. We don't think that the fundamentals reflect that there will be a big break in the market, although we always know that we get into seasonality, things like that.

The main thing is we do this the right way. And if we do it the right way and follow the science, we will be able to absorb this. And we feel like the quicker we get back to normalcy, the less volatility we will have in the market and the more stable our business will be.

Mr. LUCAS. So basically you are saying, Mr. McAdams, that with the rule now that has been out there for weeks and weeks and weeks, that the market has taken that into consideration and factored it in, and we will see—since there is no surprise about this, it is coming—

Mr. MCADAMS. That is exactly right. That is what our projections show.

Mr. LUCAS. Let me turn to Mr. Bull and Mr. Kuehne. How do you expect, speaking of confidence, the consumers, how do you expect the consumers to react when the borders open and you are able to procure supplies from whatever source for your packing plant? Do you think that it will make that much of a difference to your consumers where your products come from originally?

Mr. BULL. I think we have already answered that question from the standpoint that consumer demand is extremely high. We have been importing meat from Canada now for a number of months. Consumer demand continues to be robust. I think our consumers are smarter than we are at times. I think they have been able to read through. As we talked about earlier, public awareness for BSE is at an all-time record high, and the consumers have figured out and they have trust in the Government and trust that we are going to be able to deliver those products safely. So I don't believe consumer demand will be injured at all. I think they do have a trust that we are going to manage this properly.

To tag on to the question you made, since we have a packing plant in Canada, the supplies in Canada, because of the excess capacity up there, are diminished down pretty greatly. The cattle and feeder reports in Canada show on feed numbers 25 percent lower than a year ago. So it is not like there is this massive wall of cattle sitting across the border ready to roll.

Also, if you read the requirements that we have put on getting those cattle across the border, they are pretty onerous. It is not open the gates and let cattle go. There are some very rigid requirements that those cattle have to go through to be qualifiable to come across the border, which will also help slow down that pace.

Mr. KUEHNE. One thing that the U.S. Department of Agriculture has done correctly is to maintain consumer confidence in the BSE situation. I think that the Department can build on that, and the consumers in this country have accepted the positions that the Department has taken. So I do not perceive any difficulty at all rel-

ative to the limited amount of Canadian cattle that will be coming into this country.

I would point out in response to your earlier question as well, there is a differentiation in the market between over- and under-30-month-old cattle. If we do not allow 30-month-old and older cattle into this country, there will be many plant closures; we will export this industry to Canada, our portion of the industry, and it will be very negative for the producers long term. And we need to have this border open and we need to have it open quickly both to cattle and to the beef.

Mr. LUCAS. If the chairman will indulge me one more moment. What is happening to the over-30-month-old stock up in Canada? What are they doing to those animals?

Mr. KUEHNE. It is accumulating, and there is a significant supply of older cattle in Canada. And if this rule is allowed to go forward as proposed, that the meat from those animals is allowed to come into this country, there will be a flood of meat into this country and it will disastrously affect the producers because it will substantially lower the value of their cows and their cattle in this country. So it is critical that both the cattle and the beef be allowed to come in at the same time.

Mr. LUCAS. And under 30 months of age.

Mr. KUEHNE. And over 30 months of age. The rule as originally set forth provided for meat of older animals, over 30-month, to come in, but not the cattle; and that creates the dichotomy.

Mr. LUCAS. And the proposal now is nothing over 30 months would be allowed in, live or processed?

Mr. KUEHNE. No. The rule as originally proposed provided for meat from over 30-month-old cattle to come into the country. That has been merely delayed. It has not been taken out of the rule. And it was delayed pending the review of the two studies that were conducted, undergone by USDA. So once those studies are completed and studied, presumably the rule would go forward and the meat would come in but not the cattle.

Mr. LUCAS. Thank you for clarifying that. I say we now have a topic to discuss with the Secretary.

Thank you, Mr. Chairman.

Mr. GOODLATTE. I thank the gentleman.

The gentleman from Georgia, Mr. Scott, is recognized for 5 minutes.

Mr. SCOTT. Thank you very much, Mr. Chairman. This has been a very fascinating and informative session, and I certainly commend each of you for your testimony. From what I am hearing, on the surface it appears that reopening the Canadian border makes good economic sense, business sense, and trade sense. But there is still that looming question of getting the accurate and true assessment of the implication of the BSE disease. It seems to be all over the place. But we will be discussing that, the pros and cons of the Canadian issue. But I remain concerned about our beef export market to Japan. It seems to me to be very illogical.

I would like to address this question to you, Mr. McAdams, if I could. It seems to me to be very illogical to seek to ban Canadian beef products while we are simultaneously actively working to re-

open the Japanese market to U.S. beef. To that end, what is NCBA doing to help open the Japanese market?

Mr. MCADAMS. Well, Mr. Scott, we have tried to cooperate with the Japanese as we feel the USDA and the rest of our Government has to answer all of their questions, to show them our production processes, to show them the safeguards that we have implemented to assure that beef that they get is safe, just as the beef that our consumers consume is safe. We have agreed to their demands regarding beef from animals 20 months—younger than 20 months of age. We feel like we negotiated in good faith. We understand the delicacy of diplomacy and negotiations in trade agreements, but we feel like that at some point in time you have to say enough is enough. And we think it is vitally important that we walk the talk.

And that is why, if we implement correct rule in a correct way with Canada, we can be supportive of it. We think that we have negotiated to where we can do things in the correct way, following the correct rules with Japan, and we are frustrated that we can't get continued movement. And that is why we are so grateful for efforts like those of Mr. Moran and many of the rest of you to help say to Japan, this cannot continue forever; we need to have movement on this or we are going to have to react.

Mr. SCOTT. Thank you. Now let me ask you another question about your industry members itself that hasn't been touched upon yet. There is a sense among some U.S. beef producers that the Canadian border should be closed at all cost. What would be the financial, economic, business, and trade implications of this potential complete closure for your members?

Mr. MCADAMS. Well, Mr. Scott, we are in somewhat of a dilemma today in that we have some of the lowest domestic supplies we will be facing, and yet we are having trouble maintaining the market. And one of the things that we are seeing is, is that we produce less beef here; there is more beef comes in from other countries. We have high prices at the consumer level. Unless we can continue to grow demand, we are afraid that we will just shrink our industry. If we lose our infrastructure, the packers will have leverage.

What we need in this country, and we have always felt this way, is more packing plants, not less. So as we lose our infrastructure, it is a spiral that we don't want to go down. And all we need to do is look at the lamb industry in this country and see the road that we might follow, and we certainly don't want to go down that road. So that is why we think it is so important.

The key is growing consumer demand in this country and growing our share of the international markets, and working to grow international demand as well. And that will allow us to grow our markets, produce more, and sell at higher prices.

Mr. SCOTT. Thank you. My final question, Mr. Chairman, is to— if each of the members could answer this question for me. Will reopening the Canadian border to Canadian beef endanger the American people who eat beef products?

Mr. KUEHNE. I will take the first answer to that, and emphatically I would say no. The Harvard risk assessment, the analysis done by the United States Department of Agriculture from May 3, 2003 to January 2005, their risk assessment and all scientific evi-

dence and all scientific review shows that the consumers in this country will not be harmed.

I would point out too, that we cannot have it both ways as a country. We cannot tell Japan to take our beef when we don't take Canadian beef. We need to be consistent. We need to base it on sound science that is consistent. It is very, very important, very critical. We can't have it both ways. And also when we trade with Japan, it has to be meaningful trade, not a headline that says we have reopened trade with Japan that encompasses 1 percent of the cattle in this country. That doesn't do it.

Mr. SCOTT. Mr. Bull?

Mr. BULL. I agree. I think the critical cog of this is ensuring consumer safety is critical to all of us in this industry. If we are to lose consumer confidence, like Japan did and Europe did, all of us at this table would be destroyed. And that has not happened in this country, and it has not happened because we swiftly moved to remove the SRMs from the food supply and ensure that those are not there. So no matter what happens with Canada, our food supply will remain safe.

Mr. SCOTT. Mr. McAdams.

Mr. McADAMS. I concur wholeheartedly. The key is the banning of the specified risk materials from the food supply. And we very effectively can do that. We very effectively have done that. And by everyone that has reviewed the Canadian processes, they are doing the same.

Mr. SCOTT. All right.

Mr. KIKER. The U.S. is taking great pains to prevent BSE from entering this country, and we have done an excellent job. I have the utmost confidence in the beef we produce in the U.S. Unfortunately, Canada has a problem, and I don't think it is being addressed. There is a lot of science and research being done on BSE right now, and I just think we need to stay by the science and keep our standards at a maximum level to protect the U.S. cattle herd.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. GOODLATTE. I thank the gentleman.

The gentleman from Texas, Mr. Neugebauer, is recognized for 5 minutes.

Mr. NEUGEBAUER. Thank you, Mr. Chairman. And thank you for conducting this very important hearing.

Mr. Kiker, one of the things that you were saying earlier was that you are concerned that the Canadian beef and the Canadian cattle are not as safe as American cattle. But they have similar feed bans and they have the same testing programs and the same processing requirements that we have. Basically, in many cases or most cases, they have adopted our procedures. Are we sending a mixed signal to the American people about American beef, then, if we are concerned about Canadian beef, when basically they have the same processes and standards that we have?

Mr. KIKER. They do, and they have followed suit with us. The problem and the difference between the Canadian beef industry and the U.S. beef industry is that the Canadians have BSE in their herd. And by OIE standards and guidelines you increase all your testing and everything else. Canada is still not doing that. When they increased theirs just in proportion to ours, we tested some

240,000-something head, found no cases of BSE. They tested, I think, somewhere around 15,000, they found two additional cases. They still haven't done a prevalence study.

Our guidelines work well for a country that has no BSE infection in their herd. But, unfortunately, they do. So that is why they need to step up their standards and they need to start testing. They still haven't found the prevalence of BSE in Canada.

Mr. NEUGEBAUER. So what is your recommendation as far as if we didn't adopt this rule, what would be your proposal?

Mr. KIKER. I say we stay with the OIE guidelines. Canada, by OIE guidelines, is not a minimal-risk country; they are a moderate-risk country. In relation to that, they haven't been very good with their meat and bonemeal ban, which is the one aggressive action in all the 6 points—everything else that you are supposed to do to be minimal risk is a passive point. You use mitigation survey and several other things that is in our testimony. But we need to call Canada a moderate-risk country and accept the same meat that you would from a moderate-risk country. USDA is making them a minimal-risk country, which lets in more beef, different kind of—bone-in beef.

Right now, we are practicing the measures of a moderate-risk country by taking just beef cuts from Canada. This new rule will let them bring bone-in beef in also.

Mr. NEUGEBAUER. Thank you.

Mr. McAdams, you indicated that recently at your board meeting, that you all met and you all discussed, and I think you are encouraging the administration to take a fairly aggressive approach with the Japanese. Even—I think you even mentioned possibly sanctions against them. Could you elaborate on what kind of recommended sanctions that you would ask the Secretary to consider?

Mr. McADAMS. Well, they need to be stringent enough that we get movement. There are times when we have to have confidence in our Government, and we definitely have confidence in our Government to move forward and determine what is the most effective way of getting movement in the opening of the Japanese market and in the other markets for our product. So we are advocating that this be taken into consideration and determine how we most effectively do that, and economic sanctions certainly need to be one of the avenues that we pursue.

I would just like to say that Mr. Kiker has raised concerns that we hear time after time, and our trade team reviewed these allegations. We have seen that the Canadian cattle industry is about one-seventh of the U.S. cattle industry, and they are testing on a percentage basis an equal number as the animals that we are testing.

And in regards to OIE guidelines and how Canada should be regarded, I would urge you to review the document that is attached to our testimony from the OIE and they submitted to the court cases going to be heard tomorrow in Montana, and I think it will clarify greatly their position on Canada.

Mr. NEUGEBAUER. Mr. Bull, if we were to continue with a ban and we have a build-up of Canadian processing, does that begin to jeopardize and potentially close processing plants in the U.S.?

Mr. BULL. Before I answer that, I would like to respond to a couple of the comments earlier, maybe to add a little clarification.

First of all, the U.S. has instituted an enhanced elevated testing protocol that goes way beyond OIE standards. The Canadians have also done the same thing. So to suggest that the Canadians have not elevated their testing is just not right. Canadians have elevated their testing pretty dramatically with this, and the U.S. has as well. That is, taking steps well beyond. And the two countries did that in concert.

Another comment. In our packing plant in Canada, we are doing things we are not required to do in the United States. So I think the Canadians have taken very strong steps to grab ahold of this disease. They understand the implications. It has cost their government a lot of money.

Now, to your point. No doubt it is hinging solely on how long this closure stays in place. Our packing capacity, as we have mentioned, is under duress. If these closures were to stay the way they are today, I have no doubt they would be packing capacity. And we have got to remember, most of the Canadian cattle that come into this country come into plants up in the Pacific Northwest where those plants were built hinging upon having access to U.S. supply but also access to Canadian supply. And once you take that away, you really endanger those plants and their livelihood, and they will close if this doesn't get changed.

Mr. NEUGEBAUER. I think my time has expired, Mr. Chairman. Thank you.

Mr. GOODLATTE. I thank the gentleman.

Let me announce to everybody, the Secretary is on his way and will be here shortly. What we will do when he gets here is thank and dismiss this panel. And we will then take up the Secretary's testimony, and, following that, the questioning first by myself and then by the ranking Democrat. Then we will resume in the order of those who have not had an opportunity to ask questions in this first round. They will get an opportunity to question the Secretary before anybody who has already had an opportunity to ask questions.

So at this time it is my pleasure to recognize the gentleman from Hawaii, Mr. Case, for 5 minutes.

Mr. CASE. Thank you, Mr. Chairman.

Let me stay with the focus on what I think the focus should be, and that is the continued safety of the beef supply in this country based on sound science. I think that is what we are trying to get at here. I do acknowledge and agree that the other issues that we have been talking about, whether it be the export of processing capacity to Canada or the lack of the country of Japan to loosen up its import structure are vital. But I do believe that they are ancillary.

One thing that we really haven't sorted through is, assume, as I think we all do, that the standards do go through next week. What guarantees do we have that Canada will enforce them? I guess, for a lack of better way of putting it, much of this depends on Canada complying internally, having the commitment to compliance and having the structure in place to comply. I mean, we can come up with great science, but this is not all in our control, is it? It is in the control, to a large extent, of Canada. And where we inspect in this country is after the fact.

Some of you have made allusions to your trust in the Canadian system of inspection and application of these standards, but where is it said or written that everything is OK with the way Canada administers?

Mr. McAdams, I am just going to start with you because you led the delegation—or your organization led a delegation up there. You observed what was going on in some of these places. Comment on your level of confidence.

And then I would like to ask the other gentlemen the same question.

Mr. McADAMS. Well, I would have to say that the level of trust of the Canadians was pretty low among our members going up there, and the trade team consisted of people representing organizations in areas that were very cynical. But they were given access to whatever they asked for access to.

But this is a bigger issue. It is how can we trust any government. And we depend on our Government to assure that they are doing what they say, and we expect our Government to monitor effectively the processes regarding food safety on all foods from all countries on all issues. And we expect the USDA to do that. They have been monitoring closely, too.

We withheld our judgment on some of these issues until we saw the final report from the USDA team that went up there, and we will continue to expect our Government to monitor all countries that we trade with to assure that anything we get from them is safe because Americans should expect nothing less.

Mr. CASE. Mr. Kiker, let me preface my question to you by saying that my understanding of your testimony, and you are the one saying that the science—under the scientific standards, basically we are increasing the risk rather than keeping it neutral or reducing it by opening up this border. How much of your concern, which I take very seriously, by the way, because I think the risk does in fact increase. The question is whether it is scientifically tolerable. How much is related to any concerns you might have, if any, on Canada's ability to enforce the standards as—I guess what I am trying to get at is, are your concerns based simply on the standards, are they in part on Canada's internal capacity to enforce those standards?

Mr. KIKER. A little of both. A lot of our concerns stand strictly on the science in lowering our standards. But you have got to realize—and I am a rancher. I know what it means to get \$200 for a calf rather than \$450. And the desperation in some of these ranchers that are actually going broke and losing their farms and ranches is tragic. And people will do—I mean, it is not a trust thing.

I think that that number, that 30-month age is going to be vague. I don't know that their ID system is that advanced that they can determine age by date. There is going to be some animals come over that are 31 months and 32 months. But I just think the desperation of some of these folks to continue to make it in the ranching business until they get through this is what concerns us as far as trust. It is not the actual trust of the people.

Mr. CASE. Do you have any questions—Mr. McAdams observed that he trusted our Government to ensure that the Canadian regu-

latory scheme was working. Do you have that level of trust in our Government's ability to figure out whether the Canadians are in fact complying?

Mr. KIKER. Well, I am not going to lie to you. There has been a lack—the trust in USDA has been compromised by what has happened over the last 3 months. We have already been to court once and stopped the importation of illegal meats by USDA. But, yes, I think when those cattle get to the border, I trust our Government to make sure they adhere to all the rules and regulations of the United States.

Mr. MCADAMS. Sir, if I could just add that I am a cattleman, too, and that influences why I have the position that I have. And I entered the cattle business in 1972; upon graduating from college I joined my father. In the wreck of 1974—I have spent my career recovering from it, and it was Government-managed wreck where the Government was trying to manage the markets by implementing a beef price freeze. So I have had a lot more confidence in the Government implementing rules and then trying to manage markets. And that is one reason that I am so hesitant to go down that road of managed supplies, managed markets.

Mr. CASE. I am going to stop there. I am sorry, gentlemen, my time is up and I am going to have to defer back. Thank you.

Mr. GOODLATTE. I thank the gentleman.

The gentlewoman from Colorado, Mrs. Musgrave, is recognized for 5 minutes.

Mrs. MUSGRAVE. Thank you, Mr. Chairman. Thank you so much for holding this very important meeting. Many of the questions that I would have asked have already been asked. But I would like you, Mr. Kiker, to go over again what you see is the difference in the firewalls that the U.S. and Canada have set up. I would like you to go into percentages and tell me why you think that the Canadian firewall is not sufficient.

Mr. KIKER. Bear in mind, I am just a cattle farming rancher. I don't know that I have actual percentages. We have implemented the same firewalls, but in—they implemented their meat and bone meal ban in 1997. The last cow that was discovered, on January 11 I believe, was born after that date. And we learned that Canada had a supply of meat and bone meal feed when their meat and bone meal ban was implemented, and that feed was fed out until it was depleted. That isn't when their meat and bone meal ban started.

The other problem is there has been lots of discrepancies on whether there has been ruminant by-products in their feed up until just last year. You can go to Canada right now and test, surely they have it under control now. I mean, it is a robust feeding operation.

The real question here is what has been happening there over the last 7 years. And that is the difference. We feel like the U.S. did an excellent job of controlling ruminant by-products in our feed and we have done an excellent job of adhering to the other firewalls. The biggest firewalls was not taking cattle or meat from a country known to have BSE.

Mrs. MUSGRAVE. Mr. McAdams, would you discuss—there was a Vancouver Sun article that reported animal protein in ruminant

feed. How much credence did you put into that article, and have you researched that further?

Mr. MCADAMS. Yes, ma'am. It created a lot of concern. I had a lot of concern when I first heard about it. Investigation of our trade team revealed that this was almost a training process, that they were going there to assure that they could detect particles of all types of protein and identify it. It was—except for a very small percentage, they could identify them as being nonruminant proteins. They were proteins such as feathers and rodents that were gathered up during harvest, and it was not a breach of the feed ban firewall.

We also have to remember that if there are leakages in a feed ban, the chances of anything catching BSE are so remote. And, nonetheless, it has nothing to do with the safety of our food supply.

The fire wall that protects us, the safeguards that protects us in our food supplies are the removal of specified risk materials. This is to protect our animal health. As long as we are not feeding ruminant feed to ruminants, we will be protected. We also have research that shows how the infected rate—this is not a disease that is easily transmitted.

As more and more research comes online, we are seeing that the safeguards that we put in place in both Canada and the United States are an overabundance of caution, so to speak, and that we have to never lose sight of the fact that if we keep the specified risk materials out of the food supply, we are safe.

Mrs. MUSGRAVE. Thank you.

When you talk about what you have done to open the Japanese market, could you tell us what you have done—and, you are talking about sanctions—and how quickly will this move, do you anticipate?

Mr. MCADAMS. Well, first, I will like to thank you for your efforts and the letter that you and some of your colleagues signed in supporting us on this.

We feel like that we have to open these foreign markets for our product, and it needs to be done in an expedited manner. We understand the necessity of deliberation, and we have been patient in our own Government's deliberation as we move forward. But once the deliberation is completed, it is time to get things open.

We have been patient in waiting for the Japanese to have all their questions answered. They have acknowledged that we have answered all of their questions now. They are acknowledging it is in their political process; and when it gets into the political process, we feel like then that is when it needs to be expedited.

So if we don't see movement and we are already calling for it, the Government will start looking into how we can affect the opening of these markets, including determining if the economic sanctions are going to be necessary. So we are asking for us to start looking at that right away if we don't see some additional movement in the opening of this border or agreement or we start having movement. Secretary Johanns has been very supportive in asking for a date certain, and we are frustrated that we can't get that.

Mrs. MUSGRAVE. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentlewoman.

The Chair now recognizes the gentlemen woman from South Dakota, Ms. Herseith, for 5 minutes.

Ms. HERSETH. Thank you, Mr. Chairman. I want to commend you and members of the committee staff for working to ensure that this hearing took place today, and I want to thank each of you for testifying.

Before I pose a couple of questions, I would just like to make a statement.

I guess, Mr. Bull, you had made a statement at the outset of your testimony comparing the European Union beef ban and the distortion of science in that case with those that may feel that the border to Canada should remain closed, suggesting that those that feel that way are similarly disregarding science.

I would respectfully disagree, because I think that the issue that we are talking about here isn't so much the sound science that needs to guide how we deal with these challenging issues but rather insuring sound standards, sound processes and accountability, both within the U.S. Department of Agriculture and in Canada, to insure verification has been adequate for consumer confidence, as was pointed out by Mr. McAdams, that the administration is utilizing enforcement tools for trade policy, for our producers and insuring a long-term profitability of the industry here in the United States and having these effective processes in place for the industry as a whole.

So I just wanted to make that initial comment before posing the question to you, Mr. Bull.

You mentioned that Cargill does have facilities—processing packing facilities in Canada, is that correct?

Mr. BULL. That is correct, yes.

Ms. HERSETH. I assume that you are segregating the animals by age so that you can then segregate the eligible and ineligible products for trade as is currently is set forth?

Mr. BULL. That is correct.

Ms. HERSETH. Can you tell me who the current customers are then? If you are accepting animals over 30 months of age for slaughter and you are segregating them, who currently are the customers for the beef from animals over 30 months of age?

Mr. BULL. Well, first of all, we are not, in our Canadian operation, in the business of bringing older, mature animals into our plant. We are buying useful animals, fed cattle. Our rate of incidence of Canadian animals that are over 30 months old is less than half a percent of our supply going through our plant, and product is segregated as consumed in Canada.

Ms. HERSETH. Thank you.

Mr. McAdams, your team that was sent up as part of the investigative team with NCBA was part of the Canadian facilities; and whether they are adequately segregating eligible or ineligible products—and were any of the facilities accepting older cattle for slaughter and addressing the fact that in last month's OIG report they claim that not one Canadian facility was meeting the requirement in a satisfactory way?

Mr. McADAMS. Our team did go up there. They did go through and inspect facilities, processing facilities. In their report, I don't know if they specifically addressed the issue that you are referring

to from the OIE. But if you will allow me, we do have one of the trade team members, our staff person that staffed that, and I could ask him if they did that.

Mr. BULL. I could comment on that.

I think, first of all, that report is relatively old. When that study took place, there were some Canadian plants that were allowing mature animals—the mature animals and useful animals to be processed in the same plants, and that has been stopped. There are none of those plants in existence today in Canada. They either are mature plants or they are useful plants buying useful animals.

Ms. HERSETH. Was that verified, Mr. McAdams?

Mr. McADAMS. Yes, ma'am. What I was told is that is not what the OIG report said anyway. We take exception to exactly what they said.

But what our trade team found is that the way they were operating those plants was in compliance with the firewalls and with the rules that we have in place in the United States as to how we handle aged cattle and cattle under 30 months.

Ms. HERSETH. My last question, Mr. Kiker, the whole issue here that has been raised about exporting our processing market to Canada, resulting in the loss of jobs to the packing industry and affecting a number of constituents that many of us represent and the loss of jobs, do you feel that if we were able to give producers in the United States some assurance of longer-term profitability such as better enforcement, including economic sanctions against those that put up artificial trade barriers, that indeed U.S. producers could meet the demands of U.S. packing facilities to provide them with an adequate supply of animals?

Mr. KIKER. Oh, I definitely think so.

What happened in the 1990's was a lot of producers went out of business. It wasn't just drought and everything else. They were getting very little for their cattle. As those producers went out of business, they were replaced by these large packers that were on the Canadian border with imports and displacing jobs, and I don't see a lot of concern about all those ranchers in those rural communities, the small feed stores, fertilizer plants and everything else that went out of business.

Yes, I think with the prices we have now you will see a growth in the cattle industry in the United States that will change the whole economics of rural America. I mean, there are people getting money for their cattle and going out and buying new tractors, buying new bailers, even buying new land. If there was some stability in that price and people knew they could count on it over the course of years, it would be humongous for agriculture and the beef industry.

Ms. HERSETH. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentlewoman.

I thank this panel. You have been very responsive to a wide array of questions and your information has been very helpful to all of us. So we thank you.

At this time, we will welcome our next witness. It is now our pleasure to welcome the Honorable Mike Johanns, Secretary of the United States Department of Agriculture, who is accompanied by

Dr. Ron DeHaven, Administrator of the Animal Plant and Health Inspection Service of the USDA, and Dr. Keith Collins, Chief Economist of the United States Department of Agriculture.

Mr. Secretary, we are delighted to have you with us. We are very pleased that this is your first public testimony before our committee. We look forward to a long relationship and many more such opportunities, and you are welcome to give your testimony.

STATEMENT OF HON. MIKE JOHANNIS, SECRETARY, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY RON DeHAVEN, ADMINISTRATOR, ANIMAL PLANT HEALTH INSPECTION SERVICE, AND KEITH COLLINS, CHIEF ECONOMIST

Secretary JOHANNIS. Thank you very much.

Mr. Chairman, Mr. Peterson, members of the committee, I also want to say thank you for holding this very important hearing today and for giving me the opportunity to testify before you.

Before I begin, I also would like to use this opportunity to express my appreciation for the close, very positive working relationships that we have begun to forge. It is a pleasure indeed for me to appear in my first hearing before this committee as Secretary of Agriculture, and I look forward to building upon the productive foundation that we have established.

I have said frequently that addressing bovine spongiform encephalopathy, BSE issues, especially as they relate to trade disruptions, would be my top priority as Secretary. The actions that the U.S. Department of Agriculture and the Federal Government are taking in regard to BSE are potentially precedent-setting and could affect international trade patterns for many years to come, with important economic implications for our cattle producers and for our entire beef industry. Therefore, our actions must be undertaken with the utmost deliberation, using science as our basis.

Accordingly, this hearing could not be more timely. Almost 1 year ago, on March 8, 2004, the USDA published a notice reopening the comment period on a rule to establish minimal-risk regions for BSE, often referred to as the minimal risk rule, following the December 23, 2003, discovery of a single case of BSE in the United States in a cow of Canadian origin.

In the time since then, a lot has transpired.

USDA has implemented enhanced BSE surveillance program to test as many high-risk animals as possible over a 12- to 18-month period. To date, in the 9 months since the program started on June 1, more than 252,000 high-risk animals have been tested, all of which are negative.

On December 29, 2004, USDA announced the final rule establishing minimal-risk regions, which designated Canada as the first minimal-risk region for BSE, and that is to become effective on March 7, 2005. Preparations are currently under way to ensure a coordinated and an orderly reopening of the border on that date.

On January 2, 2005, Canada confirmed its second domestic case of BSE, followed 9 days later by a third case.

On January 24, 2005, USDA dispatched technical teams to Canada. We sent one of those teams to investigate the efficacy of Canada's ruminant to ruminant feed ban because the third animal was

born shortly after the implementation of that ban and the other to determine whether there were any potential links among the positive animals.

Just last week, on February 25, we released the results of the investigation relating to Canada's feed ban, which showed that, overall, Canada's compliance with the feed ban is good and that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population.

The team's final epidemiological report investigating possible links of the positive animals is still pending and will be helpful as USDA proceeds with a rule allowing imports of live cattle from 30 months of age and over.

The minimal-risk rule establishes criteria for geographic regions to be recognized as presenting minimal risk of introducing BSE into the United States. It places Canada in the minimal-risk category and defines the requirements that must be met for the import of certain ruminants and ruminant products from Canada.

The rule did originally allow the import of beef products from animals of all ages. On February 9, 2005, because our investigation in Canada would not be complete by March 7, I ordered that portion of the rule to be delayed. However, USDA intends to move forward expeditiously with a plan to allow import of live cattle and beef products from animals 30 months of age and over.

We remain very confident that the minimal-risk rule, with the risk mitigation requirements and the animal and public health measures that the U.S. and Canada have in place, provide the utmost protection to consumers of livestock.

I simply cannot emphasize strongly enough the central role of science in this entire process, especially with regard to the rigorous evaluation of risk. Since the discovery of the first case of BSE in Great Britain in 1986, we have learned a lot about the disease. That knowledge has greatly informed our regulatory systems and our response efforts.

After Canada reported its first case of BSE in May 2003, USDA conducted a comprehensive risk analysis to review the potential threat it posed, which confirmed that Canada has the necessary safeguards in place to protect U.S. consumers and livestock against BSE. The extensive risk assessment took into careful consideration the possibility that Canada could experience additional cases of BSE.

The public commented on the risk assessment that accompanied the proposed rule, which we carefully reviewed, and responses were published with the final rule. It should be noted that our risk analysis was reviewed by Dr. William Hueston, an international expert on BSE and a member of the International Review Team.

While the SPS regulations protecting human and animal health are the foremost concern, the USDA has examined the potential economic impacts of the minimal-risk rule and related BSE trade issues, as required by Executive Order 12866.

For more than 3 months following the May 20, 2003, BSE discovery in Canada, all imports of Canadian ruminants and ruminant products were barred. Then, certain Canadian ruminant products for which there is inherently lower risk were allowed to enter under permit beginning in August 2003.

For all of 2003, the United States imported 336,000 metric tons of beef from Canada. Imports increased to 476,000 metric tons in 2004, up nearly 42 percent and back to the level that prevailed in the years prior to 2003.

Because the border has been closed to live cattle since 2003, May 6, 2003, imports of fed and feeder cattle under 30 months are expected to increase over historic levels in 2005, which is expected to drive up U.S. beef production, reduce beef prices slightly and, consequently, reduce cattle prices. The cost-benefit analysis of the original minimal-risk rule was based on Canada's cattle population as of July 1, 2004 and the cross-border price differential at that time. USDA now estimates that about 1.3 million Canadian animals may be imported in all of 2005, down from previous estimates.

In addition, delaying the effective date for resuming import of certain beef products from animals 30 months and over has narrowed our projection of price impact. We now project fed cattle prices to be 2.6 percent lower if no trade in live cattle were to occur. The projection also assumes that Asian markets do not open to our beef during 2005.

At the same time, like many of you, I have been concerned about the effect that the closure of the border has been having on the restructuring of the cross-border beef industry. We are already seeing additional processing capacity in Canada, and further delays will only exacerbate that trend, leading to long-term change.

In addition, to the extent that we can continue to open markets that are currently closed to our beef, U.S. cattle price prospects will strengthen. U.S. market-maintenance activities have been critical in restoring our beef markets. In 2003, the total export value of U.S. beef and ruminant products was \$7.5 billion. After December 23, 2003, 64 percent of that market was immediately closed. Today, we have recovered well over two-thirds of that, so that 41 percent of that market, \$3.1 billion, remains closed. Two countries, Japan at \$1.5 billion and Korea at \$800 million, account for nearly three-quarters of the existing closures.

As a leader in the critical Asian markets, Japan is a vital market to reopen to U.S. beef exports. We are aware that the decision to resume trade in this market will set an important precedent. Therefore, we have endeavored to use science in our ongoing efforts with Japan. Efforts to reopen this market have drawn on resources across the Federal Government at the highest political levels.

As I have said previously, this issue has occupied much of my first weeks. Just last week, I met with Ambassador Kato and also wrote to my counterpart, Mr. Shimamura, on the importance of this issue. At the same time, other U.S. Government officials continue to contact their counterparts. These efforts are just the latest in many policy discussions over the past 13 months. Indeed, the issue has been a major focus of direct discussions between the President and the Japanese Prime Minister.

On October 23, 2004, Japan and the United States developed a framework to allow the resumption of bilateral beef trade following the conclusion of a regulatory process in both countries. As a step toward the resumption of normal trade, the agreement establishes an interim special marketing program, known as the Beef Export

Verification Program, to allow the United States to sell beef and beef products to Japanese importers from animals 20 months of age and under. Animal age will be determined through a combination of production records and physiological grading means. We are now working with Japanese officials to gain approval of the BEV under their regulatory process.

I have repeatedly pressed Japanese officials to set a date certain for the resumption of U.S. beef exports to Japan. Additional delays could further complicate relations between the United States and Japan.

We are also pursuing efforts to reopen all of the markets that have been closed to us. As I have stated, USDA, and indeed the U.S. Government, is exerting every effort to resolve the matter.

As traditional trade barriers such as tariffs are lowered, our focus to eliminate unjustified nontariff barriers such as nonscience-based SPS regulatory measures become all the more important to maintain the flow of mutually beneficial trade.

It is also critical that domestic trade rules reflect the current state of knowledge regarding BSE, and here the United States is leading as well.

At the same time, we will continue to work with our trading partners to ensure the ongoing strength of their own BSE protection systems.

In summary, I am confident that we are continuing to keep the protection of the public and animal health foremost in our concerns. It is critical that we continue to use science as a basis for our decisions and regulations and that the United States maintain its leadership role in advancing our scientific understanding of these kinds of SPS-related issues and appropriate science-based responses.

Mr. Chairman, thank you again for holding this important hearing. We would now be pleased to answer any questions.

[The prepared statement of Secretary Johanns appears at the conclusion of the hearing.]

The CHAIRMAN. Thank you, Mr. Secretary.

Some in the Congress have argued that we should not normalize beef and cattle trade with Canada unless and until we regain access to the Japanese and other Asian markets. If these folks have their way, what will be the effect on your discussions with the government of Japan?

Secretary JOHANNNS. In every discussion I have had with Japan, I keep going back to the point that their decision needs to be based on science. Otherwise, quite honestly, it is the politics of the day that would govern the decisionmaking. I believe very, very strongly, Mr. Chairman, that, in working with Canada, if we set a different standard and different example than what we are insisting upon with the Japanese, we will pay a very, very heavy price for that.

The best science says that with the standards we have in place, the regulations that are in place, that the import of meat and live animals under 30 months from Canada is safe not only for humans but also for animals. I think if I were to do something else, the signal I would send to Japan is that we do not want them to act differently than the way we are acting with the Canadians.

The CHAIRMAN. Canadian slaughter capacity grew by 22 percent last year, and analysts predict that this will continue leading the growth by as much as 30 percent over the next 3 years. While many people have expressed concern over Canadian cattle coming south, what is the consequence of U.S. packing capacity moving north?

Secretary JOHANNNS. The consequence is what we are seeing already. It is job loss. It impacts the ability of the Canadian industry to compete with us.

The Canadian cattle industry is going to do exactly what our cattle industry does and that is that it is going to fight for its survival. The Canadian cattle industry has been shipping boxed beef, for example, into our market under permit now for many months. They compete with other countries, including us, in the worldwide marketplace. If we move the processing to the other side of the line, to the Canadian side of the line, all of a sudden you have developed a whole new competitive atmosphere, plus you have impacted your packers here.

Now, Mr. Chairman, if I might just wrap up and say, while some would argue, those are the big guys in the industry. But, Mr. Chairman, the very small packing operations have been in my office, too, saying the wrong decision here puts us out of business.

The CHAIRMAN. Well, that is a good point. What do you think the impact of this increase in Canadian capacity will have on U.S. packing, particularly as it relates to the concern raised by some about packer concentration?

Secretary JOHANNNS. I just think you have the potential for a very downside impact on your small packers, the mom and pop operations that we see in our States across this country.

We cannot make our decisions based solely on economic justification. They have to be science based. But we are allowed to consider the economic consequences. Very clearly, one of the issues that we ran into with importing beef from animals over 30 months was that it allowed that beef to be processed on the Canadian side and again had a very negative impact from an economic standpoint on our processors in the United States.

The CHAIRMAN. What are the consequences in terms of either mitigation or making worse the delay of this proposal? In other words, are these consequences going to be alleviated or will they be made worse if you were to delay the implementation of the final rule?

Secretary JOHANNNS. I have had Members in both the House and the Senate visit with me about the potential for delay. There is a downside to that. I learned long ago that not deciding is deciding. That industry in Canada is going to continue its efforts to restructure. They will find a way to do business in the international marketplace, and I believe it exacerbates the problem.

The CHAIRMAN. One more question. One of the concerns that has been raised about the rule is the potential for a "wall of cattle" entering the U.S. market. Some of this concern was fed by remarks made by the USDA when the rule was rolled out. However, other sources, such as the National Cattlemen's Beef Association, Canadian Trade Delegation Report, suggests imports would be far lower.

I wonder if you could please take the opportunity to clear this up a bit.

Secretary JOHANNIS. I do not see a wall of cattle. But the person to my left can clear this up and explain exactly what we see. So, Dr. Collins, if you would go ahead.

Mr. COLLINS. Mr. Chairman, I would just like to be clear that the USDA never, in any comments it made talked about a wall of cattle. The remarks that we made were, of course, the data in the regulatory impact analysis that is required to be developed along with the rule.

When we developed that analysis, we estimated that 2 million head of cattle would come in from Canada during the 12 months subsequent to March 7. We also had a lower bound estimate of 1.5 million head. There have been other numbers that have placed estimates, widely reported estimates, in the range of 900,000 head, substantially below ours. Those numbers are for calendar year 2005. Ours were for the 12 months following March 7. So one of the reasons for this discrepancy has been the timing, the time period that the estimates are based on.

Second, we put a large emphasis on a shift in slaughter capacity in Canada towards slaughtering cows, because cow beef, under the originally promulgated rule, could come into the United States. We estimated as many as 460,000 cows would displace fed steers and heifers in Canada, and those fed steers and heifers would come into the United States. Because, of course, we could bring in animals under 30 months, that was an important factor in our estimate of cattle coming in. And I have no idea what other people assumed regarding that displacement of cows for fed cattle.

The Secretary noted in his comments that we now estimate 1.3 million head. That estimate of cattle coming in would be for calendar year 2005, and it would reflect the Secretary's decision on February 9 that we are not going to take beef from animals over 30 months. Therefore, the shift toward more cows slaughtered in Canada won't occur. Therefore, they will slaughter more fed cattle, and those fed cattle won't come to the United States, and that is why we have lowered our estimates. So now, I believe, the Department is much closer to many of the estimates that are out there in the public domain.

Secretary JOHANNIS. And, Mr. Chairman, to put that in context, 1.3 million animals—last year in the United States, we have slaughtered about 32.5 million animals, so that is the context here that we are dealing with.

The CHAIRMAN. Less than 3 percent of the current slaughter of the United States or about 3 percent.

Secretary JOHANNIS. Right.

Mr. COLLINS. I might also add if you go back to pre-BSE days and you look at 2002 back to 1998, that 5-year-period, our average annual imports of Canadian cattle was over 1 million head. So we are moving toward normalcy.

The CHAIRMAN. Thank you.

The gentleman from Minnesota, Mr. Peterson, is recognized.

Mr. PETERSON. Thank you, Mr. Chairman; and thank you for being here, Mr. Secretary. Good to see you again.

I appreciate your comments and your testimony about wanting to be consistent and adhering to sound science. I think that is very good way for us to go. But I guess I am curious how we square the fact that we have got this rule for 30 months with Canada, and worked on this this long, and yet we have agreed to this situation with Japan where we are going to use 20 months. So can you explain to me how that is consistent? What is the science that says it is 20 months in Japan and 30 months in Canada?

Secretary JOHANNNS. Sir, I will just tell you straight up that I don't believe the 20 months is scientifically based. Japan claims that it had a couple of animals, right around 20 months, that had BSE. We have not been able to verify that, but that is the claim they make.

The decision to negotiate those terms was a decision that was made right before I arrived as Secretary.

I will say this, Mr. Peterson. I am not going to second guess it, because I think there is so much desire and interest to move cattle back into this Japanese marketplace that it literally was a negotiation that occurred and we ended up at 20 months, which I—the statistics I have, that would be about a third of our herd, if I am not mistaken. But, believe me, I would forcefully make the case that we should be at 30 months.

Mr. PETERSON. But it is too late to back up now.

Secretary JOHANNNS. Exactly. That has been agreed upon. My hope is that we can continue to move that ball down the field once we start moving beef into that marketplace.

Mr. PETERSON. Yes.

I was in Japan last week and the other thing that concerns me about that—and this—probably there is nothing you can do about this either—but we had this discussion, what, a couple of weeks ago about how we were going to determine that the cattle that had come in from Canada were under 30 months and all that sort of thing. They have got an ID system that will help up there some, and using dental, whatever it is.

But, apparently, in Japan we are going to use some kind of different program there as well, that they are going to use some kind of method of testing the meat to figure out how old it is or something, which I have never heard of before. But how did that come about?

Secretary JOHANNNS. Dr. DeHaven can explain, I think, the process we will follow in Japan.

Mr. DEHAVEN. Thank you, Mr. Secretary.

I would clarify, as the Secretary has said, that the 20 months is not based on science. We are viewing it as a marketing program. What is driving that is the two animals that the Japanese claim were positive, that they were 21- and 23-months old. So in order to verify the age for animals that young, dentition doesn't work as we are using with the Canadians.

The A-40 process is based on the speed with which bones in the vertebra, in the back calcify. So by measuring the relative degree of calcification of the bones in the vertebra, you can estimate quite accurately the age of the animals. So that in general terms is the process.

Mr. PETERSON. The other question I have—I don't want to get involved in this too long—but is there a process for segregating—like say the border opens and we have 30-month cattle come in from Canada. Is there some kind of a process where we are going to be able to segregate those cattle that are Canadian from these cattle that are going to go to Japan, if we ever get that opened up?

Secretary JOHANNIS. There is.

Mr. PETERSON. Is there some kind of a process to do that?

Secretary JOHANNIS. Yes. The rule is very, very extensive, describes in a very specific way how we are going to deal with that. Again, Dr. DeHaven will walk down through it, but it is a pretty tight regulation.

Mr. PETERSON. OK. Well, that—one other thing, Mr. Secretary, I just wanted to—in your testimony today, you said that your top priority as Secretary was going to be addressing BSE, particularly as it related to trade disruptions.

Apparently in the Senate, you said that protecting human and animal health was your top priority. Is that just some nuance of that? I would guess that your top priority is protecting human and animal health.

Secretary JOHANNIS. It is no nuance. It all fits together. It really does. Believe me, if I had any concern about human health or animal health in terms of this 30-month rule, it would cause me to act differently. But it does. It is all interconnected, in my judgment.

Mr. PETERSON. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Texas, Mr. Conaway, is recognized for 5 minutes.

Mr. CONAWAY. Thank you, Mr. Chairman.

Mr. Secretary, thank you very much for joining us today.

It all gets down to what we eat. Is there a way—this may be more simplistic than some folks like to hear it. Is there a way to test beef that has already been processed as to whether or not it is contaminated?

Mr. DEHAVEN. Unfortunately, we do not at this point have a test for live animals or a test for tissues other than a specific portion of the brain. A lot of tests are being developed, there is a lot of research being done to develop tests, but currently we don't have such a test.

Mr. CONAWAY. The point being though, I guess, is that you use the best science you have available at any point in time. Today we understand the risks of smoking. Forty years ago we didn't understand that risk, and we get better. I guess our duty is to continue to apply the best science as we get it.

Mechanically, we had a lamb processing plant closed in St. Angelo, Texas, because we couldn't get the lambs from domestic producers. And it cost us about 100-plus jobs because couldn't get domestic lambs to process. We hear that that is a risk to the domestic processors as well, because the domestic production isn't ramping up quick enough.

In my mind, it is simply mechanics. If I am growing beef in one part of the country and I have to ship it a long way off, that would seem to have a direct impact on my profits. Is that inaccurate?

Secretary JOHANNNS. I don't think that is inaccurate at all. If you have to ship that animal a long distance, not only do you have the shipping cost involved but you have the risk to the animal.

Mr. CONAWAY. Right.

Secretary JOHANNNS. There is danger to that animal in being shipped a distance, so I would assume that both would have an impact.

Mr. CONAWAY. The other thing is, if—this is not a static environment. If tests and science prove us wrong or prove something different, if Canada has other cases or we find, in relation to the two they have already had, how quickly can you respond to—based on the facts from what we know today in your decision today?

Secretary JOHANNNS. We can respond quickly. But there is a point to be made here. The minimal-risk rule is exactly that. It assesses the risk in a given country. Under the international standards, you look at the whole host of factors to determine how to manage—how to best manage that risk. That is the approach that is adopted here.

So we have said publicly on a number of occasions, every time we have been asked, that Canada could have a number of BSE animals, as could the United States, and still qualify as a minimal-risk country under this approach. And, again, this approach is accepted—in fact, it was an approach that was based on OIE standards, international standards.

Mr. CONAWAY. One last point. There is a great scene in a movie called “Erin Brockovich” where the role played by Julia Roberts is negotiating with some folks who are claiming that a particular water supply is not contaminated—it is the lawyers she is going to give this water supply to—and so she offers them water from the supply that they think has crippled all these children and killed all those children, and the lawyers don't drink it. If we were to sit down at a meal tonight with cattle that was 29 months and 28 days sold when it was slaughtered, would you and I share that steak?

Secretary JOHANNNS. Yes, we would. Without hesitation, I would share that steak. I just had a great steak within the last week.

Mr. CONAWAY. In Canada?

Secretary JOHANNNS. I would go to Canada. I wouldn't hesitate a moment.

Sir, when you are talking about this rule, quite honestly, we have so little risk. The day—on December 23, 2003, when we identified the first BSE case in the United States, I called a news conference for the next day, December 24. After that news conference, I said, this is my anniversary, and my wife and I have had a tradition since the very first anniversary of sitting down together on Christmas Eve and enjoying a great steak, and we are going to do that tonight, and we did. I wouldn't hesitate a moment.

Mr. CONAWAY. Thank you, Mr. Secretary.

Mr. Chairman, I will pass it back.

The CHAIRMAN. I thank the gentleman.

Mr. Secretary, I doubt very seriously the Senate brought Erin Brockovich into this.

Secretary JOHANNNS. That is true.

The CHAIRMAN. At this time, it is my pleasure to recognize the gentleman from North Carolina, Mr. Butterfield, for 5 minutes.

Mr. BUTTERFIELD. Thank you.

Mr. Chairman, I will waive my statement and submit my questions.

The CHAIRMAN. Very good.

I recognize the gentleman from Nebraska, Mr. Osborne, for 5 minutes.

Mr. OSBORNE. Thank you, Mr. Chairman; and thank you, Mr. Chairman for being here. I got to watch you for 6 years as governor, and it seemed like you had a lot of difficult issues that were not of your own cause or choosing and it looks like things haven't changed.

Secretary JOHANNIS. That is true.

Mr. OSBORNE. But I always was impressed by the way you were consistent, fair and well-informed, and we appreciate your approach.

I would also like to thank you for delaying the importation of beef over 30 months. I think that was a very good decision, and all of us appreciate that.

About 4 or 5 weeks ago I toured the State that you know very well. I talked to about 240, 250 cattlemen at 8 different sites, and I think part of our job here is to report to folks like you what we are hearing. I was a little bit concerned because I just wasn't hearing anybody that said we ought to go ahead and open the border. Finally, I did have one fellow who said we really are concerned that our packers are going to move north of the border. I think that has been brought out here today, and so there is that awareness out there, and they are concerned.

Also, there was a great deal of empathy for what is going on in Canada, for the cattlemen in Canada, and I often ask people well how would you feel if the shoe was on the other foot. So they understood that.

But I would guess that the big concern that I heard—and I would just like to bring this home to you—is that there have been four cows, I think, in North America that have been positive for BSE—maybe five, but at least four—and all of them apparently were infected in Canada. One of them, unfortunately, was detected when it came across the border, and it was alive. Now if it had come across in a box, it would have been a problem.

So I think what a lot of our cattlemen are seeing and saying, this bringing in live cattle is a big deal, because once an infected cow comes across the border it is no longer a Canadian cow. It is our cow, if it is alive. So they are pretty cautious at this point, and I know you are cautious and I know everybody is really concerned.

So, with that as a context, I would just like to ask a couple of questions. I read the whole report last night, and that was exciting reading. I can't imagine—I don't know how you guys do it.

But, anyway, a couple questions.

We have talked about the 30-month rule at times, and I believe Canada has animal ID system up there, but they don't apparently document birth dates. So I was just wondering if you were satisfied—or Dr. Collins or Dr. DeHaven—that we were able to accurately document those animals that are 30 months. Is there a pos-

sibility of getting somebody—some cow that is 36 months, or do we feel we have good documentation?

Secretary JOHANNIS. Dr. DeHaven.

Mr. DEHAVEN. Thank you, Mr. Secretary.

With regard to the Canadian animal identification system—actually, there are two systems in place, one that has been in place in the province of Quebec for about 5 years that does, in fact, require a birth date as part of that system.

The Canadian national system that was initiated in 2001, and has been required only in the last 8 to 14 months or so, has had a required entry in that system for a birth date. So, in fact, we are—if birth records or animal identification are not available to definitively determine the date of birth—using the same system that we are using in the United States to determine if an animal is over 30 months or not for the purpose of SRM removal, specifically using dentition.

We recognize in doing that we are erring on the side of identifying younger animals in that the time periods or the ages of dental eruption that we are using would tend towards identifying animals that are much younger than 30 months, as opposed to older. So we are erring on the side of conservative.

Mr. OSBORNE. One last question. I noticed in the report that the Canadian feed inspection agency, and I quote, said this in the report, that they have not been able to dedicate extensive resources to evaluating on-farm feed manufacturing or feeding practices to determine the level of compliance with the law. It seemed like most of the report was focused on feed mills and a little bit on rendering and, of course, there was some error there.

But I just wondered if that was a concern to you. It kind of raised my suspicions a little bit when I saw that they didn't—they admitted they didn't seem to be able to get a very good handle on what was going on the farm and that there could certainly be some deviations from procedures on the farm. I wondered if that was a concern of yours.

Secretary JOHANNIS. I can tell you, again, when you look at the whole rule and what we are doing here, animals under 30 months, SRM removal, it really is not a concern. The risk analysis is still very valid. The approach is valid. When we start talking about the older animals, we are going to do a separate risk analysis on older animals, live animals. So the answer to your question is, I certainly noted it.

It is certainly worth recognizing their admission in that regard. But, again, when you look at the constellation of what we are doing here, I am just absolutely comfortable with going forward on March 7, especially comfortable with the decision that we delay the meat, as you referred to, from animals over 30 months until we can bring along live animals over 30 months.

Mr. OSBORNE. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The Chair now recognizes the gentleman from North Carolina, Mr. Etheridge, for 5 minutes.

Mr. ETHERIDGE. Thank you, Mr. Chairman. Let me thank you for calling this very important hearing. I think it is important for the American people and for our consumers and certainly for the pro-

ducers as well. It is important to our country. Certainly the question regarding Canadian beef and cattle imports is a crucial one not only for us here at the hearing but all across the country and around the world. I have every confidence that my colleagues from the beef-producing States that produce a lot more beef than those in North Carolina can ask a few more questions that covers these interests.

But let me go off subject for just a moment, if I may, Mr. Secretary, because I don't know when we are going to have you again, and I have a couple of questions I would like to get on the record. If you can't respond to them here, I hope I can get a written response back, because I think they are important.

As you know, USDA is working on the implementation of the tobacco buyout legislation that Congress passed last year. Early in January, a number of us from the producing States wrote Under Secretary Penn to voice our concern about the development of regulations to implement that specific piece of legislation. In particular, we wanted the Department to make it crystal clear that buyout payments will continue each year, regardless of any problem that theoretically could arise with the collection of assessments. The paperwork has already been put out and cleared as it relates to the assessment piece.

I can't tell you how many farmers and bankers that I have heard from who want to know something about these guaranteed payments. As you can appreciate, this is a critical issue now as the crop year is beginning to start. They are nervous. It is tied to land. There are some serious problems across the Southeast.

While Congress directed the Department to tap the Commodity Credit Corporation funds to pay for the buyout payments, farmers and bankers want to see something in the regulations, as you can appreciate. Because, without it, bankers and other financial institutions will not be helped with the best interest rates if they want to discount and make the buyout up front and get a lump-sum payment.

Why is this important? Because the decision the Department makes could cost these folks millions of dollars in getting lower interest rates that will be available to them and ultimately would benefit an awful lot of consumers.

Since I have not heard back from Under Secretary Penn, I would say, sir, how does the Department plan to address this issue?

Secretary JOHANNIS. That is one, if you don't mind, I would love to take the opportunity to respond in writing. I will get your response here very quickly, because I note that sign-up on the individual contracts is coming up in mid-March.

Mr. ETHERIDGE. Yes.

Secretary JOHANNIS. So, in the end, you would probably like to have something from me in writing anyway on the issue; and I would be happy to do that.

Mr. ETHERIDGE. Thank you. I appreciate that. Because, with the sign-up, that creates a whole new problem for people making decisions ultimately this year, and I appreciate that. Thank you very much.

Let me move very quickly to just a couple of generic questions, if I may, and you may want to get back to me on these, also, because they deal with the budget.

The USDA budget plan for agriculture, as a commodity class, you mentioned how valuable value-added agriculture is and how near and dear it was to your heart. I happen to share that sentiment, being from a State that has a lot of specialty crops and small farmers. So, as someone who believes in value-added agriculture, I hope you will take a look at the budget that has been proposed by the administration, because the grant programs for value-added crops has been cut from \$120 million to zero.

[Secretary Johanns responded for the record:]

The \$120 million cut that you refer to is actually a cumulative amount of mandatory authority that was provided by the 2002 farm bill. Some of this amount was blocked for use by Congress in prior years. The 2006 budget simply extends the blockage for another year. The 2005 appropriations act provided \$15 million in discretionary funding for the same purpose, which is to make grants to producers for value-added processing of agricultural products. The President's 2006 budget includes \$16 million for this purpose.

I want to assure you that I am committed to supporting value-added agriculture. I want to emphasize that USDA's support for value-added processing has many different dimensions, including research, extension, and other assistance. The Department sent Congress a report on January 3, 2005 that provided information on the various programs to support value-added processing. The report also contains information for improving the coordination among these programs. I can assure you that we will give careful consideration to this matter.

Mr. ETHERIDGE. My other question deals with priorities. In your budget statement you mention that the budget reflects the President's priorities. That being the case, I hope you will share with me the reduction in gross income from farmers to 10 to 40 percent because of the priorities in the administration's budget and how would this be accomplished—and this comes, of course, comes from a letter from my colleagues.

I hope you can respond back to us on that, because I think that is a critical piece as it relates not just to farmers in our area but ultimately to help—it could have a significant impact on our ability to continue to produce and export.

Secretary JOHANNNS. OK. We will respond.

Mr. ETHERIDGE. Thank you, Mr. Secretary; and I appreciate that. Thank you, Mr. Chairman.

[Secretary Johanns responded for the record:]

One of the President's priorities, which I support, is to take action now to reduce the budget deficit. And one of the many proposals in the budget to reduce the deficit is to make some modest reductions in farm program spending. The President proposed reducing farm program spending by \$5.7 billion during fiscal years 2006–15 or an average of \$570 million annually. In comparison, USDA projects gross cash farm income will average over \$275 billion during calendar years 2006–14. Based on these projections, the proposed reduction in farm program spending would lower gross cash farm income by less than 1 percent. Obviously any reduction in Government spending for farm programs will be felt by those who currently benefit from these payments. And some producers would certainly receive smaller payments under any effective measure to reduce spending. However, when you look at the current record high levels of net cash farm income in the neighborhood of \$78 billion and the corresponding high level of gross farm income, it's not conceivable that the proposed reduction in farm spending of a few billion dollars spread over several years would have a particularly noticeable effect on the sector as a whole. In addition, the longer run impact of budget deficit reduction on improving macroeconomic conditions such as in helping keep interest rates low will be of major benefit to our farmers and ranchers. So to address your concern about the impact on our ability

to produce and export, I believe the ultimate impacts will prove to be favorable even though the short run impact will not be painless

The CHAIRMAN. Thank you.

The Chair now turns to the gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman. I thank the Secretary for his testimony.

First, I would ask a question that maybe isn't rhetorical, but it is going to be difficult to answer. That is, in the entire history of the United States of America, can you think of a single health issue, especially a meat safety issue, by which a country has committed more resources to when there has been less risk than BSE?

Secretary JOHANNNS. That is a really good question, and these folks have a ton more experience than I do. But it is hard to imagine. We devote enormous amount of money and time and effort and energy dealing with a situation where, so far, we have found one animal and, so far, we have not documented a single human case attributed to U.S. beef that I am aware of in this country.

Again, by any definition, when you talk about the rule that we have in front of us, which is meat from animals under 30-months and animals under 30 months and all of the safeguards in place, you have really just brought this down to virtually nothing. I don't think that is too strong a statement to make.

Under current science, it is just the most remarkable phenomena that we are spending the kind of resources that your question anticipates. Not that it is not important. It is terribly important. But we devoted a tremendous amount of energy to this.

Mr. KING. Thank you, Mr. Secretary.

I would point out that our tradition is a big old long chunk of prime rib in the middle of the table for Christmas, except for—and when it comes to beef over the age of 30 months and if the SRMs are removed, I will tell you that I will eat that, too, Canadian or U.S. and without a bit of a qualm and no fear—and I don't know that there is any science that would indicate that beef itself has any effect on whether a person might have detrimental effects from BSE.

Can you respond to that? As long as we are eating beef muscle tissue, just had the SRMs removed, is there any scientific indicator that that could be dangerous to anyone?

Secretary JOHANNNS. I will let Dr. DeHaven jump into that, because he is a science guy. But your observation again hits the mark. With the removal of SRMs and the consumption of the muscle meat, more of the current science says we are on safe ground. But, again, let me ask the Doctor to offer a thought.

Mr. DEHAVEN. Thank you, Mr. Secretary.

Congressman King, as you point out, meat is safe; and that is based on the research showing at what age, what tissues become infected in a research environment, and so that is the basis for our SRM removal. We know that those tissues in an infected animal at a certain age become a problem. The meat has not been shown to become a problem, whether it is from animals under or over 30 months of age. It is those tissues that we have specified as potentially risky materials that we are moving from the human food chain.

Mr. KING. Thank you, and I would also point out that we shared a roast beef dinner while we discussed these things, Dr. DeHaven, and I appreciate that.

I guess my concluding question here, unless something else arises, is that a question—it is my understanding that the Canadians are moving ahead with a radio frequency ID system and that, since they are moving ahead with that, it will add more credibility to their recordkeeping and the safety of their beef products. Can you, Mr. Secretary, envision a scenario by which the Canadians may have access to the Japanese, Korean and Pacific Rim markets ahead of that of the United States if they are able to accelerate in their process up there? I know that would be their intent, and I wouldn't blame them.

Secretary JOHANNIS. It is hard to know, just simply because they have their own negotiations and discussions going on, and they are in discussions with the Japanese that I am just absolutely not privy to.

I will offer this observation and that, again, industry is going to fight for its survival. Processing is locating in Canada not accidently. It is locating there because folks are making a rational decision about where to invest their money to best ensure a return on that investment.

So, as the chairman points out, the processing numbers increase. Well, what are we doing, we are creating a real competitor in the international marketplace, or contributing to it, is probably a better way. I don't believe we own the whole issue here, but this industry in Canada is trying to figure out a way to be an international competitor.

So, could I envision—I guess I could envision anything, you know. They are going to work to sell their product, just like I work to sell product here on behalf of the American producers, whether it is beef or fruit.

Mr. KING. I thank you, Mr. Secretary. And in 10 seconds I would say that if they establish an animal identification system with an effective trace-back, that might be the opening by which we see the Canadians have access to the Asian markets ahead of that of the United States.

Mr. LUCAS [presiding.] The Chair turns to the gentleman from North Dakota, Mr. Pomeroy.

Mr. POMEROY. I thank the gentleman.

Mr. Secretary, thank you for being here, and I am very appreciative of the chairman for calling this important hearing.

One Canadian-born cow detected with BSE in Washington State has caused so much problem for our beef export business, you can certainly understand why the prospect of 1.3 million Canadian cattle coming south causes great anxiety among the producer community, certainly in North Dakota, and across the country.

While I very much appreciate you being here to hear directly from us, I am pleased to note also that you will be in my State of North Dakota later this week, and I am wondering if you would agree to meet with farm groups there while in the State to hear directly from them. I think that would be something deeply appreciated by the ranchers I represent.

Secretary JOHANNNS. Yes. I will even do you one better. Because I am going to be there a short period of time on Friday. I do believe a meeting is being set up. But I think we are also working on a meeting or a time for me to return to your State I believe in April, if I am not mistaken. So, but I do believe a group is being set up before I speak on Friday evening.

Mr. POMEROY. We will always be delighted to have you in North Dakota, and appreciate you making yourselves available. One thing about Friday as opposed to April, it is still before the lifting of the rule on the 7th.

Secretary JOHANNNS. Right.

Mr. POMEROY. You know, one takes one's customers as one finds them, and it doesn't matter what the basis is that we want them to review our exports. If they don't take them and they have other reasons for not taking them, it seems to me we have to pay a lot of attention to what they are saying.

As we propose to open the border, I haven't heard much from the U.S. Department of Agriculture about whether we have vetted this idea with the very markets we have worked so hard to win back. Last week I was in Korea, and I met with—among others, I raised the concerns about their embargo with members of the Assembly, with the Foreign Minister, and with the Deputy Agriculture Minister with responsibility of trade. I was informed that a team was meeting in Seoul yesterday, and it was viewed by this assistant minister as a very substantive engagement by their government in resolving this issue. But what I didn't get a sense was whether or not we had asked them whether we complicate our case to win that market back by bringing Canadian cattle down.

So my question is, very simply, have we asked the Koreans what they think about this business of live cattle coming into our market from Canada as we seek to win that export market back?

Secretary JOHANNNS. My focus has been with the Japanese in the very short time that I have been Secretary. Our team at the USDA has had a meeting with the Koreans, probably a number of meetings, some predating my arrival a month ago.

I will share an interesting story with you. And, again, this is Japan. It really doesn't directly relate to your question about Korea, but it illustrates I think a very interesting phenomena relative to at least the Japanese consumer. There was a—I think it was a grocery store chain that still has U.S. beef in inventory, not a lot of it, but had some. Brought it out of inventory and served a rice bowl. Very recently. People stood in line to get that product, paid 5 percent more, and they literally ran out of supply.

I guess here is my point. I believe we can capture this market. And I believe, whether it is Korea or Japan or whatever, if they sit down with us and work through the science that is available, they will see that with the removal of the SRMs, in this case with animals under 30 months and meat under 30 months, from Canada, they are just going to see there isn't a risk.

Mr. POMEROY. Mr. Secretary, if I just might respond with what I heard in Korea. And that is an important market. Their export market, \$850 million worth of product in 2003. The trade minister, the ag ministry told me it isn't just the government that are keeping their eye on, in terms of—also, the government itself is very

concerned about the response of consumer NGOs that largely determine the perception in the marketplace of U.S. beef products. That single incident in the State of Washington has caused beef consumption in Korea to decline significantly. And I believe, again, it is a matter of hypersensitive perception, and anybody that has ever sold a product knows you have got to listen to your customer carefully and you have got to respond to the concerns of that customer.

That is why I come back from Korea very concerned that we are proposing to rush forward, bring these Canadian cattle down, that is going to make it more difficult for us in the end to win back that market.

I thank you for listening to me, Mr. Secretary, and I especially thank you to agree to meet with North Dakota ranchers. Thank you.

Secretary JOHANNIS. Thank you very much.

Mr. LUCAS. The Chair turns to Mr. Fortenberry.

Mr. FORTENBERRY. Thank you, Mr. Chairman.

Hello, Mr. Secretary. Nice to see you again. I understand you may be returning home this week.

Secretary JOHANNIS. I will be speaking, so I look forward to it.

Mr. FORTENBERRY. I hope you have a nice trip. I will be back here working.

Mr. Secretary, as you know, I live in a State which produces 20 percent of all the beef produced in the United States. Cattle outnumber people 4 to 1. Exports are essential to the well-being of Nebraska agriculture. And we are dealing with two issues here that are separate but inextricably intertwined, the reopening of the Canadian border and potential resumption of beef exports to Asian markets.

In that regard, my question is similar to Mr. Pomeroy's in that in your conversations with Japanese officials what has been their reaction to this border reopening? And I just have to tell you, I think there is a growing sense of impatience in the Congress with the Japanese. I signed a letter along with some of my colleagues in the House and sent it to urge the Japanese Ambassador to move on this issue and move quickly given the good-faith effort that you have undertaken and to resume these markets. It is critical to our well-being in Nebraska, but again with the declining trade balance in the United States it is an essential question for our entire country's trade balance or issue of trade imbalance. So if you could address that, that would be very helpful.

Secretary JOHANNIS. Yes. Japan is very definitely a leader in their region, and I strongly believe that the decisions made in Japan will have an impact on how other countries deal with us and work through this issue. As the Congressman from North Dakota indicated, there clearly are two countries that really define the rest of the marketplace, and that is Japan and Korea. They make up the vast majority of what is left in terms of recapturing the marketplace.

I met on a number of occasions with the Ambassador. There has never been a link drawn between Japan opening up their border and the work that I was doing in terms of the minimal risk rule with Canada. In fact, I will ask one of these two gentlemen to correct me if I misstate this, but I think when Canada first found its

first BSE case, I don't believe Japan closed their border to Canada. Is that right, Dr. DeHaven?

Mr. DEHAVEN. I believe they did. They did not close their border to the United States, however.

Secretary JOHANNIS. OK. So even though we were trading with Canada and Canadian cattle were in our State, they did not close the border to us.

My point is this: Again, in every discussion I have ever had with Japan my emphasis is to make the decision on good science, otherwise it is just the politics of the day. I believe, if I were to do anything inconsistent with that position in dealing with Canada, I feel strongly it would be devastating in terms of the discussions we are having with Japan. I think they would come back and say, well, Mr. Secretary, you talked to us about making decisions upon sound science and you are not doing that, and I just think it would make it impossible for us to move that forward.

The other thing I would say, because of the activity in the House and the Senate, because of the activity from the President on down, I do believe the Japanese understand this is an enormously important issue. I am absolutely convinced of that.

Mr. FORTENBERRY. To follow up with you on one more question. You mentioned the cattle 20 months and under represent about a third of the herd. Do you have a timetable on which the resumption of exports for that age cattle will fully begin? And then, what do you foresee—or cattle up to 30 months—in terms of a timetable with the Japanese?

Secretary JOHANNIS. I wish I had a timetable, Congressman. I don't. I have been pressing Japan to set a timetable for agreement on the 20-month animals, and then to start work in terms of moving beyond that. To date, there isn't a timetable for that. But that is the point; that is, every meeting I have had I said we need a date. So that continues to be my message in working with the Japanese.

Mr. FORTENBERRY. So where are they in their process? At what level of governmental decisionmaking are they in their process that would move us toward an ultimate date, or at least give us some broad parameters for an understanding of when full resumption of exports at least 20 months and under would resume?

Secretary JOHANNIS. They have approved, if you will, the A-40 system. I think that is fair to say. They have publicly indicated their satisfaction with that approach. They have moved beyond the 100 percent testing which was so much a part of the early discussions. But there is still a regulatory process that needs to be undertaken which, according to my understanding, has not occurred yet. So that process needs to be completed.

Mr. FORTENBERRY. Thank you, Mr. Secretary.

Mr. LUCAS. I thank the gentleman.

The gentleman from California, Mr. Baca, is recognized for 5 minutes.

Mr. BACA. First of all, thank you very much, Mr. Chairman, for having this important meeting, especially as we deal with human health safety for the American people.

And thank you very much, Mr. Secretary, for appearing once again here and with all of us on this open hearing right now. I

have a couple of questions, and I would like to start with the very first one that I am very much concerned, Mr. Secretary, that the feeder cattle and the cattle supply outside the feed lot in Canada are currently at a record level and nearly double what they were the year 2002, a high watermark year in terms of feeder and fed cattle import from Canada.

What efforts has USDA made to identify and implement legal means to gradually resume the trade with Canada so that we can prevent a shock to the U.S. cattle marketplace and mitigate the very real potential for short-term economic harm to U.S. beef cattle producers?

Secretary JOHANNNS. I will offer a couple of thoughts on that. Again, just by the terms of the rule, we are talking about cattle under 30 months.

The other piece of it is that, if you read through the rule, there is a significant amount of complexity in how this is going to proceed. It is just the nature of the process, the verification issues, the branding issue, and we could go on and on. It is very extensive. It just simply is going to take some time for all of that to occur. Every one of those animals, whether it comes over in terms of boxed beef or whether it comes over on the hoof are going to have to be transported. There is logistics involved in that. There is an inspection process. And as Dr. DeHaven observed a week or so ago, these things just take some time to get into place.

Now, again, Dr. Collins has looked at this and he estimates about 1.3 million head. The comparison that I draw there is last year we slaughtered about 32½ million head in the United States. He has also made a price estimation and says it could impact the market in the United States, the cattle market by about 2.6 percent. Translated, again—you know. So I think we can offer those things to you.

Mr. BACA. When you look at the impact of the cattle market being 2.6 of the market, I heard you make a statement earlier that jobs lost, that we would lose jobs or the possibility. Do you have a number of how many jobs would be lost here in the United States and what impact it would have on our cattle industry producers here?

Secretary JOHANNNS. That is a concern that we have when we look at how many jobs are currently going to be lost, what is the revenue? Are we really being cost effective in terms of the short term, long range as well?

Those are important factors. I can tell you that the USDA has not done an economic analysis on jobs lost. The numbers in terms of processing capacity going to Canada—

Mr. BACA. But shouldn't we have done this before this begins to happen? Because as we start putting a plan into place, we have to look at how many jobs are we losing here. And are we doing outsourcing in terms of what even Canada is going to do based on a statement that you said earlier, that they would be producing and processing located in Canada. So it is going to affect us and our industry here, and I am very much concerned with our cattle industry here, too, as well the jobs that are here that are maintained not only in terms of goods but I am also very much concerned with the safety aspect, too, as well.

And I like the word that you used, you used sound science. Well, sound science means let us not take a risk, too, as well. And if there has been detection of BSE in that area, then we know very well, are we doing that in reference to what needs to be done? And is our consumers, are they totally aware of the products that they are going to buy? Because we know under the agriculture bill originally we wanted to put a provision that would have had the labeling on there. At least they would have known from a safety perspective what they were buying and where they were buying it.

Secretary JOHANNIS. The country of origin labeling, which I think you are referring to, I don't think was ever designed to be a safety measure so much as an identification of—

Mr. BACA. But it should be probably a safety, because now we are talking about what has been detected right now. And our consumers want to know the product that they are buying. Is there an effect on them? And we want to make sure that we use sound science and the safety is still there, regardless of whether you would buy it or not. But at least that consumer then has an opportunity. That is just one aspect of what I am concerned with.

Let me ask another question. You recently stated that it was not scientifically consistent to allow meat from older Canada cattle but not the cattle themselves to enter the United States. Why did the USDA regulators initially decide to include meat from older cattle in the January 4 rule?

Number two, what did your expert panels recommend with regard to this aspect of the rule?

Secretary JOHANNIS. The why is, I will be just very blunt with you again.

Mr. BACA. I hope so.

Secretary JOHANNIS. When you look at the whole idea of allowing meat in from animals over 30 months but not allowing the live animal in, again the scientific consistency of that just quite honestly escapes me. There is probably an argument that can be made that it is a different risk analysis and the SRMs have been removed and therefore the SRM product is on that side of the border and not on this side of the border, et cetera, et cetera. But the more I delved into it and the more the issue was raised with me, I just felt very strongly that the scientific consistency just simply was not there and it made sense to hold that part of the rule while we did a rule on live cattle over 30 months. And that is as straight as I can be with you. I just didn't think it was consistent from a scientific standpoint.

And the other issue you raised, sir, was—

Mr. BACA. What did your expert panels recommend with regard to that aspect of the rule?

Secretary JOHANNIS. Well, they made the case that there were differences that were considered, that if the SRMs were removed from animals over 30 months that there was virtually no risk. But it kind of begged the question in my mind, well, if you were to do that on this side of the border, doesn't that get you there? In other words, why not do a rule that consistently says you can ship the animals over to this side of the border for slaughter? Again, you kind of get tied around the axle here. And I just thought, in terms of the scientific approach, it made sense to put that one on hold,

move animals over 30 months, deal with that risk analysis, and hopefully bring those forward in the end in the same time frame. So that was the decision I made.

Mr. BACA. I know that my time has expired but, Mr. Chairman, can I submit the additional questions for the record and then my statement as well?

The CHAIRMAN [presiding.] You may indeed.

Mr. BACA. Thank you very much.

The CHAIRMAN. The gentleman from North Carolina, Mr. Hayes, is recognized for 5 minutes.

Mr. HAYES. Thank you, Mr. Chairman. Thank you, Mr. Secretary. You come very highly recommended by my fellow who has been here most of the afternoon, Coach Osborne. So you don't get a better recommendation than that.

We appreciate all the things that you have done coming here today, putting science and the facts on the table so that the people can see them. It is somewhat of a complex issue, again it is fairly basic.

I want to commend you for your work in trying to reopen our trade with Japan. That is vitally important. As hard as you have worked, the process still, at least to our farmers and ranchers, seems to be going a bit slower than they would like to see it happen. What can we as a committee and the Congress do to again help you and your Department in your efforts to reopen those borders?

Secretary JOHANNIS. Every time a House Member or a Senate Member explains forcefully the importance of that border reopening it underscores to the Japanese that I am not out here alone, that people here on Capitol Hill are very, very concerned. The numbers are obvious. We are talking about 1.3 million animals in Canada. Well, if you add Japan and Korea together, you are just about there. I don't remember the exact number, but very, very similar. It is more.

So every time, sir, that the House and the Senate step forward and say enough time has passed, we have done the scientific work, we have done the technical work, it is time to pull the trigger and make a decision, I believe it supports what I am saying to the Japanese, which is, look, this is a very serious issue here, this is an issue quite honestly that at some point there could be serious consequences to our relationship. And so that is what I would offer. Every time that happens, I believe that supports my initiative.

Mr. HAYES. I hope this hearing today, at least from my perspective, has done a lot to reinforce what you have just said. And the material prepared by staff, yours, ours, and others, has been very, very thorough, and it shows the degree to which you all have looked at the process both from USDA, the industry, packers, everybody's perspective, again, to make sure that food safety and ultimately borders and markets are all consistently protected in the right kind of way. So I think that will have an effect.

Recently, the Taiwan Government leadership has changed. Have you and the USDA approached the new leadership talking about the issues that we are talking about today, opening the borders for beef as well there?

Secretary JOHANNNS. I have not talked to the new leadership, but I can tell you Taiwan has been very, very active in this area, we hope moving toward reopening its border. In fact, I believe Taiwan had a group in Nebraska in December, if I am not mistaken, looking at facilities or processing or whatever. So, again, our goal is not just Japan, although it gets a lot of attention because it is the largest, but our goal is to normalize trade worldwide based upon good science, based upon sound science. And that is what we are heading out to do.

Mr. HAYES. Well, we appreciate that. Our farmers and the USDA have done I think an admirable job, and we will certainly continue to increase our efforts to make sure that our trading partners around the world, and certainly folks in Japan and Taiwan fit that category very well, are aware of your efforts, and thanks to all of you all for being here today.

I yield back my time, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Washington, Mr. Larsen, is recognized for 5 minutes.

Mr. LARSEN. Thank you, Mr. Chairman. And, Mr. Secretary, thank you for appearing before the committee. And I have relatives of relatives in Nebraska who speak very highly of you and your time as Governor there, and I want to pass that on to you. And I represent seven districts in Washington State who have a lot of things going on in agriculture there. But as a representative from there, I want to thank you for your work in preventing Vietnam from blocking the importation of Washington beef. But I am concerned there are similar demands from countries such as Kuwait and Saudi Arabia that will set an unnecessary precedent. In fact, the effort there is to block strictly Washington beef, not U.S. beef as a whole but only beef from Washington State.

So I wanted to just ask you about that situation and ask you to continue your efforts by countries that want to block strictly Washington beef. Is the administration in fact continuing to work this issue, and can you fill me in on the steps?

Secretary JOHANNNS. Here is what I would offer. Beef in the United States is safe, and I say that all across the United States. I don't exclude any State. Beef in the United States is going to continue to be safe. With the minimal risk rule, beef in the United States is going to continue to be safe even with the reopening of the Canadian border.

This is a very integrated market in our country, and how do you draw a curtain around any State? We trade cattle back and forth, we sell cattle at sale barns. When I was growing up, we bought bottled calves at sale barns and taught them how to drink out of a bucket and eventually feed them up and sold them. If we start carving out areas in the United States, I don't know how you would possibly manage it.

So that is my philosophy on this. And, again, I just reiterate, based upon science, our product is safe. I have no hesitancy, no qualms in saying that whatsoever, and I won't have a bit of qualm in saying that on March 8 when this rule is in effect.

Mr. LARSEN. I appreciate that, and appreciate your commitment to deal with the specific issues as well facing Washington beef pro-

ducers in that regard. Washington State University's animal diagnostic laboratory is one of seven surveillance labs in the detection of BSE. In June of last year, the USDA began their expanded surveillance program with a goal to test roughly 250,000 cattle by December of this year. Once the school is completed, what is the USDA's plan going forward, and what should a university like Washington State University plan for post-December 2005?

Secretary JOHANNIS. What we have done to date is we have tested about 250,000 high-risk cattle. And what we are going to do as we get toward summer, we are going to evaluate how we are doing. We will look at areas of the country. We will try to make sure that all the bases have been touched in this enhanced surveillance. And I will tell you no final decision has been made on what surveillance may or may not look like in the future. I also committed to the Senate Agriculture Committee that I would take a look at the shape of the rules. Is there an opportunity to tweak something here and tweak something there because of the information? It is possible. I will tell you this, because of surveillance we have a tremendous amount of information at our disposal that we did not have 6 months or a year ago. I think it has been very helpful. I think the money has been well spent. What the new world will look like I wouldn't even hazard a guess about that other than to tell you that we will sit down and in a very transparent way we will try to explain what we are doing and what we found from the surveillance process.

Mr. LARSEN. Well, I would just remind you to obviously keep the universities in mind as you move forward on that. And with my few seconds left, I will just put my oar in the water. You have heard it from practically every member of the committee I am sure about Japan and opening up the markets there, and want to be sure from Washington State's perspective we think that is a good thing, too, and want to support your efforts in doing that.

Secretary JOHANNIS. Thank you.

Mr. LARSEN. Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Michigan, Mr. Schwarz, is recognized for 5 minutes.

Mr. SCHWARZ. Thank you, Mr. Chairman.

Mr. Secretary, in the real world I am a surgeon. And I wonder frequently when people talk to me about bovine spongiform encephalopathy if—it is a real mouthful, and I think it tends to make people panic sometimes. And then you say, well, it is a prion, and, well, it is not a virus, it is not a bacteria, it is a prion. Well, what is a prion? A non-DNA piece of protein within a cell. And yet—so the question—and I would ask your two colleagues from the Department as well. And you may not want to answer it, and it is OK if you don't want to answer it. Is this not much ado about nothing because we know that it exists and we know what happened in the U.K. But it seems to me that this country has done a superb job in protecting its beef, that Canada has done a superb job in doing the same. And the impression that I get is that our good friends and trading partners in the eastern atmosphere may even, with the reassurances that we have given them, the assurances and reassurances that we have given them, pushed the panic

button a little bit. And as you approach these folks, is that one of the arguments that you use, is just keep your cool here, this is not something that is knowing going to taint the beef supply in the entire world?

It is something that we have got our arms around. Our beef is safe. Please don't hit the panic button. Has that kind of a conversation been held?

Secretary JOHANNNS. It has over and over again. Our beef is safe, and so it is a very easy thing for me to argue. These days I can tell you that without any hesitation, and again I will tell you that on March 8 with the implementation of the minimal risk rule.

The other thing that we preach over and over again is we need to make these decisions based upon the science. Otherwise, our trade relationships will depend upon the politics and the given country and who is jerking the chain of whomever. That is really what it will come down to. And then you don't have a trading relationship, do you? You have whatever is going on. And that would be devastating to agriculture in the United States.

Minimal risk approach is exactly that, it is designed to do a very thoughtful, transparent, thorough evaluation of risk, and then make a determination as to what should be in place to deal with that risk. Your observation is correct. We have had one animal in the United States, there have been three in Canada out of millions of animals, millions of animals. We studied their feed ban, and we come back and we find that they have a robust inspection program. They are doing everything they can, as we are, to implement the feed ban. Their feed ban took place on the same day ours did. It wasn't a recall, as you know, it is not like we went out and grabbed all the bags of feed and hauled them off somewhere and destroyed them. We said, if you have feed in the bin, you can feed it out. If you have feed in the inventory, you can sell it. So there was some phase-in here.

The remarkable thing about all of this is that we keep testing animals every day. We kept saying to people we think we are going to find some BSE animals with this kind of testing. So far we haven't. It has been a very, very remarkable thing. And then, Doctor, Congressman, as you know, you get under 30-month animals and beef from animals under 30 months with this rule, and, gee, you remove the SRMs and you have just basically brought this down to a risk that is so low that, again, I have no hesitancy whatsoever in telling you we have a safe food supply and it is going to continue to be safe.

Mr. SCHWARZ. Our testing is reliable?

Secretary JOHANNNS. Our testing is reliable. If we see an inconclusive test, we do further testing. Our testing is reliable.

Mr. SCHWARZ. And the gold standard is done only at Ames, is that correct?

Secretary JOHANNNS. Yes.

Mr. SCHWARZ. Thank you very much, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from California, Mr. Costa, is recognized for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman, again, for hosting the Secretary and the importance of this hearing.

Mr. Secretary, we do appreciate very much your attentiveness toward this effort. I have two questions. As you have stated, this is among your highest priorities as Secretary, and I think with all the questioning that has taken place this afternoon, no one doubts, and I think everyone shares, your opinion that American beef is among the safest in the entire world. And not only that, but we have been doing more longer and harder to ensure the safety of our beef and all of our food products.

I want to kind of go back one more time since whether or not we agree as to whether or not the date next week on March 7 is proper in the lifting of the ban and move to the issue of the other markets, Japan, South Korea, Taiwan, and Hong Kong, because there was a reference before you earlier today that we may not have focused on Hong Kong. And I want to paraphrase your statement, because it seems like almost everything has been done and certainly the Congress is trying to do what it can do, and you responded in part to the question by our colleague Mr. Hayes a moment ago. But you say in your statement: We are aware that the decision to resume trade in this market will set an important precedent for other markets. You also say that: We have endeavored to use science, the best science for ongoing efforts. You have continued to indicate that our efforts to reopen these markets have drawn on every resource of the Federal Government at the highest of political levels. You reinforce that by your comments about meeting with Ambassador Kato and your counterpart Minister Shamira on the importance of this issue. You further went on to talk about Ambassador Baker's efforts. And then you talked about most recently on February 19 Secretary of State Rice personally raised this issue in her meeting with the Japanese Foreign Minister.

I guess my question, simply stated, is, after all of this effort over a year now, what possibly could be left to open up these markets, notwithstanding the efforts on March 7 and the impact of the Canadian border, but in Japan, in South Korea, in Taiwan, and in Hong Kong? I mean, it seems like, based upon the testimony here and the chronological order of events, that we have done everything. And I guess we are sharing with you our frustration, Mr. Secretary, because of all the hard work and all the energy and all the effort that has been put forth, what possibly is left to be done?

Secretary JOHANNIS. I can tell you this. I think from a technical exchange of information, from a scientific analysis, from all of the things that the USDA can possibly do, we have done it all. Another fact-finding mission, another whatever by Japan, just simply is ploughing old ground. That ground has been plowed over and over again. Again, we are making progress, but it is painfully slow. If I would have been here for a hearing 8 months ago, we would have been debating 100 percent testing. If I would have been here for a hearing just a couple of months ago, we would have been arguing about the A-40 approach. And those things are now behind us. I really believe that it is now at a point where the Japanese Government has to signal that we have met their requirements, which I feel very confident we have, we have negotiated down to 20-month-old animals, which quite honestly you could criticize us. I am arguing 30 months over and over again. But—

Mr. COSTA. That was a concession on our part.

Secretary JOHANNNS. That was a concession to try to get that market open. And I will assert very, very strongly again, every time a House Member or United States Senator forcefully explains how important this is to their district and to their State and to their country, that message is being heard. I met with the Ambassador last week to explain that and handed to him the letter that had been circulated by the United States Senate. And I think 20 Senators had signed on to that. The message is getting through. But I believe we are beyond scientific analysis. We have done that. We have been there, we have done that, and it is now time for the decision to be made in Japan.

Mr. COSTA. Thank you very much, Mr. Chairman.

The CHAIRMAN. I thank the gentleman.

The gentleman from Kansas, Mr. Moran, is recognized for 5 minutes.

Mr. MORAN. Mr. Chairman, thank you very much.

Mr. Secretary, thank you for joining us again. You have in my opinion done an admirable job of testifying this afternoon. Any qualms I had about you becoming the Secretary of Agriculture were relieved when you hired a Kansan to remain as your chief of staff. We are grateful for that cooperation between our bordering States.

Mr. Secretary, to pick up on what you just were saying about the letter from the Senators and the time for Japan to make a decision, I am a Member of Congress who is exasperated not at our own Government, I think our Department of Agriculture, our Secretary of State, our United States Trade Representative have advocated, have taken the necessary steps, have demonstrated on a scientific basis how valid our position is, how invalid the position of the Japanese are. And I just would say for the record today that I think the Japanese have a lot at stake in this issue. This has been a long-term bilateral trade relationship that we do not want to damage. We have a lot to gain by trading with the Japanese; they have a lot to gain by trading with us. They have a significant trade imbalance. We buy much more from the Japanese than they sell to us when it comes to all goods and services. In the agricultural world, we sell a lot of agricultural commodities to Japan; they sell us fewer. This is a relationship that is important, I would think, to both countries. And we will continue to work with you and others to try to communicate to the Japanese that the time has come for action, that it is important for them to make appropriate decisions. And I would—I know this is a hearing related to the Canadian border. I would want to give you the opportunity to again reiterate the importance of this issue, resolving the Canadian border issue as it relates to trade with Japan. Is there a connection in making a decision different than what you would propose with this March 7 deadline?

Secretary JOHANNNS. The connection again, if I were to send a signal to the Japanese that I will talk one way with them and operate differently with Canada, I believe it would have a devastating impact on my future credibility in working with that marketplace or, for that matter, any marketplace, again, if phytosanitary and sanitary issues are becoming the barrier of choice in many parts of the world. And that is terribly unfortunate because it is disruptive to

trade. And American agriculture needs the opportunity to trade. It is just as simple as that.

So the answer to your question, very directly: I cannot act one way and speak in another way with a different country. Everything we are doing here is being watched under the microscope. And so, again, we have to base our approach—and, again, I would forcefully argue that we should be at 30 months with Japan. But I understand. Negotiations occur. The desire was to start moving product into that market, reestablish our place in the market. So I won't second-guess that. But the science would seem to indicate that with the safeguards in place there just isn't a risk.

Mr. MORAN. And throughout the course of your term as Secretary of Agriculture my guess is that you will be before this committee, you will meet with us and encourage us to support trade agreements?

Secretary JOHANNIS. Yes.

Mr. MORAN. It has been a significant component of the economic viability of agriculture in this country. I think one of the things that has to take place, and this again goes back to Japan, for us to continue to support trade agreements we have to have the ability to enforce those trade agreements. And when other countries treat us unfairly, there has to be a response.

So, again, I support your efforts. I commend you for the position that you have taken in regard to the trade with Japan.

It does seem to me in regard to Canada that one of the positions that you have advocated and justifications for your March 7 decision, or the decision that takes effect on March 7 is the loss of packing jobs, the loss of meat processing capacity in this country. I just wanted to see if you could quantify what has occurred or what you predict may occur if the Canadian border is not opened. And then, is there a consequence, a price consequence to the livestock, to the cattle producer in Kansas or Nebraska by that packing capacity departing this country? Is there a consequence beyond just the packing companies? Is there a consequence to the person who raises cattle?

Secretary JOHANNIS. This is probably so obvious that you will laugh at me when I say it. But cattle will follow processing. I guess that is pretty obvious. They process cattle, so—

Mr. MORAN. You were polite to take the approach that it was not my question that was so obvious, it was your answer that was obvious.

Secretary JOHANNIS. But it truly is obvious. And these aren't our numbers, but people who have looked at that processing capacity in Canada have used numbers like 15 to 20 percent increase, projections of 30 percent increase in processing. Well, of course that is going to have an impact. All of a sudden you have a competitor that is now building their processing capacity. If in fact you agree with the rather obvious statement that cattle will follow processing, it is going to have a long-term impact. They are doing some rather remarkable things with animal identification, et cetera. This industry is going to fight to succeed and to survive just like we would in the United States. And so there may be some short-term gain in the suggestion that the rule be postponed 6 months or a year or that we try to stop it entirely. But I believe the long-term con-

sequences for agriculture and specifically the cattle industry have a lot of downside to them. And I think the next round of hearings, if that were to occur, is going to be, Mr. Secretary, why did you let the processing jobs go up to Canada?

Mr. Moran. Mr. Secretary, thank you very much. You don't have to look any further than southwest Kansas, Dodge City, Liberal or Garden City, KS to see that cattle follow processing. Thank you, sir.

The CHAIRMAN. I thank the gentleman.

Mr. Secretary, we are nearing the end. It appears that the gentlewoman from South Dakota, Ms. Herseth, will get the final word. Actually, I will get the final word, she will get the last 5 minutes of questioning, however. The gentleman is recognized.

Ms. HERSETH. Thank you, Mr. Chairman. And, Mr. Secretary, it is good to see you again. I know a lot of questions have already been asked that I was interested in, and I am sure there will be written questions submitted, too. I just want to tease out a few things, if I might, under the proposed rule. And this follows a little bit on some of the questioning of Mr. Peterson earlier. But under the proposed rule, will Canadian animals be required to be segregated from non-Canadian animals when they come into the country?

Mr. DEHAVEN. No. They will obviously come into the country as a group in sealed conveyances. Once they enter a feed lot, they could in fact be mixed with domestic cattle. When they then go from the feed lot to a slaughter plant, they would have go as a group of Canadian cattle identified obviously with Canadian tags and the brand.

Ms. HERSETH. So that is how we are going to be able to distinguish then the Canadian beef from cattle over 20 months isn't commingled with beef destined for Japan once we reestablish that market? So you are saying, if the animals aren't segregated at the feed lot, they then have to be segregated at the point that they go to slaughter based on tags. And then that is how we are going to prevent the commingling of the Canadian beef, the Canadian cattle over 20 months being commingled with the beef that is destined for Japan?

Mr. DEHAVEN. Congresswoman Herseth, if that becomes an issue, indeed the process you described could be used for that purpose. We have no indication that that will be a requirement for opening up the markets in Asia. However, the fact that we do have Canadian identification, the animals that go to the feed lots that originate in Canada will have a brand on their right hip that identifies them as Canadian. And I would also bring up the point that prior to the time when we had identified the cow in the United States on December 23, we had a program in place where we were certifying for the Japanese that we were not sending them any product from Canada. So we could certainly reinstitute that as well.

Ms. HERSETH. OK. Well, Dr. DeHaven, I appreciate that you bring up—I am going back to December. Because you recently dispatched, Mr. Secretary, a group of scientists from USDA to go to Canada to conduct an assessment of the country's ruminant to ruminant feed ban. My question is why would you do this only after

announcing that Canadian cattle would again be allowed into the country on March 7? In other words, was this not an activity that should have been undertaken before USDA announced that it was reopening the border?

Secretary JOHANNNS. That decision was actually made just before I arrived. They left on the first Monday I was in office. There were—really, I believe what drove that decision was there was an animal that was found that was younger than the feed ban.

Ms. HERSETH. So it was just, it was—even though the proposed rule to characterize Canada as a minimal risk country, there weren't any concerns prior to that one younger cow that were raised with regard to effective implementation of the ruminant to ruminant feed ban in Canada?

Secretary JOHANNNS. Boy, you have kind of drawn on my—well, you have drawn on time before I arrived, and so again I will defer to Dr. DeHaven to help with that answer.

Mr. DEHAVEN. We have a long history of working with the Canadians in a number of disease programs and activities. In fact, if you look at our BSE programs between the two countries, they are almost mirrors of each other in terms of when we instituted import restrictions, when we in fact instituted those feed bans in August of 1997 that are very, very similar. Our surveillance programs are very similar. Knowing their infrastructure and their system, we had—and based on the findings of our report, had reason to have confidence in the effectiveness of their feed ban.

Ms. HERSETH. I am going to stop you there just because I want to get one last comment in before my time is up, and that is to address the issue that Mr. Moran was pursuing and that I posed a question to the prior panel. And that is this whole issue of the change in the structure up in Canada of the industry and a focus on the processing and a concern that at some point our cattle may have to be shipped up to Canada to meet the demands there, and that we lose jobs in the processing sector. And I know that there have been a number of important decision memos within USDA that talks about the impact to the meat industry, and I am sometimes concerned about whether or not there is sufficient attention to the cattle industry and consumers at the same time that we are looking at the impact to the meat industry.

But I question whether or not if U.S. producers could be assured more long-term profitability through enforcement of trade policies like the EU beef ban and also reestablishing these export markets, that you wouldn't see an increase of supply being provided by U.S. producers with that longer term profitability to meet the demands of the processing and packing producers here in this country, given that we have the infrastructure, that it exists, and that perhaps it has been exaggerated the claims that we would be losing the processing industry to Canada. If you would care to comment.

Secretary JOHANNNS. With all due respect, Congresswoman, here is where I find your question, again, with all due respect, to be somewhat confusing. This industry, like all of American agriculture, depends upon foreign markets for its success. Our ability to open markets and market our products is hugely important. It is hard for me to overstate the importance of that, and so to isolate

an industry with your question I am not sure is fair to the whole picture, and I think that is where I am being asked to go here.

The whole key here is that we do have open markets based upon good scientific decisions, and that is what we are trying to lead the world in doing. Otherwise, your observation at least in part is right that you are going to constantly be bumping into these issues, and our goal is to try to lead the world, if you will, in saying, look, the important thing is we need to base these decisions upon good science. And if the science is there, the market needs to be open.

The other thing I will offer to you is that we consider the economic consequences, but I don't believe I am empowered by law to make a decision solely based upon economics. And I again believe that I have got to focus on animal health and human health. And you can debate me there, but it is very true. We consider it, but I think I have to again focus on the science and animal health and human health.

Ms. HERSETH. Just one comment in response, though. I understand that, but my point is when you talk about losing processing to Canada, you are considering an economic; it is just depending on which economic impact on which part of the industry is being evaluated. And I guess I am suspect of the claims that we are jeopardizing our processing industry given that we have the infrastructure in the United States and that now many of our producers are actually experiencing a level of profitability whereas many were struggling throughout a good part of the 1990's, that in effect we can meet the demands of many of our packers, whether they are small or larger, if—and not that we indefinitely delay opening the border, until we have sufficient verification we reestablish the export markets that we are in a position with our domestic livestock industry to meet the demands of the packing industry within the United States.

Secretary JOHANNIS. My only response to that would be, if I went to Japan and they said, Mike, here is where we are headed, we think we can meet the needs of the Japanese people, we are happy to do that here, and so go sell your beef someplace else, I mean, I would be more than livid. And, again, I think we can have a great debate here, but I have got to keep coming back to this notion that if the science is there—and I believe very, very strongly it is—then in order to have orderly international trade and credibility in the international community, we have to make the decision on that.

And are there other factors? Sure. Did Keith do an economic analysis? Yes. But I don't think I could grab that and say this is my only reason for deciding in the way that I did. I think I would be outside the bounds of Federal law on that one.

The CHAIRMAN. Mr. Secretary, thank you very much. I have to commend you and your associates for doing an outstanding job and for taking every question from every member of the committee that was able to get here today. We thank you very much for that. We also think that your testimony and the dialogue that we have had has been very helpful in expanding an understanding of the issues that you have had to wrestle with in issuing this rule. And as we wrestle with the developments that will doubtless occur in the coming days, weeks, and months, I am confident that today's hearing

will help us work through this important topic from a point of common understanding.

Going forward, my advice to my colleagues and the constituents of this committee would be to remain rooted in science with an eye towards the long-term structure and economic health of the beef and cattle industry. The public policy decisions being made now will have far-reaching implications for producers, processors, retailers, and consumers, and we owe it to them to be both prudent and thoughtful as we move toward.

Mr. Secretary, thank you very much again.

Secretary JOHANNNS. Thank you. It was an honor.

The CHAIRMAN. Without objection, the record of today's hearing will remain open for 10 days to receive additional material and supplementary written responses from witnesses to any question posed by a member of the panel. And, Mr. Secretary, I might add, I have been asked by a couple of members to be able to submit some questions to you in writing, and we hope that you will be able to answer those in a reasonable period of time.

Mr. Johannns. And we will.

The CHAIRMAN. Thank you, Mr. Secretary. This hearing of the House Committee on Agriculture is adjourned.

[Whereupon, at 6:00 p.m., the committee was adjourned.]

[Material submitted for inclusion in the record follows:]

STATEMENT OF MIKE JOHANNNS

Chairman Goodlatte, Mr. Peterson, Members of the Committee, thank you for holding this important hearing today and for the opportunity to testify before you. Accompanying me today are Dr. Keith Collins, USDA's Chief Economist and Dr. Ron DeHaven, Administrator of USDA's Animal and Plant Health Inspection Service (APHIS). They will be available to assist me in answering any questions you might have.

Before I begin, I want to thank you for the close, positive working relationships that we have begun forging. It is a pleasure to appear in my first hearing before this committee as Secretary, and I look forward to building upon the productive foundation that we are establishing on behalf of American food and agriculture.

I have said frequently that addressing Bovine Spongiform Encephalopathy (BSE) issues, particularly as they relate to trade disruptions, would be my top priority as Secretary. The actions that the U.S. Department of Agriculture and the Federal Government are taking in regard to BSE are potentially precedent-setting and could affect international trade patterns for years to come, with important economic implications for our cattle producers and the entire beef industry. Therefore, our actions must be undertaken with the utmost deliberation, using science as the basis. In the absence of that scientific foundation, sanitary and phytosanitary (SPS) restrictions will be used arbitrarily by many nations, without any basis of protecting human, animal and plant life and health.

Accordingly, this hearing could not be timelier, and I appreciate the opportunity it provides to closely examine some useful and valid questions. I want to be very clear that while protecting human and animal health must remain our top priorities, I am confident that we can seek to return to normal patterns of international commerce in beef and cattle by continuing to use science as the basis for decision making by U.S. regulatory authorities and our trading partners.

Almost one year ago, on March 8, 2004, USDA published a notice reopening the comment period on a rule to establish minimal-risk regions for BSE (the minimal-risk rule), following the December 23, 2003, discovery of a single case of BSE in the United States in a cow of Canadian origin.

In the time since then, much has transpired:

On March 15, 2004, consistent with the recommendations of an International Review Team (IRT) of scientific advisers, USDA announced that beginning June 1 it would implement an enhanced BSE surveillance program to test as many high-risk animals as possible over a 12- to 18-month period. We wanted once and for all to clearly ascertain whether we had BSE in our cattle herd and, if so, how prevalent

it might be. USDA began the work of setting up the infrastructure required, including laboratory equipment and certification, staff training, outreach efforts, and licensing and approval of rapid tests. The plan was reviewed by the IRT, which characterized it as “comprehensive, scientifically based and address[ing] the most important points regarding BSE surveillance in animals.”

On June 1, 2004, the enhanced surveillance program began. Our goal is to test as many high-risk cattle as possible in 12–18 months. If we test 268,500 high risk animals we will be able to detect the presence of as few as five targeted, high-risk cattle with BSE at a 99 percent confidence level. At the time, USDA officials consistently stated that the surveillance plan might uncover additional BSE-positive animals. To date, some nine months later, more than 242,000 high-risk animals have been tested, all of which have been negative.

In order to help raise awareness among animal-health professionals and livestock producers about potential BSE cases, education and outreach have also been critical components of these efforts. These activities have included advertisements in industry publications, media articles, presentations at trade shows, and other materials. The role of producers, renderers and others in helping obtain samples of high-risk animals has been indispensable to the success of our surveillance program, and the cooperation we have received has been outstanding.

On December 29, 2004, USDA announced the final rule establishing minimal-risk regions, which designated Canada as the first minimal-risk region for BSE, and which will become effective on March 7, 2005. Preparations are currently underway to ensure a coordinated and orderly reopening of the border on that date.

On January 2, 2005, Canada confirmed its second domestic case of BSE in a cow that was born in October of 1996 (the first since May 20, 2003). It was followed nine days later by a third case, an 81-month-old cow.

On January 24, 2005, USDA dispatched a technical team to Canada. We sent the team to investigate the efficacy of Canada’s ruminant to ruminant feed ban because the animal was born shortly after the implementation of that ban and to determine if there are any potential links among the positive animals. We have appreciated Canada’s willingness to cooperate and assist us in these efforts.

The team was composed of experts from APHIS and other relevant, partner agencies.

Just last week, on February 25, we released the results of the investigation relating to Canada’s feed ban. Based on a review of inspection records and on-site observations, the team found that Canada has a robust inspection program, that overall compliance with the feed ban is good, and that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population. Where isolated issues were found to exist, they were related mostly to areas of documentation and record-keeping.

The team’s final epidemiological report investigating possible links of the positive animals is still pending, and will be helpful as USDA proceeds with a rule allowing imports of live cattle from animals 30 months of age and over.

THE MINIMAL-RISK RULE

As you are aware, USDA’s minimal-risk rule has come under legal challenge. I will address the process of promulgating the rule, which was transparent, deliberative and science-based.

Two rounds of public comment were conducted on the rule, with more than 3,300 comments received.

The final rule establishes criteria for geographic regions to be recognized as presenting minimal risk of introducing BSE into the United States. It places Canada in the minimal-risk category, and defines the requirements that must be met for the import of certain ruminants and ruminant products from Canada. A minimal-risk region can include a region in which BSE-infected animals have been diagnosed, but where sufficient risk-mitigation measures have been put in place to make the introduction of BSE into the United States unlikely.

As you are aware, the rule originally allowed the import of beef products from animals of all ages. However, on February 9, 2005, because our investigation in Canada would not be complete by March 7, I ordered that the portion of the rule allowing beef products from animals 30 months and over be delayed. USDA plans to move forward expeditiously with a plan including rule-making to allow imports of live cattle from animals over 30 months of age and over.

Because the rule that goes into effect on March 7 allows the import of live cattle under 30 months of age, it is useful to note the risk mitigation measures. These include: proper animal identification; accompanying animal health certification that includes information on age, origin, destination, and responsible parties; the move-

ment of the cattle to feedlots or slaughter facilities in sealed containers; the prohibition on cattle moving to more than one feedlot in the United States; and just as in U.S. cattle, the removal of specified risk materials (SRMs) at slaughter.

For live sheep and goats under 12 months of age, all of the same mitigation measures apply, except for the requirement that SRMs be removed from the animal at slaughter.

We remain very confident that the combination of all of these requirements, in addition to the animal and public health measures that Canada has in place to prevent the spread of BSE, along with the extensive U.S. regulatory food-safety and animal-health systems, provide the utmost protection to U.S. consumers and livestock.

USDA continues to undertake several steps to ensure Canada's compliance with its BSE regulations. In addition to the investigation that I already discussed, USDA's Food Safety and Inspection Service in December 2004 conducted an intensive audit of Canada's compliance with the BSE requirements of the United States, with particular attention to SRM removal. FSIS visited several facilities that slaughter cattle under 30 months of age and determined that they are effectively implementing the BSE regulations.

Last month, FSIS conducted a similar BSE audit of Canadian plants that slaughter cattle 30 months and older. Canada currently has only seven such plants that are certified to export meat to the United States.

THE ROLE OF SCIENCE

I simply cannot emphasize strongly enough the central role of science in this entire process, particularly with regard to the rigorous evaluation of risk.

Since the discovery of the first case of BSE in Great Britain in 1986, we have learned a tremendous amount about this disease. That knowledge has greatly informed our regulatory systems and response efforts.

We have learned that the single most important thing we can do to protect human health regarding BSE is the removal of SRMs from the food supply. It is because of the strong systems the United States has put in place already, especially the removal of SRMs from the human food supply and the prohibition of ruminant and certain other animal proteins in ruminant feed, that we can be confident of the safety of our beef supply and that the spread of BSE has been prevented in this nation.

After Canada reported its first case of BSE in May 2003, USDA conducted a comprehensive risk analysis to review the potential threat it posed. The initial analysis followed the recommended structure of the World Organization for Animal Health, or OIE, and drew on findings from the Harvard-Tuskegee BSE risk assessment, findings from the epidemiological investigation of BSE in Canada, and information on Canadian BSE surveillance and feed ban, and history of imports of cattle and meat and bone meal from countries known to have BSE.

The results of that analysis, available on the USDA Website, confirmed that Canada has the necessary safeguards in place to protect U.S. consumers and livestock against BSE. These mitigation measures include the removal of SRMs from the food chain supply, a ruminant-to-ruminant feed ban, a strong national surveillance program and import restrictions. The extensive risk assessment conducted as part of USDA's rulemaking process also took into careful consideration the possibility that Canada could experience additional cases of BSE.

In the risk analysis update for the final rule, USDA also considered the additional risk protection from new slaughter requirement procedures, such as the prohibition on the use of downer animals for food.

The public commented on the risk assessment that accompanied the proposed rule and the Explanatory Note released following the finding of BSE in a cow in Washington State. Over a period of months, USDA carefully considered these comments, and responses were published with the final rule. The comments were beneficial to the final risk analysis. The risk analysis was reviewed internally at USDA and by Dr. William Hueston, an international expert on BSE and a member of the International Review Team.

The OIE recommends the use of risk assessment to manage human and animal health risks of BSE. OIE guidelines, based on current scientific understanding, recognize that there are different levels of risk in countries or regions, and suggest how trade may safely occur according to the levels of risk. USDA used the OIE guidelines as a basis in developing our regulations defining Canada as a minimal risk country.

CATTLE AND BEEF TRADE IMPACTS

While SPS regulations protecting human and animal health are the foremost concern, USDA also has examined the potential economic impacts of the minimal-risk rule and related BSE trade issues, as required by Executive Order 12866.

For more than three months following the May 20, 2003, BSE discovery in Canada, all imports of Canadian ruminants and ruminant products were barred. Then, certain Canadian ruminant products for which there is inherently lower risk were allowed to enter under permit beginning August 2003.

For all of 2003, the United States imported 336,000 metric tons of beef from Canada. Imports increased to an estimated 476,000 metric tons in 2004, up nearly 42 percent and back to about the level that prevailed in years prior to 2003.

Because the border has been closed to live cattle since May 2003, imports of fed and feeder cattle under 30 months are expected to increase over historic levels in 2005, which is expected to drive up U.S. beef production, reduce beef prices slightly and, consequently, reduce cattle prices. The cost-benefit analysis of the original minimal risk rule was based on Canada's cattle population as of July 1, 2004, and the cross-border price differential at that time. USDA now estimates that about 1.3 million Canadian animals may be imported in all of 2005, down from previous estimates of 1.5 million to 2 million head.

In addition, delaying the effective date for resuming import of beef products from animals over 30 months has narrowed our projection of price effects. We now project a decline in fed cattle prices of 2.6 percent lower than if no additional trade in live cattle were to occur, down from 3.2 percent in the earlier projection. The projection also assumes that Asian markets do not open to our beef during 2005.

The precise economic effects will depend on the timing and volume of cattle and beef imports from Canada. If USDA's price forecast turns out to be correct, that would be the third-highest annual fed cattle price on record. Cattle futures prices may be less affected than indicated by our forecast, as market prices have likely already reflected some probability of the border opening.

At the same time, I have been concerned about the effect that the closure of the border has been having on the restructuring of the cross-border beef industry. We are already seeing additional processing capacity in Canada, and further delays will only exacerbate that trend, leading to long-term change.

In addition, to the extent that we can continue to open markets that are currently closed to our beef, U.S. cattle price prospects will strengthen.

U.S. market-maintenance activities have been critical in helping restore our beef export markets. In 2003, the total export value of U.S. beef and ruminant products was \$7.5 billion. After December 23, 2003, 64 percent of that market was immediately closed. Today, we have recovered well over a third of that, so that 41 percent of that market (\$3.1 billion) remains closed. Two countries—Japan (\$1.5 billion) and Korea (\$800 million)—account for nearly three-quarters of the existing closures.

OPENING THE JAPANESE MARKET

As a leader in the critical Asian markets, Japan is a vital market to reopen to U.S. beef exports. We are aware that the decision to resume trade in this market will set an important precedent for trade resumption in many other markets. Therefore we have endeavored to use science in our ongoing efforts. Efforts to re-open this market have drawn on resources across the Federal Government and at the highest political levels. As I have previously said, this issue has occupied much of my first few days as Secretary. Just last week, I met with Ambassador Kato and also wrote to my counterpart, Minister Shimamura, on the importance of this issue. At the same time, Ambassador Baker continued to press this issue with Government of Japan officials until his very last days in Tokyo, and other U.S. Government officials continue to contact their counterparts. On February 19, Secretary of State Rice personally raised this issue in a meeting with the Japanese Foreign Minister.

These efforts are just the latest in many policy discussions and technical exchanges over the past 13 months. Indeed, the issue has been a major focus of direct discussions between President Bush and Japanese Prime Minister Koizumi.

On October 23, 2004, Japan and the United States developed a framework to allow the resumption of bilateral beef trade following the conclusion of regulatory processes in both countries. As a step toward the resumption of normal trade, the agreement establishes an interim special marketing program, known as the Beef Export Verification (BEV) Program, to allow the United States to sell beef and beef products to Japanese importers from animals 20 months of age and under. Animal age will be determined through a combination of production records and physiological (grading) means. We are now working with Japanese officials to gain approval of the BEV under their regulatory process.

I have repeatedly pressed Japanese officials to set a date certain for the resumption of U.S. beef exports to Japan. However, additional requests from Japan for data regarding grading and the plodding regulatory process that Japan insists on using could delay that process. Additional delays could further complicate relations between the United States and Japan.

While we are focusing on Japan because of our important trading relationship and its leadership role in the region, we are also pursuing efforts to reopen all of the markets that have been closed to us. We are actively engaged with Korea, Hong Kong, Taiwan, China, Egypt, and Russia and have specific actions underway in each market to get trade resumed. I would be pleased to provide Members upon request additional detail on these and other secondary markets. While the progress that has been made has taken far longer than we had hoped, progress is indeed being made. And, I have stated that USDA, and indeed the entire U.S. Government, will exert every effort to resolve the matter at the earliest possible time.

As traditional trade barriers such as tariffs are lowered, our focus to eliminate unjustified non-tariff barriers such as non-science based SPS regulatory measures become all the more important to maintain the flow of mutually beneficial trade. For USDA, a common touchstone across these issues is the need to maintain consistency and predictability, to base our domestic regulations on science and to encourage the use of science-based solutions within the international community. The United States has long been a leader in this regard, including negotiating the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures during the Uruguay Round.

Even before the discovery of a single case of BSE in the United States, USDA had begun talking with other countries about the need for international trade standards to keep pace with the science, and we will redouble our efforts in this regard.

It is also critical that domestic trade rules reflect the current state of knowledge regarding BSE, and here the United States is leading, as well. We are confident that trade can be resumed with countries where BSE has been discovered, contingent upon strong protections within those countries, as well as the robust and effective regulatory system those imports are subject to when they enter the United States. These facts are reflected in the minimal-risk rule.

At the same time, we will continue to work with our trading partners to ensure the ongoing strength of their own BSE protection systems, especially the removal of SRMs and implementation of the feed ban. While trade opportunities are multiplying in an increasingly global marketplace, we must always remain mindful of our paramount responsibility to protect the public health and animal health.

In summary, I am confident that we are continuing to keep the protection of public and animal health foremost in our concerns. It is critical that we continue to use science as a basis for our decisions and regulations, and that the United States maintain its leadership role in advancing our scientific understanding of these kinds of SPS-related issues and appropriate science-based responses.

Mr. Chairman, thank you once again for holding this important hearing. I would now be pleased to take any questions you or other members may have.

ANSWERS TO SUBMITTED QUESTIONS

1. Now that APHIS has established a rule establishing criteria for regions to be recognized as presenting minimal risk of introducing BSE into the United States, do you plan to categorize additional countries as either minimal risk, moderate risk, high risk, or BSE free? If so, is there a chance your list would be different from the OIE's list of BSE free or provisionally free countries? How might this affect the current restrictions we have in place on the importation of specified-risk materials?

Response: APHIS's current regulations on BSE lists countries in two categories. These are countries affected with BSE, and countries presenting undue risk for BSE. Import restrictions are the same for these two listings. These regulations would have to be amended, through a formal rulemaking process, to add any additional categories or to re-define the existing categories. An example of this is the recent final rule that would establish a minimal risk category and add Canada to that category.

At this time, no country besides Canada has asked the United States to conduct a thorough and exhaustive assessment to evaluate its overall BSE risk and to change its regulatory status. This is the first step in considering whether to allow live cattle and beef imports from a country where BSE has been identified. Other countries may request APHIS to change their status in the future.

The World Organization for Animal Health's (OIE) list of BSE-free and provisionally-free countries is not intended to be comprehensive. OIE will examine, upon re-

quest from a member country, its claims for a particular BSE status. Currently, the OIE will only examine a country's claim for BSE free or provisionally-free status, and will not classify any country as low, moderate or high risk for BSE. Only a handful of countries have asked for such an evaluation to be endorsed as BSE-free or provisionally-free, and four countries have actually completed the evaluation.

The current OIE Code Chapter on BSE provides guidelines for five classifications of countries. Member countries are free to use these guidelines to help determine their trading partners' overall BSE risk. However, it is important to keep in mind that as a result of the recommendations made by the expert ad hoc group on BSE, the OIE is presenting, for adoption at its May 2005 General Session, a revised Code Chapter with three BSE classifications: negligible risk without mitigations; negligible risk with mitigations; and undetermined risk.

Finally, with regard to your question about the importation of specified-risk materials (SRMs), the removal of SRMs is one of the most critical components of an effective BSE prevention program in terms of protecting public health. The U.S. has issued interim final rules requiring the removal of SRMs from all cattle. USDA and DHHS/FDA are evaluating comments received on those rules.

2. Why did APHIS diverge from the OIE recommendation to require that a feed ban be in place for at least 8 years in order for a country to be considered a minimum risk country? Was there a concern that inclusion of such a requirement would make the rule vulnerable to challenge in the WTO on the grounds that it was not based on science?

Response: The OIE standards are not intended to be used as a check list, rather they are intended as a set of guidelines that allow countries the flexibility to develop their own tailored regulations for protecting public and animal health. The standards should be used to help a country identify and evaluate, through a risk assessment, all of the potential risk factors for BSE and their management. The outcome of such a risk assessment can be used to determine whether an alternative risk management measure could be applied to achieve the same level of protection.

An effective feed ban is a key component of both the OIE guidelines set forth to establish a country as a minimal-risk region for BSE and of USDA's criteria to define a BSE minimal-risk region. USDA has acknowledged that Canada's feed ban falls some months short of the 8-year recommendation. However, Canada has had a comprehensive feed ban in place for more than 7 years. Furthermore, the feed ban is just one component of a much larger system of safeguards that includes, among others, surveillance and specified risk material removal. In keeping with the OIE Code, these risk mitigation measures are considered in their totality for their ability to work as a series of interlocking, overlapping and sequential steps to prevent the introduction and establishment of BSE.

The OIE standards are intended to be used as guidelines to assist countries in using the underlying scientific knowledge on BSE. USDA is not concerned that the minimal risk rule is vulnerable to challenge in the WTO. USDA conducted a thorough and exhaustive risk analysis and our decision to allow live cattle and beef imports from Canada was based on science with the protection of public and animal health being our highest priority.

3. The USDA audit of Canada's feed ban says that the ban was implemented on August 4, 1997, "with provisions for a phase-in period so that existing stocks of feed material could be depleted. Feed mills were allowed a 30-day period to use and distribute existing stocks, while farms were allowed 60 days to use existing stocks. No recall was ordered for products that were already in the production or distribution chain...". The last BSE cow would have been fed starting sometime after its birth in March 1998. Doesn't this show that the ban was not effective?

Response: On February 25, 2005, USDA released the final report of the technical team that reviewed the feed ban in Canada. The technical team found that Canada has a robust feed ban inspection program, that overall compliance with the feed ban is good, and that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population. The risk analysis conducted for the minimal risk rule concluded that the feed ban is effective. It should be noted that this analysis did not assume 100 percent compliance with the feed ban, as that is not realistic in any situation. The information provided by the U.S. team verifies the information cited in the risk analysis, and supports the conclusion that the feed ban is effective.

The Canadian feed ban restricts the use of most mammalian-origin protein in ruminant feed. It was implemented in 1997, and similar to the U.S. feed ban, was put in place as a proactive, preventive measure. Achieving full compliance with a feed ban inevitably takes time, due to complexities of the regulations and the industries

involved. International authorities generally recognize that it may take 6 months or longer to completely clear out any remaining feed from the old system after a feed ban is implemented. It also takes time before the feed and livestock industries are able to fully meet the record-keeping and labeling requirements in the feed ban, and the requirements for preventing cross-contamination.

4. Despite a rigorous surveillance program, that has tested many more cattle than in Canada we have not found a single case of BSE in a U.S.-born cow. Canada has found three cases so far. Does this mean that Canada's testing program is more effective at finding the disease, or does it mean that BSE is more prevalent in Canada than in the United States?

Response: The United States is still in the midst of an intensive one-time enhanced surveillance effort that will provide a snapshot of the domestic cattle population to help define whether BSE is present in the United States, and if so help calculate at what level. It is possible that during the course of this intensive surveillance, we may find a case of BSE in a native U.S. animal. When USDA kicked off our enhanced surveillance in June, 2004, we were clear in stating this possibility. At the same time our current results are promising. As of May 1, 2005, we have tested 339,271 cattle and all have tested negative for BSE.

USDA has not made a prediction about the number of cases the United States or Canada might find as a result of ongoing surveillance. Rather, this effort is intended to give the United States a better understanding of the prevalence of the disease and the same is true for Canada. Surveillance is a key component of any BSE program, providing a way to monitor the effectiveness of the various risk mitigation measures, which is why the United States and Canada are conducting such thorough surveillance. Additional information from continuing an epidemiological study in Canada may provide more insight into whether the BSE exposure was an isolated or clustered incident, or whether it may be more widespread. There are currently no indications that it is widespread, nor do analyses indicate that the disease continues to spread and amplify given current risk mitigation measures. We would note that since the start of their enhanced surveillance program, Canada has tested approximately 45,000 animals to date. Given the relative herd size in Canada in relation to the size of the U.S. cattle herd, we believe Canada is achieving comparable sensitivity in their enhanced surveillance program.

5. After Canada reported its first BSE case in May 2003, a scientific International Review Team there recommended that stronger feed measures be put into place. Why did Canada wait until December 2004 to propose a new rule to also prohibit specified risk material (SRM) in all animal feeds?

Response: The changes proposed by Canada are significant, and would require restructuring of the animal disposal industry. If regulations are established which completely prohibit the use of certain products, alternative disposal options must be available and in place at the time the regulations are implemented. The Canadian government appropriately has taken time to consider all of the implications, costs and benefits of any such changes. The Canadian government has been carefully considering various options in consultation with a wide variety of interests, including various industry groups, provincial representatives, other agencies, and international counterparts.

It is important to note that Canada's existing feed ban is effective, and based on current scientific consensus, would lead to the eradication of BSE. The Canadian government believes that the proposed changes will simply lead to a faster rate of progress to eradication. Canada has noted that the relative probabilities of further transmission of BSE to other animals and, indirectly, exposure to people through food or other human uses of rendered bovine tissues are low. Therefore, taking time to thoroughly analyze any proposed changes allows an appropriate decision to be made that has a better chance of successful implementation.

6. USDA's assessment of the risk of BSE from Canadian imports was completed before a cow with BSE was discovered in Washington State in December 2003. (In support of the rule proposed in November 2003 and finalized January 4, 2005.) Why did USDA decide it was not necessary to alter its risk assessment in light of this first U.S. finding?

Response: USDA conducted a risk analysis in October 2003 that was published with the initial proposed rule. This analysis was updated in early 2004, and was published as an "Explanatory Note" when the comment period on the proposed rule was re-opened. This explanatory note fully considered the implications of the December 2003 case identified in Washington State, and concluded that the additional case did not significantly alter the original risk estimate. Based on factors addressed in the original risk analysis, and the risk mitigation measures (both existing and

outlined in the proposed rule), it concluded that it was unlikely that BSE would be introduced from Canada under the conditions described in the proposed rule. Finally, the risk analysis was updated again in December 2004 and was published along with the final rule.

7. In February, the Office of Inspector General (OIG) released its audit of USDA's oversight of beef imports from Canada. OIG reported that the APHIS permit process was used to begin imports of Canadian beef products, even though this process has always been intended for other, low volume products. Why did USDA decide to use the permit process for the import of large quantities of beef?

Response: Prior to the August 2003 announcement, USDA conducted a close review of Canada's exhaustive epidemiological investigation into the BSE case that was reported by Canadian officials in May 2003. USDA also took into account the international animal health guidelines set by the World Animal Health Organization (OIE) and scientific literature regarding the pathogenesis and transmission of BSE. Additionally, USDA reviewed the ongoing preventive measures that Canada had in place prior to the detection of BSE and the additional risk mitigation measures Canada put in place in response to a review of the investigation by an independent expert panel.

After this review, USDA determined that the permitting process was an appropriate, legal, and scientifically-sound vehicle for re-opening trade with Canada.

8. OIG reported that 42,000 pounds of beef "of questionable eligibility" entered the U.S. from Canada after a May 2004 court agreement limited what could be imported. How did this happen and what has USDA done to ensure this won't happen again?

Response: The situation you refer to was the result of confusion between APHIS and FSIS about the eligibility of beef cheek meat. On several occasions, beef cheek meat was allowed entry under import permits that indicated "boneless beef" due to confusion over whether or not beef cheek meat was included in the definition of "boneless beef." Although it is a low risk product and poses no safety risk to humans or animals, APHIS and FSIS agreed with OIG's recommendations regarding the confusion and need for consistency in definitions in this case, and have implemented or are implementing the following actions:

- On February 14, 2005, APHIS notified, by letter, holders of permits for "boneless beef" that such permits do not allow the importation of cheek meat.
- FSIS will implement controls to communicate the specific eligibility of product when the eligibility status changes. FSIS will complete the review and update of the controls by July 2005.
- FSIS currently performs quarterly verification of its import information system while monitoring and overseeing the system and import inspection program performance. In addition, the import inspection system has a limited set of edit checks that are presently incorporated in its current configuration. FSIS will enhance this feature of the system by reprogramming the Automated Import Information System (AIIS) to include drop-down menus containing a specific set of eligible products. The reprogrammed system will eliminate product description from being entered into a text field and thereby mitigate or restrict the possibility of ineligible product being entered in the system. FSIS expects to complete the AIIS reprogramming by January 2006.

9. What was the basis for USDA making a conscious decision not to publicly announce its Canadian import policy changes?

Response: APHIS recognizes that it was not timely in posting all updates during the immensely busy period following the August 8, 2003, announcement. The Agency will continue to move information through the previously established channels described above and work to identify new and more efficient ways to ensure all interested parties receive all necessary information regarding changes in import policy. As we determine specific improvement regarding internal communication channels we can use to ensure all web-based notifications are posted in a timely fashion, we will document and implement those procedures.

10. OIG concluded that APHIS did not have a process to identify discrepancies between agency practices and their publicly stated policies. How will APHIS address this issue?

Response: APHIS has taken action to implement changes in addition to existing procedures. APHIS' Veterinary Services (VS) maintains standard operating procedures (SOPs) and standardized permit language for drafting permits to ensure con-

sistency. VS provides all permitting staff with a copy of the SOP manual and trains staff accordingly. The permitting staff holds frequent meetings where experts discuss and establish procedures for any emerging issues concerning importation of animal origin material.

While these mechanisms have been very successful in the past, APHIS' systems were clearly strained under the unprecedented volume of permit requests after the Secretary's announcement.

VS has developed a refined tracking system and enhanced protocols to ensure that staff will update the system whenever changes are made to policies, product certification statements, and permit guidelines. Furthermore, FSIS and APHIS are in close and constant contact to ensure parallel operations and definitions, where appropriate.

11-12. OIG criticized USDA for not documenting its decisions, failure to communicate with other agencies, and inadequate internal controls over the rulemaking process. Have all of OIG's recommendations to fix these problems been implemented?

Response: (Questions 11-12) While many of OIG's recommendations have already been implemented following the identification of the problem, APHIS and FSIS continue to work on several projects that will further address OIG's concerns. The results of these projects will be seen over the next year and include, among others:

- FSIS will include an edit check function in the automated import information system by January 2006;
- FSIS will complete the review and update of communication controls by July 2005;
- APHIS is working to develop a new, sophisticated E-permits system by January 2006; and
- APHIS and FSIS will use consistent terminology by May 2005.

13. The Inspector General recommended that APHIS develop and implement procedures for communicating policy changes to all interested parties, including importers, Congress, and the public. APHIS states that it will have refined procedures in place by late March. What changes is the agency implementing, and will they be in place when anticipated?

Response: As part of the response to OIG, APHIS has agreed to consistently:

- Post "dear importer" letters on the Agency web page to notify interested parties of changes to import policy;
- Issue alerts to Agency port personnel and Department of Homeland Security Customs and Border Protection personnel, which is then provided to all their interested parties;
- APHIS will work closely with FSIS and provide frequent policy updates and work together to use consistent terminology when identifying products;
- Work with Congress to ensure that legislators are aware of import policy changes.

APHIS has also committed to OIG that the Agency will have in place new procedures to notify applicants of APHIS permits to remove or revise material and explain the reasons for decisions. In order to facilitate this, the Agency will take and has taken the following actions:

- National Center for Import and Export (NCIE) has implemented a mail-in tracking system and enacted protocols to ensure that changes or updates to policies, product certification statements and permit guidelines are documented.
- NCIE can now query the Permit Information Tracking System by shipper to identify permits that need revision or cancellation.
- APHIS is developing a new, sophisticated E-permits system for use Agencywide. This new system will be operational by January, 2006.

In order to ensure that risk mitigation measures are attached to permits, APHIS intends to strengthen its current system to allow for a larger number of permits to be handled within a limited time frame. To do this, APHIS has implemented the procedures described above and will hire additional staff as funding allows to handle any future situations where a large number of permits are received in a limited amount of time (such as during the Canadian ruminant ban).

14. Canadian plants were required by USDA to have approved plans for segregating eligible from ineligible products. OIG says that no Canadian facility met this requirement. Have all the required plans now been submitted by the Canadian plants?

Response: The segregation plan requirement applied only to facilities that received both ineligible and eligible beef cuts from which they derived processed product. Only one facility that received and processed both ineligible and eligible cuts of meat applied for a permit, and thus submitted a segregation plan. APHIS reviewed the plan, had concerns with the plan, and, therefore, did not approve the plan. APHIS did correctly issue permits to other facilities for processed product. Again, however, because these facilities do not receive and process both ineligible and eligible cuts, they were not required to submit a segregation plan.

15. In its report, OIG refers to a decision memorandum to permit ground meat imports. In the memo, APHIS stated that the decision constituted a significant change in policy that increased the likelihood of importing higher risk products. Why was this decision made without the opportunity for public comment? Who reviewed and approved the memo?

Response: The memo referenced was reviewed by APHIS management and was seen as the processing in Canada of products that were already safe and approved for export into the United States. While there was a slight risk of commingling with ineligible products, the risk was mitigated by requiring certification by CFIA and segregation plans. There was no food safety issue.

16. Several import decision memos discussed the meat industry's concerns about the beef import policy. Did they also discuss the concerns of the cattle industry and of consumers?

Response: The safety of U.S. citizens and livestock is always the highest concern when dealing with a disease such as BSE. All constituents' concerns were thoroughly considered.

17. What restrictions does Canada place on imports U.S. cattle related to bluetongue and anaplasmosis concerns?

Response: For over 17 years, the United States has been working to achieve greater access for U.S. feeder cattle to Canada. On October 22, 1997, the United States and Canada announced a pilot project to facilitate exports of live cattle from participating U.S. states to Canada. Under this project, exports of feeder cattle from the United States were limited to a six-month shipping season, designated as a low-risk vector season for bluetongue and anaplasmosis.

On March 10, 2004 Canada announced that it would remove anaplasmosis and bluetongue testing and treatment requirements from feeder cattle imported from the United States enabling year-round access to Canadian feedlots. Specifically, the CFIA permit system that governs these imports would be changed. This new policy will take effect when the BSE prohibition is lifted.

Under the new permit policy, U.S. feeder cattle from 39 states considered to have a low incidence of bluetongue will be able to enter Canada directly without testing. Feeder cattle from the remaining 11 states, which are considered to have a high incidence of bluetongue will also not be required to test, provided that their cattle reside in a low incidence state for at least 60 days prior to import. Testing can still be used in these high incidence States, in lieu of residency in a low incidence State.

18. USDA is permitting cattle, and beef from cattle, under 30 months of age to enter the United States from Canada. However, it also has agreed to Japanese demands that the United States ship beef from cattle 20 months and younger. How are these policies consistent?

Response: Resumption of U.S. beef trade with Japan and reopening the border to live cattle from Canada are separate and distinct trade issues. The BSE minimal-risk rule is based on sound scientific principles in accord with OIE guidelines for trade with BSE-affected regions. Negotiations with Japan have focused on smaller steps to reopen a critical international market for U.S. producers. In October, 2004, USDA announced an understanding with Japan to export meat from cattle 20 months of age or younger. This age limit falls is not based on internationally recognized sound science. It is important to make clear that while we have agreed to the 20-month age limit as a marketing program, we continue to work with Japan on a technical level regarding the specific terms of the understanding. In addition, an international body of scientific experts is expected to review the terms of the export marketing program in July 2005, at which time we expect to make a strong case to move Japanese officials toward a scientifically sound policy.

It's critical that even while USDA is accommodating Japan's standards, we must take the lead at home in establishing the concept of minimal-risk regions based on scientific risk analyses for animal pests and diseases and push to have other countries base their BSE measures on the OIE guidelines. In implementing the BSE minimal-risk rule, the United States is taking a strong stand and seeking to ensure

that all countries adopt science and risk-based import and export standards and apply them equivalently and without discrimination. The United States cannot effectively protest unjustified measures applied to our products if we similarly apply the same virtually impossible measures to others.

19. How, specifically, will USDA ensure that Canadian beef from cattle over 20 months is not co-mingled with beef destined for Japan? What procedures will be in place to monitor Canadian products and ensure that all import requirements are being met?

Response: Once an agreement is finalized with Japan, the Agricultural Marketing Service (AMS) will develop a Beef Export Verification (BEV) program to ensure that the terms of the agreement, such as appropriate segregation of products, age, are met. A BEV program addressing the commingling issue was implemented for Japan to accept U.S. beef after the first case of BSE was found in Canada in May 2003. The Food Safety Inspection Service will take AMS's verification and certify on a U.S. export health certificate compliance with Japan's import requirements. FSIS officials assigned to the packing plants will have oversight responsibilities to ensure all requirements are being met.

20. In its testimony, the National Cattlemen's Beef Association (NCBA) listed 11 criteria that would have to be met before it would support implementation of the rule. How many of these criteria are achievable before the implementation of the rule? Are these (or similarly rigorous) criteria something that the Department would be comfortable having our foreign customers requiring before they would accept U.S. beef and cattle products?

Response: We appreciate the proactive work of the National Cattlemen's Beef Association (NCBA) on this issue. Some of the recommendations, such as assurance that all Canadian firewalls to prevent BSE are functioning properly, are relating to the science of the rule, while others, such as the movement of Canadian cattle into the U.S. must be managed to minimize market disruptions, are economic in nature. USDA does not have the authority to promulgate rules solely on economic factors.

Rulemaking is done based on science; in this case, USDA's risk assessment evaluated the risk that opening the Canadian border to specific animals and products would pose to animal and human health and determined it to be of minimal risk. We must also stress that, in implementing the BSE minimal-risk rule, the United States is taking a stand and seeking to ensure that all countries adopt science and risk-based import and export standards and apply them equivalently and without discrimination. The United States cannot effectively protest unjustified measures applied to our products if we similarly apply the same virtually impossible measures to others.

21. NCBA testified that the import ban on U.S. beef because of BSE has cost U.S. cattlemen \$4.8 billion over the 14 months that the ban has been in place. Does USDA agree with this number? If so, does the calculation include the net effect on beef prices from the U.S. import ban on Canadian cattle entering the US? For example, Secretary Johanns' written testimony indicates that a removal of the ban, which will allow Canadian cattle under 30 months of age to enter the US, will reduce prices by 2.6 percent. Has the U.S. ban on Canadian imports reduced \$4.8 billion the impact on U.S. cattlemen that NCBA calculated? If you do not agree with the NCBA number, please provide your own estimate of the cost to U.S. cattlemen and explain how you reached that number and specifically what effect the U.S. ban on Canadian imports has had on the losses.

Response: USDA has not analyzed the impacts in NCBA's assessment of the ban on U.S. exports of beef due to the discovery of BSE. However, USDA has done some partial estimates of the value of the loss of export sales of beef and loss of sales value of fed cattle. This analysis estimates these lost exports sales of beef and beef products at about \$3.5–4 billion since December 2003. These lost exports sales do not fully translate into lost sales value of fed cattle because beef that would have been exported was consumed domestically. Thus, our analysis estimates lost sales value of fed cattle of at \$1.7–2.3 billion since the discovery of BSE in December 2003. There are also additional losses to the cow slaughter industry.

The assumptions underlying this estimate are as follows: Prior to the discovery of BSE, USDA had forecast that beef exports would increase 1–2 percent in 2004. Given strong demand for limited supplies of U.S. beef, prices may have been 5–7 percent higher than in the absence of expanded exports. The lost export volume was offset by increased domestic beef consumption. Thus, the loss in the value of fed cattle sales is the difference between the cattle price estimated to have prevailed had the U.S. been able to export beef to all markets and the price that prevailed with

export markets closed. Assuming fed cattle prices were reduced 5–7 percent by the loss of export markets, the average fed steer price would have been reduced by about \$50-\$70 per head. In 2004, 27 million head of fed steers and heifers were slaughtered, and it is expected that an additional 6 million head will be slaughtered in the first quarter of 2004, thus producers likely would have received an additional \$1.7-\$2.30 billion for the fed cattle marketed had export markets not been lost. This estimate may be conservative in that, given higher prices, producers may have chosen to market a greater number of cattle. On the other hand, higher domestic beef prices might have limited increases in U.S. beef demand. The U.S. generally does not export nonfed beef, and it is likely that U.S. imports of nonfed beef may have been higher with all export markets open, since Australia would not have diverted exports to Asia to fill in behind the U.S.

U.S. cattle prices and the value of U.S. exports are supported by the current ban on imports of Canadian cattle. In the absence of the ban, it is expected that U.S. cattle prices and wholesale prices would have been lower than existed in the past 14 months. Thus, the value of forgone exports would have been less had there been no ban on imports of cattle from Canada.

22. If this rule becomes effective, how do you anticipate it will change the structure of Canadian beef exports to the US? —Will more or less of the beef sourced by U.S. customers come as boxed beef, case-ready product, chilled sides or live cattle?

Response: If the minimal-risk rule becomes effective, it likely will lead to initial increases in imports of live cattle as Canada works through its backlog of animals under 30 months old. However, as inventories of backlogged animals are reduced, it is expected that increased slaughter capacity in Canada will result in active bidding between U.S. and Canadian packers for the available pool of live cattle. It is possible that imports of live slaughter cattle may decline from historic proportions, but the amount of change will depend on capacity utilization of Canadian and U.S. meat packers, exchange rates and transaction costs such as transportation and age certification. Imports of feeder cattle will depend on forage conditions and grain prices in the U.S. and Canada. It is likely that imports of beef will expand given increased Canadian slaughter capacity. Import data does not permit an exact determination of the form in which beef is imported. However, beef cuts fabricated in Canada cannot receive a U.S. grade; thus imports of boxed beef and case ready beef will likely be limited to those proportions which existed prior to the ban. Carcasses and quarters may be transported in such a fashion as to permit their reassembly into a carcass for the purposes of grading. Prior to the BSE discovery in Canada, about 8 percent of imported beef from Canada entered the U.S. as carcasses, halves, and quarters. Following the reopening of the border, beef imports were limited to boneless beef, as a result there has been no trade in carcasses. It is likely that trade in carcasses will resume and proportion of cut imports may decline slightly.

23. Many packers have reported reductions in operations at beef plants. Is this due to the inability to obtain Canadian cattle, to the Japanese ban, or are there other reasons?

Response: There are varied reasons for reduced operations at some U.S. meat packing plants during 2004 and 2005. Firms reducing operations have pointed to weak consumer demand due to high beef prices, loss of export sales, difficulties in obtaining slaughter cattle and poor operating margins. For example, one firm that temporarily reduced operations in 5 plants in early 2005 raised concerns about tight cattle supplies and attractive values in alternative meats given high retail beef prices. The inability to obtain Canadian cattle is an important factor in reduced operations because inability to access Canadian cattle has come at the same time the cattle cycle has reached its low point. During 2004, 32.7 million head of cattle were slaughtered in the United States, compared with 35.5 million during 2003. This 8-percent decline reduced meat packers capacity utilization and drove up operating costs. At the same time, farm-to-wholesale price spreads declined throughout 2004 putting additional pressure on plant profitability. While the opening of Asian markets would increase demand for beef, and help some packers, the continued limitation on the supply of available slaughter cattle would result in continued strong cattle prices and pressure on price spreads. Another factor has been imports of beef from Canada and elsewhere. As U.S. retail beef prices set record highs in 2005, U.S. imports of beef rose, providing additional competitive pressure for U.S. meat packers. Cow slaughter facilities, in particular, faced very limited availability of slaughter cows, thus squeezing their profitability.

24. The national animal ID plan now under development indicates that it will be implemented for all farm species. If our major meat trade problem is currently BSE-related, why not implement it more quickly for cattle?

Response: The National Animal Identification System will ultimately cover all segments of production animal industries in the United States. Initially, the cattle industry is our primary concern. We have implemented premises identification which is a prerequisite for animal identification. The animal identification component utilizing the new numbering system for individual animals will be implemented mid year 2005. The cattle working group is well advanced in drafting identification program standards, including the recommendation to utilize radio frequency technology to automate the collection of animal identification movements. The plans for the pork, sheep, and goat industries are also well along in development. Each of these segments will be part of the initial phases of NAIS implementation.

25. If a national animal ID program were in place, how might that improve prospects for reopening foreign markets to U.S. beef?

Response: The NAIS would allow for rapid tracing of animals in the event of an outbreak, helping to limit the scope and expense of the outbreak and allowing us to minimize impact on domestic and foreign markets. Additionally, the NAIS would allow for the tracing of animals to specific regions, increasing the likelihood of opening trade to those parts of the country that are not affected with highly infectious diseases like foot-and-mouth disease (FMD).

26. Just four countries (Japan, Korea, Canada, and Mexico) have accounted for most U.S. beef exports. What is USDA doing in the short term (the next 3-6 months) to explore and exploit opportunities in other countries?

Response: Some 64 markets are currently accepting U.S. beef. Of those markets still prohibiting U.S. beef exports, Japan, Korea, and Hong Kong represent over 90 percent of the export value based on 2003 exports. USDA is actively engaged in negotiations with Hong Kong and prospects for resuming trade in this market within the next three-to six months is high. In other secondary markets, Egypt and Taiwan have both resumed imports of U.S. beef from cattle under 30 months of age. These nations are setting an important example for their respective regions. We are also engaging Russia and have submitted a proposal for resuming trade. Our agricultural attaches and diplomats at U.S. Embassies around the world continue to engage government officials at all levels as this administration remains committed to resuming beef trade in all closed export markets.

27. Please describe the situation for U.S. beef exports in Asian markets other than Japan, including Korea and Hong Kong and explain why Hong Kong has agreed to accept Canadian but not U.S. beef?

Response: Taiwan opened its borders to U.S. beef on April 16, 2005 and the first "resumed" shipments arrived on April 24, 2005. On April 19-22 a USDA technical team traveled to Korea for technical talks. There was a very positive exchange of information and we agreed to host a Korean consumer group the week of May 9, 2005 and a technical team in early June. After these visits, we will engage Korea in discussions on the terms and details of resuming U.S. exports. In Hong Kong, after satisfying all of Hong Kong's concerns regarding BSE mitigation measures, and before the findings of the additional BSE cases, the Hong Kong government (HKG) lifted its import ban on Canadian beef. Hong Kong has continued to express concerns about U.S. capabilities to conduct animal trace backs in the event of another BSE finding in the United States. The HKG is also questioning whether the U.S. is making progress on a proposal to ban Specified Risk Materials (SRMs) from all animal feed. The United States has provided considerable information to address these concerns in a number of meetings and technical discussions. A Hong Kong technical team is expected to visit the United States to see U.S. BSE control procedures. We take this development as an indication that Hong Kong is close to making a decision to lift the import ban on U.S. beef exports.

28. How exactly does USDA monitor Canadian compliance with U.S. import requirements? For example, what specific assurances does USDA have that these plants are properly segregating products? What changes in compliance monitoring will occur when the border is further opened by the January 4 final rule?

Response: FSIS monitors Canadian compliance with U.S. import requirements through port-of-entry reinspections, as well as on-site system audits. While FSIS has been assured by the Canadian government that it will comply with the U.S. im-

port requirements, FSIS sends auditors to Canada on a regular basis to ensure that our requirements for properly segregating products are being fully implemented and enforced in those Canadian establishments certified to export to the United States. FSIS has already conducted two audits - one in December 2004, and the other in February 2005 - to focus on Canadian compliance with United States BSE food safety requirements. These audits, combined with import reinspection, are the primary means by which FSIS verifies compliance with U.S. food safety import requirements and thereby protecting public health.

29. How many violations of the existing import rules has USDA found? Have they been corrected? How many import permits have been rescinded due to irregularities or violations?

Response: Since August of 2003 when USDA began allowing the importation of boneless bovine meat from cattle under 30 months of age as well as certain other ruminant products from Canada, compliance with permit conditions has been extremely high. This has been due in large part to on-going communication and coordination with Canadian agricultural officials who certify that all imports of approved bovine products meet USDA guidelines. We have also worked closely with our counterparts at the Department of Homeland Security to ensure that they are well informed on all issues associated with Canadian imports. As such, we have only had two issues that required some type of action either by Canadian agriculture officials or USDA. We will remain vigilant in our efforts to ensure that only approved products are allowed entry to the United States.

30. Recent newspaper articles have revealed that the Canadian Food Inspection Agency (CFIA) found animal material in 66 of 110 feed ingredient samples taken between January and March 2004. A CFIA official confirmed that some of this material might have been ruminant protein. What efforts did USDA take to evaluate the significance of these reports, and was this evaluation taken into consideration in the January 4th rulemaking?

Response: Because of its close working relationship with Canada, USDA was aware that CFIA had been considering animal feed testing as a potential part of their feed ban compliance program. CFIA trained laboratory analysts to perform this testing. These considerations led CFIA to implement a pilot project to test feed during January, February, and March of 2004. Under this pilot project, CFIA inspectors accepted feed samples—some from feed ingredients intended for use in ruminant feed and some from finished ruminant feed products—and tested those samples for the presence of animal protein. Instructions were to obtain approximately half of the samples from domestic products and half from imports.

Officials found that multiple samples contained evidence of animal protein, but the type of testing was not specific enough to identify the species of origin of such protein. In other words, while the tests could identify animal protein they could not determine whether or not the animal protein was prohibited material (like ruminant meat-and-bone meal) or whether it was animal protein allowed under the feedban (such as blood or porcine protein). Additional analysis and follow-up inspections at firms where the sampled feed was produced had to be conducted to determine if the feed actually contained prohibited material. These inspections found that only a small percentage could have contained prohibited material, and CFIA and the producers have taken corrective measure in these instances.

It should also be noted that the risk analysis never assumed 100 percent compliance with the feed ban. Instead, it considered that the feed ban was effective overall. As demonstrated in the Harvard risk analysis, which assumed a certain level of non-compliance with the feed ban, even feed bans without 100 percent compliance can effectively prevent or decrease the spread of BSE.

31. In late 2003, the United States and several other countries asked the OIE to change the BSE risk categories. Please describe these changes and their status within the OIE?

Response: During the fall of 2003, the OIE convened a group of experts to update the Code Chapter on BSE. One of the group's tasks was to examine ways to simplify the Chapter by reducing the number of BSE risk categories from five to three. In July of 2004, after obtaining input from member countries, the OIE presented for consideration and comment two separate Code Chapters on BSE. One Chapter was based on the existing Code, and included updated information while still retaining the five BSE risk categories: free, provisionally free, minimal risk, moderate risk and high risk. The other chapter was a proposal to simplify the number of risk categories to three: negligible BSE risk without mitigating measures, negligible risk with mitigating measures, and undetermined risk. Member countries commented on these proposals, and, in January of 2005, the expert group convened again to evalu-

ate comments. After this meeting, the OIE officially proposed moving from a 5-category system to a 3-category system. Although the categories are simplified, the system continues to focus on a risk-based approach for trading in bovine commodities. These proposed changes are up for adoption at the upcoming OIE General Session in May 2005.

32. What, specifically, has the Department done to rebuild the U.S. public's confidence in its BSE safeguards?

Response: We believe that effective communication with all stakeholders, especially the public, has been key to ensuring confidence in the steps USDA has taken—and will continue to take—with regard to BSE. In this regard, USDA officials continue to inform the public and other groups through a variety of different forums. We have held numerous teleconference briefings with the media, industry representatives, and State officials to provide information and respond to specific questions. In addition, USDA officials have attended countless meetings and conferences across the country to meet with concerned groups and individuals and reinforce our findings that the overall risk to human and animal health from BSE in the United States is exceedingly minimal. There is also extensive information posted on USDA's website.

Through this communication, USDA has been able to explain the science behind its policies. With the price and demand for U.S. beef remaining relatively steady, it is evident that American consumers have received the message that BSE presents an extremely low risk to public health.

33. In what way, if any, has the widespread criticism of USDA's BSE actions provided stronger arguments for those who believe some agency outside of the Department of Agriculture ought to be responsible for meat safety?

Response: The December 2003 discovery of a BSE-positive cow in Washington State strengthened the partnership the Food Safety and Inspection Service (FSIS) has with the Animal and Plant Health Inspection Service (APHIS). For instance, under APHIS' enhanced BSE surveillance program, FSIS collects samples from all antemortem condemned cattle, except for veal calves not exhibiting central nervous system symptoms, and provides the samples to APHIS for BSE testing. In addition, senior level FSIS officials worked closely with their APHIS counterparts on the development of the proposed minimal risk rule.

Moreover, FSIS has been and will continue to engage in substantive food safety discussions with FDA and other agencies who share public health and food safety responsibilities. Since 1999, FSIS and FDA have had a Memorandum of Understanding (MOU) to exchange information on an on-going basis about establishments that fall under both jurisdictions. FSIS and FDA will continue to work together to ensure the safety of food products.

34. USDA continues to argue that its BSE protections have a sound basis in science. If that is true, why is there still widespread public sentiment that "mad cow" is a far more serious problem than USDA believes?

Response: As we mentioned, effective communication with all stakeholders, especially the public, is key to ensuring confidence in the steps USDA has taken—and will continue to take—with regard to BSE. In this regard, USDA officials have set out to inform the public and other groups through a variety of different forums.

Through this communication, USDA has been able to explain the science behind its policies. American consumers have received the message that BSE presents an extremely low risk to public health. It is worth noting that the price and demand for U.S. beef has remained relatively steady.

35. Has USDA been successful in communicating the nature and level of risk from BSE, relative to other food safety threats? Why or why not, and what improvements are needed?

Response: Prior to the December 2003 discovery of a BSE-positive cow in Washington State, USDA had in place a series of safeguards to protect the public health from food safety threats, including those related to BSE. Upon discovery of the infected animal, USDA published a notice and three interim final rules relating to BSE which add a significant level of protection to an already robust food safety system.

The American public remains confident in the safety of the U.S. meat, poultry, and egg supply, in part due to the many food safety accomplishments FSIS made in 2004. In August of 2004, a Gallup poll found that more than 85 percent of Americans are confident in the Federal Government's ability to protect our food supply.

36. What are the latest estimates on the economic impact of the ongoing bans (in Japan and elsewhere) on U.S. beef and beef products? What have been the impacts on: U.S. cattle producers; U.S. meat packers and processors; and workers in the meat industry?

Response: USDA estimates that the value of lost beef and beef product exports is \$3.5–4.0 billion since the ban on U.S. exports was put into place. However, much of that product was consumed domestically albeit at a lower price than would have been expected had the U.S. been able to export freely. Had the U.S. been able to export freely, it is likely cattle prices would have been \$50–\$70 per head higher generating \$1.7–\$2.30 billion in increased cash receipts to producers. There are no formal economic estimates of the losses to the meat packing industry. However, there is anecdotal evidence that the bans have affected the sector. Swift and Tyson both indicated that market closures, as well as the inability to source sufficient cattle, were factors in reduced earnings. Several packers have reduced production at their plants:

In October 2004, Swift cut second shift production 15 percent.

In late December 2004, Creekstone laid off 150 employees and reduced operations to 4 days per week, due to the inability to ship to Japan. Majority interest in Creekstone was sold in early March. The new owners have indicated that they would plan to expand production.

In early January 2005, Tyson announced that it was temporarily suspending operations at 4 plants and cutting a shift at a 5th plant. Tyson announced that operations would resume in February.

In early January 2005, National Beef cut production. Production had previously been cut in November but later restored.

In early March 2005, Swift & Company announced a 20-percent reduction in production at a Nebraska plant. They cited high cattle prices

In early March 2005, Cargill Meat Solutions announced additional cuts in production at 7 plants located in Texas, Kansas, Nebraska, Colorado, Wisconsin, and Pennsylvania. High cattle prices and tight supplies were cited as reasons for reductions.

37. Tyson recently reported that it was reducing operations at four beef plants. Was this due primarily to the inability to obtain Canadian cattle, to the Japanese ban, or to other reasons?

Response: Tyson Foods is the best source for understanding their motives for reducing plant operations. Tyson's temporarily suspended operations on January 10 at plants in Denison, Iowa; Norfolk and West Point, Nebraska; and Boise, Idaho. Second-shift processing at Pasco, Washington, was also suspended. The reduced operations were attributed to "unfavorable beef operating margins" (Tyson press release, January 6, 2005). John Tyson, chairman and CEO of Tyson Foods, indicated, "This is a difficult decision, however, we believe it's the right thing for us to do at this time, especially given the challenging market conditions and unfavorable operating margins our beef business continues to face. Our plants have been running at less than 75 percent of capacity over the past 2 months, which is 10 to 15 percent below historical levels."

On February 10, 2005, Tyson announced a schedule to resume operations at the plants. At that time, John Tyson said in a statement, "While cattle numbers remain tight, we believe supplies will improve in the months ahead, especially as the anticipated flow of Canadian cattle resumes. Beef demand has been weak, largely because of high beef prices and the attractive value of competing meats. We typically experience seasonal improvements in beef sales as we move into the spring and summer months. We're hopeful cattle prices will moderate, so beef can be priced more competitively with other proteins" (Tyson press release, February 10, 2005).

38. There have been conflicting reports about when U.S. beef exports to Japan will begin again. What is your best assessment of a start-up date?

Response: It is difficult to provide a specific date on when U.S. beef exports will begin. President Bush has talked to Prime Minister Koizumi, who said he wants to resume beef trade as soon as possible, but refrained from offering a timetable. USDA has been frustrated by the slow progress made by Japan in opening its market to U.S. beef. Nevertheless, reestablishing trade with Japan remains this administration's top priority. In fact, Secretaries Rice and Mineta recently raised the issue with their counterparts on separate occasions while visiting Japan. In addition, on April 25–28, 2005 Dr. Charles Lambert, Deputy Under Secretary for Regulatory and Marketing Programs, led a team of USDA officials and academic experts to Japan for technical discussions and to participate in a number of public diplomacy activities aimed at educating Japanese media and consumer groups about the safety of U.S. beef. Dr. Lambert had very positive discussions with Japanese government offi-

cials and to encourage more rapid progress, we agreed to host a technical team from Japan in early May to review our BSE control procedures.

39. Please describe exactly what conditions must be satisfied in order for U.S. beef to begin entering Japan.

Response: Japan's Food Safety Commission submitted its report to Japanese government officials recommending an exemption of BSE testing from animals under 21 months of age. The decision to exempt these animals from BSE testing is expected to become final soon now that the 30-day comment period has passed. With the testing decision to be finalized, Japan must also prepare for rulemaking on imports. We have submitted a series of responses to questions the Ministries of Agriculture (MAFF) and Health (MHLW) had as they prepare for deliberations by the Food Safety Commission regarding imports of U.S. beef. In addition, a team of Japanese technical experts will visit the United States on May 9, 2005 to verify U.S. BSE control measures. After the site visit, MAFF and MHLW will hold a series of public hearings in Japan before a final decision to lift the import ban is made. USDA will also need to finalize a beef export verification program for U.S. packers to certify that Japan's import requirements are being met.

40. How, specifically, will USDA ensure that Canadian beef from cattle over 20 months is not co-mingled with beef destined for Japan? What procedures will be in place to monitor Canadian products and ensure that all import requirements are being met?

Response: Once an agreement is finalized with Japan, the Agricultural Marketing Service (AMS) will develop a Beef Export Verification program to ensure the terms of the agreement, such as age and country of origin, are met. In fact, a BEV program addressing the commingling issue was developed for Japan to accept U.S. beef after the first case of BSE was found in Canada in May 2003. The Food Safety Inspection Service will take AMS's verification and certify on a U.S. export health certificate compliance with Japan's import requirements. USDA officials assigned to the packing plants will have oversight responsibilities to ensure all requirements are being met.

41. USDA states that its Beef Export Verification Program will be used to ensure that beef to Japan is from cattle 20 months and younger. Is USDA willing to consider a program of this type for small beef packers who also want to satisfy the same Japanese market by testing all cattle? Why or why not?

Response: Some small packers have expressed an interest in testing all cattle presented for slaughter for BSE as a means of assuring consumers and trading partners of food safety. Because of the nature of the disease, the earliest point at which current testing methods can detect a positive case of BSE is 2 to 3 months before the animal begins to demonstrate clinical signs. The incubation period for this disease—the time between initial infection and the manifestation of clinical signs—is generally very long, on average about 5 years. As a result, there is a long period during which testing an infected animal with the current methodology would not be able to detect the disease and therefore testing would not be effective. This is especially likely if the animal is both young and clinically normal at the time samples are obtained for testing. Most cattle that go to slaughter in the United States are both young and clinically normal. Accordingly, a testing program that tested all slaughter cattle would have negligible benefit from a public health standpoint.

In particular, it is the removal of specified risk materials from the human food chain, along with the other safeguarding measures administered by USDA, that provide assurances of food safety. We are confident that these measures address potential public and animal health risks concerning BSE.

42. There appears to be continuing opposition among Japanese consumers to any U.S. beef imports. Why have USDA and the beef industry been unable to convince the Japanese public that U.S. beef is safe?

Response: Japanese consumers lost confidence in the safety of beef after Japan's first BSE finding. Beef demand declined resulting in a reduction in imports. Largely due to U.S. Meat Export Federation (USMEF) and USDA consumer-education programs and marketing efforts, Japanese consumer's confidence in imported U.S. beef began to rise resulting in increased imports until Japan banned U.S. beef imports in December 2003. FAS/Tokyo and USMEF have produced a joint plan to again address consumer confidence and we are confident that Japanese consumers will return to demanding U.S. beef.

43. What is your assessment of the Japanese view of the January 4th Canada border rule? For example, is it a help or a hindrance in the negotiations with them?

Response: The Minimal Risk Rule was an example to the rest of the world how the United States relied upon science to set BSE import policy. While the Japanese government has asked a number of questions regarding the minimal risk rule and the subsequent court injunction, and Senate resolution to stop implementation of the rule, there have been no indications by Japan that the rule or the court injunction have negatively affected negotiations.

44. USDA's Foreign Agricultural Service has reported that lost U.S. beef sales to Japan have been replaced by beef from other countries like Australia, and also by substitutes like pork and chicken. What specific actions have USDA and the industry discussed to win back the Japanese market for beef?

Response: The Japanese government has asked that USDA implement a risk communications plan to help ensure public acceptance of any agreement between the U.S. and Japan on BSE. In response, the FAS office in Tokyo and the U.S. Meat Export Federation (USMEF) have jointly produced a pre- and post-market opening plan that focuses on the potential concerns and misperceptions about BSE to consumers, the media and political officials. Some examples of activities being planned or already being implemented are editorials, offering trips to the United States for journalists, seminars on BSE, and the dissemination of technical materials.

45-46. It is my understanding that Canadian animals imported to the United States will have their Canadian Animal Identification numbers listed on the health certificate that accompanies their lot. I also understand that within the year all Canadian cattle will be marked with RFID tags. In states like New York, where an US-based RFID system is already operational, all that information from the Canadian RFID tag will presumably be directly accessible to U.S. authorities. What efforts are underway to capture that valuable information in other border states that may lack their own RFID program? How soon will the capacity be in place to interface nationwide with this Canadian information on cattle entering from any port?

Response: (Questions 45-46) Under the final rule, all feeder cattle and feeder sheep and goats imported from minimal-risk regions must be individually identified by an official eartag of the country of origin. The eartag must be applied before the animal's arrival at the port of entry into the United States, meet U.S. eartag standards, and be traceable to the animal's premises of origin. There will be a health certificate for each shipment of animals; the number on the eartag will be listed on the health certificate. This health certificate will accompany the animals as they move to the feedlot and/or to slaughter. This certificate, with the record of specific individual identification, will allow us sufficient information to communicate with our Canadian colleagues as necessary to access their records for tracebacks. Specifically in reference to BSE, it is important to note that since this is not a highly contagious disease, some of the time constraints in rapid traceback are not as critical.

USDA has relied on a long history of communication and cooperation with CFIA. This cooperation has been evident in past animal disease investigations as tracebacks occur back and forth across our border. We anticipate that this collaboration will continue in the future.

47. Canada already has a mandatory animal ID system in place. Why has our animal ID system been delayed for 3 years when the pilot project FAIR is working?

Response: The growing number of animal disease outbreaks around the world, the threat of intentional introductions of foreign animal diseases, and the single detection of BSE in the United States in December 2003 has made the development of a National Animal Identification System (NAIS) a top USDA priority. USDA is currently working on the first phase of implementation, which entails identifying and registering premises that house animals. Such premises would include locations where livestock and poultry are managed, marketed, or exhibited. APHIS has provided a Standardized Premises Registration System—or SPRS—to States that requested it. In addition, several other States are using compliant premises registration systems administered by a State and/or through a third party. APHIS will support the interface of all compliant systems with the premises number allocator and premises information repository. The goal is to have all States operational for premises registration by mid-year 2005.

In mid-2005, USDA plans to implement the animal identification number (AIN) management system to administer the assignment of AINs to tag manufacturers and to record the distribution of the animal numbers to a producer's premises. Individual animal identification and tracking animal movements can then be implemented.

48. If a national animal ID program were in place, how might that improve prospects for reopening foreign markets to U.S. beef?

Response: The NAIS would allow for rapid tracing of animals in the event of an outbreak, helping to limit the scope and expense of the outbreak and allowing us to minimize impact on domestic and foreign markets. Additionally, the NAIS would allow for the tracing of animals to specific regions, increasing the likelihood of opening trade to those parts of the country that are not affected.

49. The board of the National Cattlemen's Beef Association recently proposed a national ID system which differs from that being developed by USDA. Can you describe the differences and provide your view on whether these differences will delay implementation of a program?

Response: NCBA has proposed a private animal ID system. USDA is receptive to reviewing solutions offered by private entities, but only if we can be assured that they will provide the same level of data access and completeness that our own system will be capable of, within the timeframes we are considering.

50. When do you believe a national ID program will be in place?

Response: USDA is currently working on the first phase of implementation, which entails identifying and registering premises that house animals. Such premises would include locations where livestock and poultry are managed, marketed, or exhibited. APHIS has provided a Standardized Premises Registration System—or SPRS—to States that requested it. In addition, several other States are using compliant premises registration systems administered by a State and/or through a third party. APHIS will support the interface of all compliant systems with the premises number allocator and premises information repository. The goal is to have all States operational for premises registration by mid-year 2005.

In mid-2005, USDA plans to implement the animal identification number (AIN) management system to administer the assignment of AINs to tag manufacturers and to record the distribution of the animal numbers to a producer's premises. Individual animal identification and tracking animal movements could be implemented afterwards.

51. I am concerned that that feeder cattle and calf supplies outside feedlots in Canada are currently at record levels and nearly double what they were in 2002, a high-water mark year in terms of feeder and fed cattle imports from Canada. What efforts has USDA made to identify and implement legal means to gradually resume trade with Canada so we can prevent a shock to the U.S. cattle marketplace and mitigate the very real potential for short-term economic harm to U.S. beef cattle producers?

Response: USDA's risk assessment focused on the risk that opening the Canadian border to specific animals and products would pose to animal and human health and determined it to be of minimal risk. The major trade impact of the BSE minimal risk rule when it goes into effect will be a resumption of imports of live cattle under 30 months old from Canada. On February 22, 2005, the Department released a revised forecast that 1.3 million head of Canadian cattle would enter the U.S. in 2005, had the rule gone into effect on March 7, 2005. Such imports result from a build-up of cattle in Canada, lower cattle prices in Canada than in the U.S. and the reduced availability of U.S. cattle for U.S. meat packers. The increase in cattle outside of feedlots in Canada would also be a key source of U.S. imports. As a result of the imports, U.S. meat packers would be able to increase capacity utilization and reduce operating costs.

The number of live cattle expected to be imported compares with 2004 U.S. slaughter of 32.7 million head. In addition, in the 5 years prior to the finding of BSE in Canada, the U.S. imported an average of 1.25 million head annually from Canada, with 1.7 million head in 2002. So, the 1.3 million head of Canadian cattle imports is about what was typically imported prior to the finding of BSE in Canada. USDA estimates a 2.6-percent decline in fed cattle prices as a result of the live cattle imports but that decline is compared with no trade. Of course, no trade is abnormal. In addition, much of the price effect is already reflected in cattle futures market prices. Moreover, the negative effects on cattle prices will likely be at least partially offset by long-term gains resulting from expanded world trade.

The estimate of cattle imports is uncertain and there are a number of factors that could mitigate the flow of cattle from Canada. (1) the price spread between U.S. and Canadian cattle had been narrowing, particularly in late February and early March; (2) pasture and range conditions in Canada are good, which could cause producers to keep cattle on pastures; (3) the value the U.S. dollar has been depreciating against the Canadian dollar, thus increasing cattle producer returns in Canada above the levels indicated by U.S. dollar prices; (4) Canadian meat packers have stepped up their own buying, as evidenced in slaughter year-to-date in 2005, which is up 11 percent in Canada; and (5) logistical problems such as limited transportation and higher costs due to the import regulations will increase import costs. These five factors will act together as a disincentive to import.

52. Secretary Johanns, you recently stated that it was “not scientifically consistent” to allow meat from older Canadian cattle—but not the cattle themselves—to enter the United States. Why then did USDA regulators initially decide to include meat from older cattle in the January 4 rule? What did your expert panels recommend with regard to this aspect of the rule?

Response: In the extension to the comment period published in April 2004, USDA proposed allowing the importation of beef from Canada, regardless of the age of the cattle from which it was derived, provided other specified mitigating conditions were met, and invited comment on this change. The risk analyses support the conclusion that certain tissues’ specified risk materials, or SRMs—are considered at particular risk of containing the BSE agent in infected animals and therefore should be prohibited from import. The SRMs can be safely excluded from meat and other products, therefore these could be imported from animals of any age.

In February, however, Secretary Johanns announced a delay in the effective date for allowing imports of meat from animals 30 months of age and over. This delay was appropriate given that the ongoing investigations into finds of BSE in Canada in older animals were not complete at that time. The delay also addressed public comments that this part of the final rule does not reflect the evidence that beef from animals 30 months and over processed in Canada has the same risk profile as beef from Canadian animals 30 months and over processed in the United States. To address these concerns, Secretary Johanns directed USDA officials to develop a plan to allow imports of animals 30 months and older for slaughter as well as beef from over 30-month animals in resuming full trade with Canada. Neither the International BSE Review Team nor the Secretary’s Advisory Committee on Foreign Animal and Poultry Diseases provided USDA with an assessment of the risk levels associated with imported animals or animal products. Rather, these groups assessed domestic mitigations against BSE, including enhanced surveillance and SRM removal.

53–54. When it announced the final rule to permit entry of Canadian cattle, USDA stated: “Ruminant-to-ruminant feed ban in place and effectively enforced: Canada has had a ban on the feeding of ruminant proteins to ruminants since August 1997.” (Emphasis added.) How does this assurance that the ban is “effectively enforced” square with the fact that the last BSE cow was born after this ban? If the recent USDA report is true and “the Canadian feed ban is not substantially different than the U.S. feed ban,” how come the score is 4 to 0?

Response: (Questions 53–54) The cases identified in Canada reflect exposure that happened either prior to the feed ban was implemented or shortly thereafter. Continued surveillance within Canada, specifically the lack of positive cases identified in animals born quite some time after the implementation of the feed ban and the lack of cases outside of a limited geographic area, contributes to the possibility that the disease exposure was isolated and clustered. They also confirm the evidence that the disease is not continuing to circulate within Canada, primarily because an effective feed ban is in place. While further investigations may eventually identify the original source of introduction of the agent into Canada, it is also likely that they will not be able to pinpoint specifics that happened many years ago.

The feed ban in Canada was initially implemented in August 1997, with certain actions grandfathered until October 1997. The last case, identified on January 11, 2005, was born approximately 6 months after the full implementation. As mentioned previously, a complex feed ban that requires restructuring of various operations cannot be implemented instantly. As the necessary changes were being developed and implemented, it is possible that some ruminant feed produced shortly after the feed ban became contaminated with prohibited materials. In addition, it is also possible that feed manufactured prior to the feed ban was still in use.

On February 25, USDA released the final report of the feed ban technical team. Overall, the technical team found that Canada has a robust feed ban inspection program, that overall compliance with the feed ban is good, and that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population. The information provided by the U.S. team verifies the information cited in the risk analysis of the rule, and supports the conclusion in the risk analysis that the feed ban is effective.

55-56. Until January, U.S. and Canadian authorities had asserted many times that the feed ban in Canada became effective in August 1997. However, a BSE cow was born after the ban. Since then, the USDA now admits in a report that the feed ban was allowed a phase-in period. Would it be accurate to say that the feed ban did not take place in August 1997, but instead took place whenever the feed supplies in the market were exhausted? And if so, why were Congress and the American public kept in the dark?

Response: (Questions 55-56) The proposed rule, final rule, and supporting risk analyses state that the feed ban in Canada was implemented in August 1997. They also provide general information about what Canada's feed regulations include, and some detail about compliance efforts and activities. The overall conclusion in the risk analyses has been that the feed ban is effective.

The feed ban in Canada was initially implemented in August 1997, with certain actions grandfathered until October 1997. Achieving full compliance with a feed ban inevitably takes time, due to complexities of the regulations and the industries involved. Because of these complexities and the requirement that various operations of feed companies be restructured, a feed ban cannot be implemented with 100 percent compliance instantly.

International authorities generally recognize that it may take 6 months or longer to completely clear out any remaining feed from the old system after a feed ban is implemented; USDA and Canadian officials believe that feed manufacturers abruptly discontinued formulating ruminant feed with prohibited material even though they may not have discarded what was already produced. It also took some time before the feed and livestock industries were fully meeting the record-keeping and labeling requirements in the feed ban, and the requirements for preventing cross-contamination.

57. If the implementation of the feed ban was gradual and not immediate, shouldn't we resume trade gradually to avoid importing any cows that were given contaminated feed after the ban?

Response: The final rule as published limits the import of live cattle to only those for feeding or immediate slaughter, and all of these animals must be slaughtered before they are 30 months of age. This effectively means that, at this time, animals intended for import could not have been born before September 2002, or at least 5 years after the feed ban was implemented.

USDA remains confident that the requirements of the minimal-risk rule, in combination with the animal and public health measures already in place in the United States and Canada, provide the utmost protection to both U.S. consumers and livestock. USDA also remains fully confident in the underlying risk assessment, developed in accordance with the OIE guidelines, and continues to believe that international trade in beef, founded on science-based regulations, should be re-established in an expeditious manner.

STATEMENT OF KEN BULL

Thank you Mr. Chairman and Mr. Peterson and members of the committee for allowing me this opportunity to testify before you.

My name is Ken Bull, and I am the vice president for cattle procurement with Cargill Meat Solutions, based in Wichita, Kansas.

I understand that I was invited to testify because of the unique position our firm holds as one of two beef processors that have operations on both sides of the Canadian border.

My testimony today will speak primarily to three important concerns:

1. The absolute necessity that the United States continue its strict adherence to science-based sanitary and phyto-sanitary factors in its trade dealings;
2. That market disruptions can and do seriously impact industry competitiveness and structure;
3. That the North American livestock and meat sector is interdependent, and cannot be artificially divided along the 49th parallel or the Rio Grande River.

First, I want to offer a few comments on the science of this animal disease.

There is near unanimous agreement in the scientific community that the BSE risk in the United States and Canada is now extremely low, and will decline further over time.

Experts believe the initial exposure was due to the importation and subsequent rendering of at least one infected animal from Europe in the early 1990's, years before feed control measures were implemented.

Scientists all agree that the most effective means to eradicating BSE is addressing it in the animal feed supply—something the United States, Canada and Mexico have all taken steps to do. This action greatly reduced the potential for amplification of the disease and eliminated the potential for the kind of outbreak that has been witnessed in Europe and Japan.

BSE is a disease that when found, is found primarily in much older animals. In order for the disease to manifest in a younger animal the animal would have to have received an extremely high dose of the infective agent.

The most effective means of protecting human health is to remove specified risk materials, or SRM, from the human food supply. The U.S. and Canada implemented this key step in a rapid manner after the first cases were detected in each country. Further supporting this confidence is the fact that the brain and spinal cord, the SRMs of higher infectivity, are not commonly consumed in the North America, and many companies previously took steps to ensure cross contamination with meat products did not occur.

U.S. and Canadian regulatory authorities are in the process of developing measures to enhance the existing animal feed controls. These steps are meant to speed up the eradication of BSE from North America. It is critical that harmonized North American measures be implemented in an environmentally sound and cost-effective manner, otherwise implementation will take time, and opportunity for quick action will be lost.

The U.S. and Canada have undertaken a very aggressive surveillance exercise, targeting the older dead and disabled animal population where BSE is most likely to be detected. To date we understand USDA has conducted over 250,000 tests since the surveillance program was enhanced last year. Canada is testing proportionately in the same range.

Moving on to trade considerations, please review these comparisons:

The U.S. has suffered for a generation now under the European ban of U.S. beef. It is based on the non-scientific prohibition of growth promoting hormones. Those that want to close the Canadian border by distorting science are guilty of the same behavior as the EC.

The U.S. is now cut off from four of its top seven export markets (Japan, S. Korea, Hong Kong, Taiwan) because foreign governments are not moving to a common understanding of the science of BSE. Our only large trading partners accepting U.S. beef are Mexico and Canada.

These circumstances are really no different than other agricultural trade blocking efforts like our challenges exporting poultry to Russia, genetically enhanced soybeans and corn to Europe and elsewhere.

We fought for years to gain market access for beef to Japan and our fear is that any perpetuation of faulty science anywhere can cost us the market that is so important to the economy of a trade dependent industry.

The U.S. (and North American) industry will prosper or wither with our success in growing trade. And trade is a two way street.

There has been no more powerful example of trade distorting non-scientific actions than the Japanese beef ban in December 2003. Here the United States stood, with a single cow found to have BSE, and an aggressive, globally recognized (and then strengthened) surveillance system. Japan had nearly a dozen cases by that date and no system of high-risk animal surveillance. The leverage from these facts has yet to be made convincingly to the Japanese.

Moving on to the market impacts as the committee probably knows, U.S. cattle markets have remained exceptionally strong for the past year and a half. Part of this is because of the border closure. Low cattle supplies and high demand have a way of ensuring high prices. On the consumer demand side we must give a lot of credit to the administration's handling of the BSE situation. NCBA polling data shows that knowledge of BSE is the highest on record—but at the same time, consumer confidence in the safety of beef is also at its highest. No other BSE affected region of the world has experiences this. Canadian polling shows the same results for that country. This shows the power of excellent risk communication.

But what the committee may not yet have focused on is that there has been a quiet, yet substantial change going on in the processing industry that doesn't bode well for the entire sector.

As Canada has been isolated, in order to process a large supply of fed-cattle that otherwise would have come south to places like Washington, Utah, and Colorado, Canadian processors have now added about 5,000 head of packing capacity per day, or 30,000 head per week.

You may have read that there are many U.S. plants particularly in the Pacific Northwest that have already had lay-offs, even cutting entire shifts in their plants. While we have been impacted by the supply situation we haven't been hurt quite as badly as plants in deficit cattle production regions that rely more heavily on Canadian fed cattle. Thus far we have slowed our line speeds, running less efficiently, but keeping our workforce in place.

What I have described are substantial structural changes that the committee must study and fully understand because they have serious and lasting implications for the entire North American industry.

The North American beef sector is not limitless in its ability to grow. Our growth will come only from two sources: increased domestic consumption, and increased trade. I can say with great certainty that neither of these growth avenues will absorb the kind of packing plant capacity expansion we have seen. When trade returns to some sense of normality, there will be excess capacity left somewhere. Less efficient capacity may find it challenging to compete with the newer, more efficient operations that have been built.

Unlike the case with fed cattle, of particular concern to Cargill is our mature animal processing business in the United States. We greatly share the concern that my fellow panelist from Wisconsin will address. We operate large mature cattle plants in Pennsylvania and Wisconsin that greatly depend on a stable supply of animals from Canada to operate at capacity and with efficiency. As you probably know the supply of cattle in these regions is limited, and the need for Canadian animals is critical to us and our employees.

Finally, speaking to the concept of the North American market place, the committee must recognize that prior to BSE, Mexico was the second largest market for U.S. beef. Today Mexico is by far our top export market. Canada, prior to BSE was our fourth largest market, and today it is our second largest.

Another fact to consider: Cargill's Schuyler, Nebraska beef plant is more than 1000 miles closer to the Canadian population centers of Toronto and Montreal than is our High River, Alberta plant. This distance is quite significant considering the cost of refrigerated highway transportation. The point I am trying to make is that without trade distortions, both U.S. and Canadian industry stakeholders stand to gain when markets are served in their most efficient manner.

One final point - with regard to Mexico we export nearly three times as much beef to Mexico as we import in cattle. So as you can see the entire NAFTA market is the backbone of our beef industry.

Again, I appreciate the opportunity to appear before you again, and I would welcome any questions.

STATEMENT OF JIM MCADAMS

Chairman Goodlatte, Ranking Member Peterson, Members of the House Committee on Agriculture:

I am Jim McAdams, president of the National Cattlemen's Beef Association. I am a cattle producer from Texas and am honored to be here today to testify in front of this committee.

Bovine Spongiform Encephalopathy (BSE) has been a priority issue for our Nation's cattle producers since the disease was first diagnosed in the United Kingdom in the mid 1980's. Based upon the science that has been developed over the past two decades, our nation has implemented safeguards which protect the health of our cattle and the safety of our consumers. These safeguards include import bans, surveillance programs, feed bans, and the removal of specified risk materials (SRMs) from the food chain.

These safeguards have indeed served their purpose. Over the past 15 years, our country has tested almost 325,000 cattle and not found a single case of BSE in a domestically produced animal. In the past year alone, we have tested nearly 250,000 cattle without a single positive case. These test results illustrate the effectiveness of the science-based procedures our nation has implemented. Consumers understand and appreciate the steps that have been taken. In a recent independent survey conducted by the beef checkoff program, 97 percent of the people surveyed heard about BSE in the media over the past month. Despite the attention, consumer confidence in the safety of beef remains at 93 percent, the highest ever. Beef sales in the marketplace echo this survey, as evidenced by double-digit growth in the demand for

beef. With confidence numbers at record highs, it is disturbing that some attempt to undermine the science that forms the basis of our BSE protection system, a system responsible for the strong confidence consumers have in our product.

When the UK first diagnosed BSE in its cattle, not much was known about the disease. In the absence of a scientific understanding of BSE, the world adopted a zero tolerance policy. Trade in any product that could possibly carry BSE was disallowed. Ceasing all trade in products from cattle from countries with BSE became the de facto global standard for trade. Over the intervening years, however, a body of science developed that shed light and knowledge on the disease. The development of this science helped inform Congress, USDA, FDA, other regulatory agencies, our industry and scientific experts around the world, and led to the firewalls that have been erected. This body of science improved the world's understanding of BSE so that rules and regulations on BSE can now evolve.

The Office of International Epizootics (OIE), the world organization for animal health created within the World Trade Organization (WTO), has multiple chapters in its code dealing with BSE. The OIE code has evolved over the years to reflect the growing body of science on BSE. Nonetheless, in 2002 and 2003, NCBA was increasingly concerned that many countries did not recognize the OIE code for trade in beef for countries that represented minimal risk for BSE. Our members' concern was that a single case of BSE could jeopardize our export markets—despite the wide array of safeguards our nation has implemented to keep our Nation's systems robust against BSE.

In May 2003, Canada confirmed its first domestic case of BSE. Immediately, what we feared might happen to U.S. producers happened to Canada, a complete and total loss of all export markets. On behalf of cattle producers in the United States, NCBA spent much of the latter part of 2003 trying to amend the OIE code on countries that were deemed to be at a minimal risk for BSE to prevent what happened in Canada from happening to us. In December 2003, a cow of Canadian origin was diagnosed with BSE in the United States. Because of the nature of the OIE code, and the global BSE policies that existed at the time, our producers were forced under the yoke which others had been forced to bear—a yoke created during a time when fear—not science—drove global BSE policies. Because global BSE policies did not reflect the science, we lost our export markets and U.S. producers have lost \$175 on every animal sold in the United States. Total cumulative losses to U.S. cattle producers now number \$4.8 billion in lost exports alone.

It is with this historical context in mind that NCBA members adopted in August 2004, a policy calling for the normalization of global beef trade based upon sound science—so that our exports could resume. We are all in the midst of an historic shifting of global trade policy from one of fear to one of sound science. Transitions like this are not easy, and our members have struggled to develop policy that reflects all of the changes taking place.

This hearing was called to discuss the rule declaring Canada as a minimal risk country. The USDA rule is broadly consistent with our policy of normalizing trade and establishing a fully informed global trading standard based on science. However, the announcement and publication of this rule has been met by strong concerns from our members across the country. USDA's statement that 2 million head of Canadian cattle could enter the United States created the impression among U.S. producers that a wall of cattle would descend upon U.S. markets. In the days following the announcement of this rule, Canada announced two additional cases of BSE. This convergence of events—the publication of the rule, the USDA statement about 2 million head of cattle, and two new BSE cases in Canada—have proven controversial.

In the days following the announcement of these events, our organization faced many questions from our members. These concerns centered on three key areas: 1) The economic impact on U.S. producers based upon USDA's estimate of cattle that could enter the United States; 2) The importance of regaining our export markets prior to the border reopening to prevent a situation of more imports without having access to our traditional export markets; and 3) Concerns about Canadian compliance with its BSE prevention activities in light of the two new BSE cases.

To address these concerns, our Executive Committee put in place a number of action steps. Perhaps the most significant was the creation of a team of NCBA members that went to Canada to see Canada's BSE prevention activities first hand. The Trade Team report is attached to this testimony in its entirety. In summary, our trade team concluded:

- USDA's estimate of 2 million head of cattle that could enter the United States was overstated because USDA did not include the fact that Canadian processing has increased 22 percent since 2003. Instead, based upon first hand inspections and re-

views of more current data, the number of cattle that could possibly enter the United States is closer to 900,000 head, about half of what USDA estimated.

- The trade team was comfortable with what they saw relative to compliance with Canada's feed ban.
- Canada must move forward with removing Blue Tongue and Anaplasmosis restrictions on the movement of all U.S. cattle into Canada. These restrictions are not necessary; and
- Significant structural changes have occurred in Canada's processing sector which, in the long-term, could shift beef production into Canada at the expense of the United States.

Our membership met during our annual convention in San Antonio, Texas, during the first week of February and had extensive discussions about the USDA rule. The trade team report figured heavily in that debate. During the meeting, our membership adopted a directive on the issue that delineated certain criteria that must be met before the implementation of the rule. These include:

Prohibit the importation of cattle and beef products from cattle more than 30 months of age,

Assurance that all Canadian firewalls to prevent BSE, specifically adherence to its feed ban, are functioning properly,

No feeder cattle may be imported until agreement is reached on harmonization of animal health standards, especially bluetongue and anaplasmosis,

Movement of Canadian cattle into the United States must be managed to minimize market disruptions,

Fed cattle imported for immediate slaughter must be certified to be less than 30 months of age at the time of importation,

Ban the use of fetal bovine serum from heifers imported for immediate slaughter, USDA grades and stamps are not allowed on any imported beef product,

Feeder cattle must be branded with a "CAN", individually identified with an ear tag, certified to be less than 30 months of age at time of slaughter, shipped in sealed trucks from the border directly to an approved feedlot and moved directly in sealed trucks to slaughter,

Feeder heifers imported into the United States from Canada must be spayed,

USDA must work with our primary trading partners to ensure that expanded export access for U.S. beef is not in any way jeopardized by expanded importation of cattle and beef from Canada, and

The administration must reach an agreement to re-establish beef and beef by-product trade with Japan, Korea, and Mexico and apply economic sanctions if necessary.

Significant progress has been made on most of these items. USDA has already made the decision to delay the implementation of the part of the rule dealing with meat from cattle over 30 months of age. We are appreciative of the swift action taken by USDA Secretary Mike Johanns to delay this portion of the rule. We are expecting reports in the next two weeks from USDA on Canada's compliance with its feed regulations and SRM removal regulations. The Canadian Food Inspection Agency (CFIA) has resolved the Anaplasmosis and Blue Tongue issue with feeder cattle and we expect CFIA to modify its current regulations on these diseases for cattle of all ages as trade is resumed. Our directive specifically requests that cattle be permanently identified and processed before 30 months of age. These items are specifically contained in USDA's rule. We are discussing with USDA and FDA the portion of the directive dealing with fetal blood serum and the spaying of heifers.

Our negotiators have assured us that this rule will not negatively impact our ability to regain key export markets such as Japan. We are appreciative of the aggressive action taken by the administration and by many Members of Congress to help our industry regain access to the Japanese market. However, we continue to be disappointed with Japan's inability to set a date when trade will resume. Our industry needs continued strong action at all levels of our Government—from the President, to cabinet members, to diplomatic personnel, to Members of Congress—to apply the pressure needed to reopen this vital market. To apply the most pressure necessary, the administration and Congress should consider all options including economic sanctions.

The BSE policies of our country are based upon science and the OIE guidelines, as they should be. We support our Government's decision to follow the facts and the science but we expect our Government to ensure that we are not treated unfairly in the international marketplace. If our trading partners do not follow the science, do not negotiate in good faith, and do not follow the rules, then we expect our Government to defend us to the fullest and take the necessary steps to maintain fair trade.

The members of this committee should know several key facts about BSE. Prevailing science holds that BSE is not found in muscle meat of cattle. All meat is safe from BSE. The OIE code is a list of guidelines not requirements. Each country maintains the sovereign right to implement the guidelines in a manner that they deem necessary. NCBA points this out because over the past several weeks, irresponsible comments have been made about the safety of beef. NCBA maintains a fact-based approach in dealing with BSE. We recognize that our members have economic concerns about this rule and we are working expeditiously to lessen the impact and provide more economic opportunities by reopening export markets. We believe these challenges are best solved by negotiating solutions based on the facts. Undermining the science upon which our consumer confidence is based and questioning the safety of our product, is a disservice to hard working cattle producers and misleading to consumers and could ultimately do irreparable harm to our livelihood. For this reason, my written testimony includes a list of quotes from leading scientists who reinforce the points I have made today regarding BSE, beef safety and trade policy.

Thank you for the opportunity to appear before you today, and I look forward to your questions.

STATEMENT OF CARL KUEHNE

Mr. Chairman and members of the committee, thank you for the opportunity to testify today. My name is Carl Kuehne and I am the owner and chief executive officer of American Foods Group, with headquarters in Green Bay, Wisconsin. My company is also a member of an ad hoc coalition called the Meat Equity Alliance for Trade Fairness. MEAT Fairness comprises 13 smaller and mid-size companies who harvest older cattle and therefore are directly affected by the import regulation of over-thirty-month (OTM) cattle and the meat from those same animals.

Like the other members of the MEAT Fairness coalition, my company favors an open border with Canada. The importance of trade to the entire beef industry has grown in recent decades, and one of the fruits of past trade agreements has been the development of a North American market where cattle and beef have moved freely across borders in response to market-based signals.

A primary goal that we all share is to maintain consumer confidence in our beef products. Consumers have reacted to the North American BSE cases by demonstrating with their pocketbooks that they retain confidence in our food safety system and our industry's ability to deliver a safe product. Our Government must continue to maintain the consumer's confidence by basing its actions on science, not emotion or fear.

I mentioned that my segment of the meat industry favors an open border. When the border is not open, we feel the consequences acutely. Like other firms who harvest older cattle, we have already been adversely affected by the inability to procure Canadian cattle. We believe the available scientific evidence supports the designation of Canada as a minimal-risk country for BSE, and normal trade should be resumed as soon as possible. We believe Canada's rules and procedures are consistent with guidelines of the World Animal Health Organization (OIE), and this compliance with international standards provides additional confidence in Canada's minimal-risk status.

Of course, it is critical that trade be resumed in a rational rather than an irrational fashion. Like many others throughout the U.S. industry, we were troubled by the U.S. Department of Agriculture's final rule when it was published on January 4, since it permitted imports of OTM beef but not OTM cattle. That dichotomy would create a perverse but powerful incentive to harvest OTM cattle in Canada rather than the United States, to the significant economic detriment of U.S. packers and producers alike.

We appreciate Secretary Johanns's action to temporarily delay the effective date of that portion of the rule that would have permitted OTM beef. Likewise, we feel it is now critically important to move forward without delay to create a regulatory structure that will allow both OTM cattle and OTM beef to enter the United States at the same time.

USDA has extensively studied the risks posed by minimal-risk regions like Canada. This exhaustive scientific work shows that Canadian beef and cattle are safe. Both the United States and Canada have implemented a series of safeguards to minimize the risk of BSE in cattle, the most important being the implementation of feed bans in 1997 and provisions governing the removal and disposition of specified risk materials (SRMs). When the border is re-opened, we can begin to restore

equilibrium to a market that has been in turmoil since May 2003, when the discovery of a BSE-positive Canadian cow led to closure of the border.

Secretary Johanns acted appropriately in delaying implementation of the rule with respect to OTM beef imports. In light of the discovery of two BSE-infected cows in Canada after the final rule was published, it is certainly prudent to complete investigations into these cases and assess the adequacy of Canada's feed ban and other protective measures. Once that assessment is completed, the Department should move as expeditiously as possible to re-open the border to all cattle and beef.

Had it remained in place, the disparate treatment of OTM cattle and beef would have had a devastating economic impact on our industry, already struggling with capacity utilization issues because of the prolonged inability to import Canadian cattle. To understand this economic impact, it is important to know how our part of the meat packing industry is structured, and differentiate it from the portion of the industry that harvests fed cattle.

The meat packing industry is not monolithic, and small to mid-sized companies still play an important part, especially in the harvest of non-fed animals. We are all used to hearing about the dominance of a few extremely large companies, but those statistics pertain to the harvest of fed cattle calves placed in a feedlot and harvested at a relatively young age.

The segment of the industry that harvests older "non-fed" animals is much less concentrated. According to data published by Cattle Buyers Weekly and other sources, 28 companies operate facilities in 18 states to harvest non-fed beef, and 24 of these have only a single location to produce non-fed beef, while the remaining four have between two and six locations. A list of these companies is attached to my testimony.

My company harvests both fed and non-fed beef, but most other firms in our industry do not. Those companies that are solely dedicated to older cattle would have been especially hard-hit by the initial form of the final rule on Canada, which would have permitted OTM beef imports but not OTM cattle.

These impacts have been quantified in a study by Informa Economics, Inc., which estimated that permitting OTM beef but not OTM cattle would have cost our segment of the packing industry \$159 million over 12 months, and reduced income to U.S. cow producers by \$332 million in the same period. A copy of this study is attached to my testimony.

I have a high degree of confidence in the Informa study, and USDA officials with whom we have spoken have agreed. But there is a harsh reality that no study of this type can fully measure: If the final rule were to go into effect as published in December, some of the companies in our industry simply would not make it. The short-term impact of huge quantities of competing OTM beef at the same time that these companies would be prohibited by their own government from obtaining supplies of OTM cattle would be so great that some firms would be forced to close and exit the business.

Either plants would be permanently shut down, with the resulting loss of thousands of jobs in largely rural communities where alternate employment options may be few or the plants would move into stronger hands, with larger companies swallowing smaller ones and the meat industry becoming that much more concentrated.

Neither of those prospects is a happy one. In fact, the more likely scenario is perhaps the one in which U.S. plants shut down and Canadian plants take their place. According to a report from a National Cattlemen's Beef Association trade team, Canadian slaughter capacity expanded 22 percent in 2004 and is projected to increase each year through 2007. According to NCBA, "as many as 25 plants [are] either being expanded, in the process of being constructed, or on the drawing board"

Lest my rhetoric sound alarmist, let me simply refer you to USDA's own analysis of its final rule, as published in the January 4, 2005, Federal Register: "As of mid-November 2004, a Canadian packer could buy a cow for about US \$17 per hundredweight and sell the processing-grade beef for about US \$123 per hundredweight" In the United States, the cow would cost a packer about \$55 per hundredweight and the beef would sell for about \$125 a hundredweight.

The numbers have changed somewhat since this analysis was written, but the fundamental economic incentive has not. Older cows are much cheaper in Canada than in the United States. This price disparity is a logical outcome of the large buildup in Canadian cow supplies since its trade was largely cut off in the wake of its initial BSE case.

As a result of the price disparity, there is every economic incentive to harvest older cattle in Canada, and ship the meat to the United States. Simultaneous entry of both cattle and beef would tend to restore the two markets to equilibrium because the additional demand for older Canadian cattle would tend to raise their relative price compared to U.S. animals of a similar age.

But that was not what the final rule stipulated. Instead, the final rule would have heightened the economic incentive to move capacity to Canada by permitting OTM meat imports but not OTM cattle imports. No segment of the U.S. meat packing industry favored this blatant inequity, but it is the smaller and mid-size companies in MEAT Fairness who would have been devastated. Unlike two of the largest U.S. meat packers, the members of MEAT Fairness do not operate facilities in Canada. These companies carry out all their activities in the United States, but some of them would not survive the regulations for Canadian imports as written.

Even under the current trade restrictions, our industry has been hurt and many opportunities have been missed. My company entered into a joint venture with the Iowa Quality Beef Supply Cooperative, a group of producers, to form Iowa Quality Beef LLC and harvest both fed and non-fed beef. The plant began operations in July 2003. Unfortunately, as a direct result of the Canadian BSE cases and resultant trade disruptions, our venture was compelled to cease operations in August 2004.

Once again, we thank Secretary Johanns for recognizing the need for a prudent review of the portion of the rule that treats OTM beef differently from OTM cattle. We must reiterate, however, that it is absolutely imperative that OTM cattle and beef access remain on the same track. It makes no sense to treat them separately. Under no circumstances should USDA allow regulatory drift to bring us all back to the situation we faced just a few weeks ago the prospect of a flood of OTM beef that would hurt producers and packers alike, without any offsetting access to OTM cattle. Mr. Chairman, I respectfully urge this committee to insist that USDA avoid such an inequitable, devastating result.

A moment ago, I said OTM cattle and beef should remain on the same track. We believe that this common track must lead to an open market. We are not in favor of keeping the border closed. And we believe, from discussions with USDA officials, that most of the necessary preparatory work for a regulation to permit OTM cattle imports has already been done.

Therefore, we urge USDA in the strongest terms to move immediately toward a regulatory outcome that will recognize the safety of both OTM beef and OTM cattle. There is no basis to suggest, as some read the final rule to do, that OTM beef from Canada is safer than beef produced in the United States. That is nonsense. And if the risk is the SRMs, as some have suggested, then again I challenge anyone to tell this committee that SRM removal is somehow safer in Canada than in the United States. Once again, that is nonsense. And finally, if the concern is that somehow SRMs from cattle harvested here might enter the feed chain (despite our well-enforced feed ban), I would only remind you that this risk would also exist in Canada.

I have been speaking today for my own company, but the other members of MEAT Fairness would have similar things to say. They are geographically diverse, with operations in Wisconsin, California, South Carolina, Texas, Georgia, Minnesota, Nebraska, Washington, Nebraska and South Dakota. They take pride in producing high-quality, safe products while supplying skilled jobs in mostly rural areas.

These companies are not used to asking for help from Congress, but they do have a request today. Mr. Chairman, we respectfully ask that this committee advocate immediate, science-based regulatory action to restore normal trade between the United States and Canada for both OTM beef and OTM cattle. This step will also be critical to restoring all our trading relationships worldwide, not only in the highly publicized Japanese market but in other critically important markets like South Korea, Hong Kong and Taiwan.

Taking action based on science will also be the best way to maintain consumer confidence in beef. In taking this regulatory action, it is critical that beef and cattle move on the same track, and also critical that they move quickly.

Thank you again for the opportunity to testify. I would be happy to respond to your questions.

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION

The American Farm Bureau Federation respectfully submits our views to the committee as it considers the resumption of beef and live cattle trade with Canada.

USDA published a final rule on the classification of minimal-risk BSE countries in the January 4 Federal Register. The rule also designated Canada a minimal-risk region with resumption of some live cattle and expanded beef trade eligible to begin on March 7, 2005. AFBF supports the rule, with the amendment to exclude beef from cattle over 30 months of age.

BACKGROUND

In 1997, USDA increased the number of countries and products under import restrictions due to Bovine Spongiform Encephalopathy (BSE). This was a sound action in response to findings that BSE was the most likely cause of variant Creutzfeldt-Jakob disease (vCJD) and that the cattle populations in more countries of Europe were exposed to the agent than previously thought. However, it is appropriate to reconsider that regulation due to a significant improvement in science that allows the definition of products that pose a risk with far more accuracy. In addition, there are several diagnostic tests that allow a more accurate picture of the prevalence of BSE in each country.

A segment of the cattle population in North America has been exposed to the BSE agent. Sound science dictates USDA should not completely open our borders allowing undue exposure to the American public and the U.S. cattle herd. However, USDA should review regulations periodically to ensure that they are appropriate given the risk picture both domestically and with our trading partners. USDA must continue to monitor the changing science and world situation in regards to BSE to prevent additional risks. Farm Bureau has long supported using sound science as a basis for reopening our markets to ensure continued consumer confidence. We believe that philosophy is most applicable to the current world BSE situation. Border closings and openings need to be based on sound science, with the foremost goal of protecting animal and food safety.

CANADA'S DESIGNATION AS MINIMAL RISK

We support the use of sound science and OIE guidance in classifying countries as minimal risk regions for BSE. Specifically, Farm Bureau agrees with USDA's assessment of Canada as a minimal risk country and supports allowing additional products and certain live animals into the United States. In providing documentation for USDA's evaluation of its risk status, Canada has shown that its BSE-prevention standards are equivalent to our own domestic firewalls, including:

- Prohibition of specified risk materials in human food;
- Import restrictions sufficient to minimize exposure to BSE. Since 1990, Canada has maintained stringent import restrictions preventing the entry of live ruminants and ruminant products, including rendered protein products, from countries that have found BSE in native cattle or that are considered to be at significant risk for BSE;
- Surveillance for BSE at levels that meet or exceed international guidelines. Canada has conducted active surveillance for BSE since 1992 and exceeded the level recommended in international guidelines for at least the past 7 years. Canada has increased surveillance, especially in regions where exposure is known to have occurred, to establish that the prevalence of the disease is extremely low;
- Ruminant-to-ruminant feed ban in place and effectively enforced. Canada has had a ban on the feeding of ruminant proteins to ruminants since August 1997, with compliance monitored through routine inspections; and
- Appropriate epidemiological investigations, risk assessment, and risk mitigation measures imposed as necessary. Canada has conducted extensive investigations of BSE cases and has taken additional risk mitigation measures in response to these cases.

IMPLEMENTATION OF THE CANADIAN RULE

As March 7 approaches and live cattle trade resumes, we will work with USDA to ensure that a return to normalized trade with Canada will proceed in an orderly manner. We commend USDA for cooperating both internally—with the Animal and Plant Health Inspection Service (APHIS), Food Safety and Inspection Service (FSIS), and economic offices—and externally, with the Department of Homeland Security and accredited veterinarians, to make the resumption of trade as smooth as possible.

The guidance documents USDA has made available to producers, processors and animal health professionals have made the process transparent, and have clearly outlined the requirements and expectations associated with the importation of either live cattle under 30 months of age or additional beef products from those younger, low-risk animals. This educational effort will be increasingly beneficial as transportation pathways are reestablished and trade across the border increases in the weeks after March 7. The telephone hotline that has been established will enable potential problems to be handled before they occur, providing information on a case-by-case basis from import/export specialists at APHIS.

We urge USDA to continue to communicate the status of trade with the industry after March 7. From an economic perspective, as well as to evaluate the successful implementation of the rule in maintaining the speed of commerce, it is critical to understand how trade is proceeding.

ECONOMIC IMPACT

Resuming trade with Canada is not likely to have a significant impact on the total supply of cattle in the United States, as the total number of fed cattle projected to be imported will increase the domestic supply by less than three percent. While there will be a short-term price decline due to the increased supply of cattle, this impact is outweighed by the long-term effect of moving toward more normalized cattle trade with Canada. Reestablishing fed cattle with Canada will lead to increased liquidity within the U.S. fed cattle market, which would likely result in an overall reduction in market price volatility.

Reopening the Canadian border to cattle trade on March 7 will yield greater market access for U.S. cattle feeders. Recent months have seen a number of U.S. meat packing plants cease operations or limit production time due to the fact that they cannot operate efficiently or fully utilize capacity with the limited domestic fed cattle supply. As meat packers shut down or scale back operations, there is a decrease in the potential pool of cattle buyers that results in a reduction in price competition for fed cattle. Further, meat packing plant closures may generate increased costs of production for American cattle feeders as feeders are faced with additional trucking costs and shrinkage losses from transporting cattle to more distant packing facilities.

While AFBF supports the resumption of trade with Canada, it is critical that trade be re-introduced in a manner that will provide the least possible disruption to U.S. and Canadian cattle markets. Live cattle trade should marginally increase over time in order to reduce the potential for any large-scale surge in trade that would create unnecessary price volatility within the U.S. cattle markets. Farm Bureau supports the USDA rule on resumption of cattle and beef trade as currently amended. Allowing importation of beef from cattle over 30 months of age without also allowing for the importation of live cattle over 30 months of age would create inequity in the cull cow and bull slaughter market that forces undue price pressures on U.S. meat packers slaughtering cull cows and bulls. Therefore, importation of beef from Canadian cattle over 30 months of age should be resumed at the same time as trade in live cattle over 30 months of age and at a point in time after sufficient scientific testing has been performed to assure the safety of importing cattle and beef over 30 months of age.

We appreciate the opportunity to provide the committee with input, and your consideration of our position as the Canadian minimal-risk BSE rule is implemented.

