

Fighting for the U.S. Cattle Producer!



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May 3, 2018

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

The Honorable Jeff Sessions
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Secretary Mnuchin and Attorney General Sessions:

As the largest producer-only trade association representing the U.S. cattle industry, the Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA) respectfully requests that you take decisive action to prevent Brazilian-owned Marfrig Global Foods (Marfrig) from acquiring U.S.-based National Beef Packing Company (National Beef). Importantly, the U.S. cattle industry, which generates about \$70 billion annually in cash receipts, is the largest segment of American agriculture.

Marfrig is following Brazilian-owned JBS to America to gain additional control over U.S. marketing outlets upon which nearly three-quarters of a million U.S. cattle ranchers rely on to establish a competitive price for their cattle. Those marketing outlets are, of course, the U.S. beef packing industry. Currently, the four largest beef packers control approximately 85 percent of the U.S. fed cattle market. JBS is the second largest beef packer and National Beef the fourth. If Marfrig acquires National Beef, approximately 36 percent of America's fed cattle market will be controlled by these two Brazilian firms that are controlled in whole or in part by the Brazilian government itself.

Like its Brazilian counterpart JBS, Marfrig comes to America with a documented history of being a bad actor. In 2007, Marfrig and JBS were each required by the antitrust division of the Brazilian Justice Department to pay upward of \$7.6 million in fines for engaging in anticompetitive cattle procurement practices, including coordinating price agreements among themselves to lower cattle prices paid to cattle producers.¹ Consequently, Marfrig and JBS are known cartels. As evidenced by international reports now implicating these two companies in

¹ See Exhibit 16 of R-CALF USA's letter to then Assistant U.S. Attorney Thomas Barnett, April 9, 2008 (Brazil Justice Dept. Fines Major Beef Cos in Cartel Case, Dow Jones Newswires, November 28, 2007), available upon request.

additional criminal activities, the amount of this early fine was an ineffectual slap on the wrist for cartel partners JBS and Marfrig. More recently, these same cartel partners have been accused of working in parallel, if not together, to cheat and potentially cause physical harm to American consumers by, *inter alia*, bribing Brazilian food safety officials into approving the export of unsafe beef, including unsafe beef destined for America.²

As documented by the Institute for Agriculture and Trade Policy (IATP) in its report, *The Rise of Big Meat, Brazil's Extractive Industry*,³ both JBS and Marfrig are a product of the Brazilian government's "National Champions Policy," which was implemented by the Brazilian National Development Bank (Banco nacional de Desenvolvimento Econômico e Social [BNDES]) to catapult Brazil into a global beef packing superpower. The IATP describes a relationship between the two cartel partners and the state-controlled BNDES as that of a state-owned enterprise (SOE). As such, the IATP states the cartel partners receive not only subsidized loans, but also large volumes of resources through the purchasing of debentures and company shares through BNDES's investment arm.

It is evident that Marfrig and JBS are state-supported, cartel enterprises that are attempting to swallow up America's critical food production facilities and gain control over America's food-production supply chain, particularly its live cattle supply chain. Whereas the Trump Administration has determined China is threatening our economic and national security through theft of intellectual property, Brazil is similarly threatening our economic and national security by sending forth cartel partners that cheat cattle producers through anticompetitive buying practices and consumers through willful violations of basic food safety standards.

We respectfully urge the Committee on Foreign Investment in the United States (CFIUS) and the U.S. Department of Justice to take decisive action to prevent Marfrig from acquiring National Beef on the grounds that Marfrig demonstrates an unrepentant propensity for: i) exploiting cattle producers through anticompetitive buying practices; ii) exploiting consumers through the production and sales of unsafe beef; iii) violating basic food safety standards; and, iv) engaging in cartel behavior with JBS.

Further, we believe it is self-evident that Marfrig and JBS, together or individually, will favor Brazilian cattle producers and Brazilian beef over U.S. cattle producers and U.S. beef when given the opportunity to do so in the global marketplace. Given the sordid history of these two

² See, e.g., Brazilian Federal Investigation Places Marfrig at Center of Bribery Scandal, Meetingplace, Oct. 17, 2012, available at www.meetingplace.com/Industry/News/Details/36830; see also, Brazilian Judge Cites Loans to JBS, Marfrig in Caixa Probe, Reuters Staff, Reuters, Jan. 13, 2017, available at <https://www.reuters.com/article/brazil-corruption-caixa-ec-federal-warra/brazilian-judge-cites-loans-to-jbs-marfrig-in-caixa-probe-idUSE6N1CB00V>.

³ The Rise of Big Meat, Brazil's Extractive Industry, Institute for Agriculture and Trade Policy (IATP), Nov. 30, 2017, available at <https://www.iatp.org/the-rise-of-big-meat>.

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cartel members, it is more likely than not that this unacceptable circumstance will materialize if Marfrig acquires National Beef.

Finally, if the CFIUS and the U.S. Department of Justice need more information to ensure that the likely ramifications of this acquisition are fully and thoroughly considered, we would strongly support a public hearing on this matter before the proposed sale is consummated.

Thank you for your consideration of our current request. Please let me know how we may be of further assistance in this important matter. I can be reached at 406-670-8157.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Bullard". The signature is stylized and cursive, with the first name "Bill" being more prominent than the last name "Bullard".

Bill Bullard, CEO
R-CALF USA