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June 7, 2007

The Honorable Rosa DeLauro
U.S. House of Representatives
2262 Rayburn House Office Building
Washington, DC 20515

The Honorable Herb Kohl
U.S. Senate
330 Hart Senate Office Building
Washington, DC 20510

Re: Country-of-Origin Labeling

Dear Representative DeLauro and Senator Kohl:

It is not without some hesitancy that I write to you yet again regarding the four false claims made by the American Meat Institute (AMI) in opposition to the implementation of mandatory country-of-origin labeling (COOL). However, the importance of this issue justifies a response to AMI's June 5 rebuttal of my letter to you dated May 31, particularly with respect to the erroneous trade implications asserted by AMI. It is my hope that you will find this information useful as you consider expediting COOL's implementation.

AMI first claimed that a country-of-origin labeling regime would not impact food safety or the integrity of food products. However, I provided you with an example of: 1) how USDA currently uses an origin-based food safety standard to ensure the safety and integrity of beef imports from Uruguay; 2) how COOL could have enhanced consumer safety in 2003 when beef from a Canadian cow infected with BSE entered the U.S. food chain; and, 3) how the recent melamine contamination problem demonstrates that food production practices within a particular country impact food safety and food product integrity.

AMI attempted to refute my first example by arguing that USDA's restrictions on imports from Uruguay, which allow only beef from cattle born, raised, and slaughtered in that country, were solely for the purpose of protecting against animal disease, not to address food safety. It is important for you to note, however, that USDA's responsibility to impose such an import restriction was mandated by the Animal Health Protection Act (7 U.S.C. § 8301, *et seq.*) wherein Congress stated that "the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect . . . animal health [and] the health and welfare of the people of the United States."[1]

[1] 7 U.S.C. § 8301(1).

Therefore, AMI's argument that the prevention of animal diseases, as is accomplished by origin-related restrictions on food imports from Uruguay, is not intrinsically tied to the protection of the nation's animal-based food supply – hence food safety, is a contradiction of Congress' mandate. Indeed, even the Animal and Plant Health Inspection Service (APHIS) acknowledged its role of ensuring the safety of beef from Uruguay in its final rule for the importation of beef from Uruguay:

> Our risk assessment process is thorough and rigorous. All of the evidence in our risk assessment and site visit report indicates that Uruguay is effectively controlling FMD [foot and mouth disease] and has established adequate precautions, including border and movement controls and surveillance and vaccination programs, to ensure the safety of the commodity it wishes to export.[2]

AMI's effort to discount the importance of disclosing the origins of food products, as provided in the 2002 COOL law, for purposes of enhancing food safety and the integrity of food products, is baseless.

AMI did not, nor could it, contest R-CALF USA's example of how COOL could have benefited consumers in 2003 when beef from a Canadian cow with BSE had to be recalled from the U.S. human food chain. It did, however, attempt to refute R-CALF USA's reference to the melamine problem that demonstrated that consumers need COOL to distinguish food products based on the particular production regime to which the food product was subjected. While AMI did not contest this benefit, it suggested that even greater benefits would be derived from certifying the ingredients included in feed fed to domestic animals. This suggestion goes well beyond the scope of the 2002 COOL law and does not distract from the fact that the 2002 COOL law as presently written would provide consumers a choice based on their knowledge of the animal feeding practices in various countries.

AMI's second claim was that the safety of imported meat was assured due to the requirement that foreign plants shipping product to the U.S. must meet the same requirements as are met in domestic federally inspected plants. However, R-CALF USA provided you with reference to a December 2005 report from the Office of Inspector General (OIG) indicating that this requirement is not always enforced, and was not enforced for nearly two years in Canadian plants.

AMI attempted to dismiss the relevance of the OIG's findings by claiming that COOL would not cure the failure by USDA to properly enforce meat import requirements. It is important to note, however, that R-CALF USA made no such claim. Instead, R-CALF USA concluded that COOL would afford consumers with the ability to achieve an additional level of protection against breaches in food safety inspection systems that operate in plants in foreign countries. This conclusion remains valid and was uncontested by AMI because COOL would

[2] Federal Register, Volume 69, No. 103, May 29, 2003, at 31946.

provide consumers with information as to the origin of their food, enabling them to avoid food from countries where enforcement of food safety standards is uncertain.

AMI's third claim was that COOL was unnecessary because FSIS has had mandatory country-of-origin labeling requirements for red meat that enters the U.S. for many years. However, R-CALF USA provided you with reference to a 2003 General Accounting Office (GAO) report indicating that country-of-origin labels on imported meat were not being maintained all the way to the consumer.

AMI did not contest the fact that consumers are presently deprived of country-of-origin labels on imported meat. Instead, AMI raises the new argument that imported meat that undergoes further processing in the U.S. should be considered a domestic product. Congress, however, has already addressed this issue by specifying in the 2002 COOL law that only beef, lamb, and pork exclusively from animals exclusively born, raised, and slaughtered in the U.S. are eligible for the USA label. This requirement reflects Congress' understanding that the act of processing a final red meat product reflects but a fraction of the time, resources, and management that went into the growth and development of the animal from which the meat was derived. For example, beef is derived from animals that are reared, fed, and managed by farmers and ranchers over the course of 15 months or longer, while the subsequent slaughter and processing of cattle into beef is completed in a matter of weeks, if not days.

AMI's fourth claim was that the 2002 COOL law is "WTO and NAFTA non-compliant." However, AMI provided absolutely no support for its claim. R-CALF USA pointed out that the U.S. and other WTO members retain the authority to require labeling of imported products as a *condition of entry* into a WTO members' market under Article IX of GATT 1994 and the WTO Agreement on Rules of Origin, provided certain conditions are met.

AMI's rebuttal, in which it asserts that the 2002 COOL law violates the "substantial transformation" rule of the WTO Agreement on Rules of Origin, is incorrect and misleading. Both Article IX of GATT 1994 and the WTO Agreement on Rules of Origin address *conditions for entry of imported product into the United States and other WTO members' markets.* Nowhere in the 2002 COOL law is there any restriction against the labeling of imported products, upon their entry into the U.S. market, with the name of the country in which the products were substantially transformed. Thus, the treatment of imported product under the 2002 COOL law is entirely consistent with U.S. trade obligations.

The AMI also falsely asserts that the 2002 COOL law "requires that a meat packer and retailer trace the places at which the animals were born and raised, as well as the place of slaughter, and mark the meat package with all of that information." The 2002 COOL law contains no such requirement. Instead, the 2002 COOL law allows imported products to be labeled consistent with existing trade obligations while reserving the USA label only for products exclusively derived from animals born, raised, and slaughtered in the United States. The COOL law also does not affect products destined for export as it only applies to products sold domestically at retail. Therefore, U.S. meat exports, upon entry into another WTO

members' market, would continue to be subject to the same "substantial transformation" rule applicable for determining the origin of imported products that enter the U.S. market.

It is unfortunate that the AMI persists in misrepresenting the 2002 COOL law to you and other members of Congress in its efforts to prevent the U.S. consumer from knowing the origins of their food purchases. R-CALF USA would welcome the opportunity to visit personally with you to more fully explain the need for COOL as well as to discuss how COOL can be immediately and efficiently implemented – using the same eight simplification steps USDA used in 2005 to implement the fish and shellfish provisions of the COOL law – at minimal cost to farmers and ranchers. Please contact R-CALF USA at 406-252-2516 if we can be of assistance.

Sincerely,

R. M. Thornsberry, D.V.M.
President, R-CALF USA Board of Directors

Cc: House Committee on Agriculture
House Committee on Appropriations
Senate Committee on Agriculture, Nutrition, and Forestry
Senate Committee on Appropriations