

Testimony of Craig Thorn
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before the

Senate Finance Committee
Subcommittee on International Trade

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AGRICULTURAL TRADE POLICY CHALLENGES FOR 2001

Mr. Chairman and Members of the Subcommittee:

My name is Craig Thorn. I am a partner at DTB Associates. Our firm represents a number of companies and trade associations with interests in agricultural trade, but I am here today in a personal capacity to discuss the agricultural trade policy agenda for the coming year. Thank you very much for giving me this opportunity.

The views I will be sharing with the Committee are based on eighteen years of trade policy experience in the Department of Agriculture and the private sector.

Mr. Chairman, American farmers and agribusinesses have long recognized that international trade is vital to the economic health of their industry. Government has understood this as well, and both the public and private sectors have dedicated significant resources to various programs designed to improve U.S. export prospects. However, the ability of government and private industry to promote U.S. exports or increase U.S. competitiveness is limited as long as the international market place is distorted by unfair and anti-competitive practices. That is why the trade policy activities of government are so important. It is up to government to develop and enforce trade rules so that American agriculture can take advantage of its natural competitiveness in the international market.

Because farm issues are politically sensitive in countries around the world, agricultural trade problems are always plentiful. However, the coming year will be a particularly critical one for agricultural trade. Among the many issues the U.S. will face, I would like to highlight two – the new round of negotiations under the World Trade Organization (WTO) and the illegitimate use of sanitary and phytosanitary measures and other technical barriers to trade.

The New Round of WTO Negotiations

No single development has a greater potential to affect positively the long-term prospects for agricultural exports than a successful round of multilateral trade negotiations under the WTO. Improving WTO rules is the most effective means of disciplining the use of trade-distorting practices by foreign governments.

The United States made significant progress toward strengthening rules and opening markets in the Uruguay Round of multilateral trade negotiations. However, at the end of that round, U.S. negotiators accepted a compromise that, in effect, postponed the achievement of many of the most substantial gains. In order to bring the negotiations to a conclusion, the U.S. accepted an agreement that fundamentally reformed the rules of agricultural trade, but required only modest cuts in subsidies and import protection. However, they demanded and got a “continuation clause,” Article 20 of the *Agreement on Agriculture* (Agriculture Agreement), which commits WTO members to another round of negotiations aimed at further liberalization, beginning this year.

Because the Uruguay Round agreements laid the groundwork for a healthy multilateral trading system in the agriculture sector – a good foundation of rules, plus better compliance and dispute settlement mechanisms – the U.S. will be able to concentrate in the new round on achieving substantial reductions in trade-distorting subsidies and import barriers. The stage is therefore set for significant gains for U.S. farm exports.

The failure of the Ministerial Conference at Seattle last year was especially disappointing for U.S. agriculture. Fortunately, however, the WTO has shown considerable resilience. Trade diplomats from WTO Member countries put the pieces back together and moved ahead with the “built-in agenda” – the negotiations on agriculture and services that were mandated under the Uruguay Round agreements. Member countries worked out a means of beginning the negotiations in those two sectors using existing structures, the Committee on Agriculture and the Services Council. The Agriculture Committee has now held three special negotiating sessions, the most recent of which took place last week in Geneva.

In my opinion, the negotiations have gotten off to a good start. This is primarily because the U.S. showed appropriate leadership by submitting a solid, comprehensive proposal in the first substantive meeting of the Committee last June. That proposal helped set the tone and establish a direction for the Committee’s work, and it made U.S. ideas the focus of attention. It also provided a basis for cooperation with other countries that share U.S. interests in agricultural trade liberalization. It is crucial that the U.S. maintain this leadership position and resist going on the defensive by focusing on short-term interests.

The first year of any multilateral negotiation is mainly preparatory. Countries present their initial negotiating proposals, debate those proposals and form coalitions. Negotiators develop the ideas and concepts that will form the basis for the final agreement. All of this can take place despite the absence of a full-fledged new round of negotiations.

At the same time, I want to stress the critical importance of the eventual launching of a comprehensive round. While the agriculture negotiations can begin on their own, it is highly unlikely that they could ever be concluded on their own. For that we need a much larger package that will meet the needs of all countries and allow our more reluctant negotiating partners to justify the concessions they will have to make on agriculture.

Negotiating Authority

Moreover, U.S. negotiators will never be able to conclude the round without the proper negotiating authority – that is, without fast track legislation. Thus far, the absence of fast track – or traditional trade negotiating authority, as we now call it – has not had much of an effect on U.S. negotiating leverage. However, the further we progress into the negotiation, the more critical that authority will become. No country will be willing to conclude a deal or to show the full extent of its flexibility as long as there is a chance that the Administration could be forced by Congressional amendment to renegotiate. I

therefore believe that Congress should make the passage of legislation to grant traditional trade negotiating authority a priority in 2001.

Fast track will be of little use to negotiators, however, if it is accompanied by conditions – e.g., relating to labor standards or environmental protection – that our trading partners find unacceptable. I would urge Congress to avoid saddling the WTO negotiations with inappropriate burdens and instead to address such legitimate non-trade issues in the appropriate international fora.

The U.S. Negotiating Agenda

Since the agriculture negotiations are about to begin, the U.S. is in the process of developing its negotiating agenda. As I indicated, most of the elements of that agenda should be self-evident. The primary focus should be on achieving the elimination of export subsidies and substantial reductions in trade-distorting domestic subsidies and market access barriers.

Export subsidies: The number one negotiating priority for the U.S. in the Uruguay Round was to discipline the use of export subsidies. We tend to forget the circumstances that made that goal such an urgent one. From the initiation of the EU Common Agricultural Policy in the 1960's, we had experienced a steady and dramatic rise in subsidized EU exports. By the mid 1980's the EU had taken a major share in world markets for nearly every temperate-zone agricultural product. The obvious inequity of this situation focused world attention on the need for international discipline.

The Uruguay Round outcome was a clear success in this regard. The European share of world markets is declining across the board. For example, EU exports of wheat and wheat flour in marketing year 1992/93, before they adopted the policy changes designed to allow them to accept a WTO agreement, were nearly 24 million tons, or 24 percent of the world market for wheat. Next year they will be limited by their WTO commitments to 14.4 million tons, a 14 percent market share. Reductions are less dramatic for other commodities, but still significant. Subsidized pork exports will decrease from 560,000 tons to 440,000; beef from over 1 million tons to 820,000 tons; and cheese from 406,000 to 321,000. The EU is being forced to make domestic policy changes in order to meet these commitments.

Of course, subsidized EU tonnage is still substantial. Our goal in the next round should be the complete elimination of export subsidies. Given the negotiating context, I believe this is a realistic and achievable goal.

Market access: In the long run, the greatest benefits for U.S. agriculture will come from reductions in import barriers. Fortunately, the market access negotiations in the new round should be much less complicated, and more productive, than in the Uruguay Round.

In the Uruguay Round, negotiators focused mainly on eliminating the non-tariff barriers that were so common in agricultural trade at the time. These barriers – import quotas, variable import levies, discretionary licensing systems, and so forth – were converted under the Agreement to tariffs, which were “bound” (that is, countries committed not to raise them above specified levels) and then reduced, along with pre-existing tariffs, by an average of 36 percent. Because tariffs in the agricultural sector were in many cases so high, market access gains from the tariff reductions have been limited. There are, however, some notable exceptions. For example, reductions in Japan’s import duty for pork turned that country almost overnight into the largest export market for U.S. pork producers. Korean agricultural imports increased overall by more than fifty percent in the first year of implementation of the Agreement.

Because non-tariff barriers were eliminated in the Uruguay Round, U.S. negotiators will be able to focus on the magnitude of tariff reductions and the methodology for achieving those cuts. American interests would be best served by a “formula” approach, which brings down duties on all products, rather than a request/offer approach, which would allow countries to avoid reductions for sensitive products or product sectors. A formula approach will bring meaningful liberalization where it matters most, while a request/offer negotiation would lead inevitably to a small outcome.

Domestic subsidies: The achievements in the Uruguay Round with respect to domestic subsidies were more modest. The twenty percent reduction in support on a sector-wide basis left countries with significant flexibility with respect to individual products. Moreover, the Agriculture Agreement contains large loopholes, in particular the so-called “blue box” (Article 6.5), which allows EU direct payment programs to totally escape reduction commitments.

The U.S. would benefit from much tighter disciplines and substantial reduction commitments, and we should be in an excellent position to push for that outcome. Going into the new negotiations, the EU AMS commitment is about \$68 billion, over three times the limit for the U.S. Japan’s final AMS limit is nearly double ours. Both countries are spending a substantial portion of that total, even without counting EU blue box policies.

Moreover, unlike the Europeans, Japanese and others, we in the U.S. made major changes in domestic support policies after the Uruguay Round that brought our programs for most commodities into harmony with the new international disciplines. In fact, the FAIR Act of 1996 caused anxiety among EU officials, who saw it as an indication that the Americans would be aggressive on domestic and export subsidies in the next round. A further tightening of the domestic support disciplines would force countries either to reduce subsidization or move to less trade-distorting means of support. The result should be fairer and more open world markets.

U.S. Farm Policy

In this context, I would like to comment briefly on the pending debate on changes in U.S. domestic farm policy. Obviously, the primary considerations in that process will be domestic. However, given the export interests of the U.S. agricultural sector, I believe lawmakers should be conscious throughout the debate of U.S. trade interests and the need to take into account international disciplines. New policies that would increase product-specific support or raise internal commodity prices would make it difficult for the U.S. to maintain international competitiveness and could put the U.S. in danger of violating its international obligations. Moreover, such policies could make it difficult for U.S. negotiators to pursue aggressively further liberalization in the new negotiations.

The U.S. has a clear interest in promoting strong international disciplines on the use of trade-distorting subsidies. It would be short-sighted indeed for the U.S. to adopt domestic policies that undermined current disciplines or prevented the improvement of rules under a future agreement.

Prospects for a Successful Outcome

There are reasons to be optimistic about our chances for achieving a good agreement in an acceptable timeframe. As indicated above, we have the advantage of the rules framework negotiated in the Uruguay Round. We also have established a direction and a certain momentum for reform. From a technical as well as a political perspective, this agriculture negotiation is less complex than the previous one.

Moreover, we have the advantage of the deadline imposed by the expiration of the so-called "peace clause." The peace clause, Article 13 of the Agriculture Agreement, suspends until January 1, 2004, the application to the agricultural sector of certain WTO rules, most notably Articles 3, 5 and 6 of the *Agreement on Subsidies and Countervailing Measures* ("Subsidies Agreement"). Its expiration could have serious consequences for the EU and other exporting countries with high levels of subsidization, whose policies would then be subject to the much more stringent disciplines of the Subsidies Agreement. Used properly, the peace clause could be a powerful incentive for concluding an agreement.

Finally, Europe is once again feeling internal pressures for reform. Negotiations have begun for a substantial enlargement of the EU. It will be very difficult to bring the countries of Central and Eastern Europe into the Union without fundamental reforms in the Common Agricultural Policy. Some European officials see the WTO negotiations as providing welcome pressure for the necessary changes.

However, achieving an agreement is certainly not a forgone conclusion. As indicated previously, success in the agriculture negotiations is dependent on the conclusion of a

substantially broader package of agreements that contains something for all participants. The U.S. understood this fact in the Uruguay Round, when we pushed for an ambitious negotiating agenda and a “single undertaking” approach, which meant that nothing in the final package was agreed until all elements were agreed.

Unfortunately, this was not the U.S. approach thus far. Rather, U.S. negotiators have stressed limiting the scope of the negotiations and focusing on sectors that are “ripe for negotiation.” At times, the U.S. has seemed more intent on keeping issues off of the new round agenda than in putting them on. It is difficult to lead from such a defensive position.

The U.S. needs to reexamine its negotiating posture. We need to be prepared to discuss in the new round some subjects that are politically difficult for us so that our negotiating partners will agree to do the same. If we are not willing to do so, we will not be able to assemble a viable negotiating package, and we will lose a historic opportunity for American agriculture.

International Regulatory Issues

As significant as the new WTO round is, there is an international battleground that may be more important in the coming year. Many of the gains that we hope to achieve through the new round could be negated if existing disciplines on the use of sanitary and phytosanitary measures and other technical barriers to trade are undermined. Those disciplines are under threat.

One of the greatest achievements of the Uruguay Round of trade negotiations was the *Agreement of the Application of Sanitary and Phytosanitary Measures* (SPS Agreement). That agreement requires, *inter alia*, that import restrictions related to human, plant or animal health be based on scientific evidence. The SPS Agreement does not prevent WTO member governments from adopting health-related import barriers. On the contrary, it acknowledges explicitly the right of governments to do so and legitimizes science-based regulations. But the Agreement also provides a way of addressing trade problems that arise from questionable measures. It establishes an objective standard of legitimacy for health-related import barriers.

Since its implementation in 1995, the SPS Agreement has provided important protection to U.S. interests. U.S. officials have used it to induce a number of countries to change questionable policies that restricted U.S. exports. A well-known recent example is China, which opened its market to U.S. wheat, citrus and meat products by bringing its regulations into conformity with the SPS Agreement in anticipation of WTO membership. The Agreement has also been a useful tool in WTO dispute settlement. It was the basis for the successful cases against EU restrictions on hormone-treated meat, Japanese requirements for varietal testing, and Australian restrictions on salmon imports.

It is in part due to the effectiveness of the Agreement that it is now under attack. The EU in particular has found it difficult to comply with the Agreement and is promoting ideas

in international fora – such as the “precautionary principle” and the consideration of non-scientific factors in assessing risks – that could undermine requirements for science-based regulatory decision making. EU officials are presenting these ideas in every available forum – in international standards-setting bodies such as the Codex Alimentarius, the International Epizootics Organization and the International Plant Protection Convention; in the OECD; in the Biosafety Protocol negotiations; and in the WTO itself. The U.S. and other agricultural exporting countries have yet to develop an effective, coordinated strategy for addressing this challenge.

Precautionary principle: The precautionary principle is an especially dangerous concept, in part because of its superficial appeal. No government in the world can be against the application of a precautionary approach to regulating potentially dangerous products. Indeed, U.S. regulatory agencies are extremely cautious in their assessment of risks, and they build into their standards substantial margins of safety. This is a prudent and appropriate approach. Standards set on such a basis would be readily defensible under WTO rules.

However, the precautionary principle being advocated by many European officials would essentially give governments a blank check. It would allow politicians or government officials to impose import restrictions in any case where some scientific uncertainty exists. Since it is rarely, if ever, possible to reach total scientific certainty, such a principle would have the effect of removing all discipline.

Biotechnology: This principle is already being applied with regard to the products of agricultural biotechnology. In the case of a number of products that have been submitted to the EU for regulatory approval, EU policy makers have refused to act despite unqualified favorable reviews from the relevant EU and Member State scientific bodies. The EU has, in effect, ignored its obligations under the SPS Agreement, refusing for political rather than scientific reasons to act on product approvals.

Moreover, the EU has, in my view, ignored its obligations in the development of its biotechnology labeling regime. In this case, the EU makes no attempt to justify its requirements based on health considerations. Indeed, the products for which the requirements have been developed have been approved unconditionally for sale within the EU. The stated objective of the policy is consumer information. The WTO *Agreement on Technical Barriers to Trade* (TBT Agreement) permits labeling for consumer information but requires that such requirements be no more trade restrictive than necessary to accomplish their objective. Clearly, there are less trade restrictive ways of providing consumer information than the regime implemented by the EU, which has proven to be completely unworkable for food companies.

International cooperation: There is a need for international cooperation between agricultural exporting countries on such regulatory issues. The U.S. should work to assemble a coalition of countries who share our interest in maintaining proper disciplines on SPS measures and other technical barriers to trade and then work with that coalition to counter efforts to weaken WTO disciplines.

It is especially important to involve policy-level trade officials in the discussions that are taking place in international standards-setting bodies such as the Codex Alimentarius. Standards created in those bodies have legal relevance in the WTO. Therefore, any change in the practices in those organizations in response to EU pressure directly affects WTO rules. To date, the U.S. and other countries have not adequately taken this fact into account. It is in my view inappropriate for regulatory and scientific officials to be responsible for interpreting WTO obligations in debates in the international standards organizations. That is the job of policy officials, and it should be carried out under the auspices of the WTO.

Moreover, it is essential that we find a WTO forum for discussion of biotechnology and related regulatory issues. The purpose would be 1) to remind member countries of the applicability of WTO rules – in particular the SPS Agreement and the TBT Agreement – to biotech trade (an especially important task in light of the recently concluded Biosafety Protocol); 2) to provide a forum for the discussion with officials who understand WTO obligations; 3) to bring multilateral pressure to bear on countries whose measures do not conform to those obligations; and 4) to provide a focus for cooperation between export-oriented countries.

Establishing such international cooperation would not, on its own, solve our biotech trade problems. It could, however, help us to steer the international debate on biotech products in a more productive direction.

Thank you, Mr. Chairman.