Fighting for the U.S. Cattle Producer!

R-CALF USA

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September 15, 2009

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the United States Trade Representative
1724 F Street, N.W.
Washington, D.C. 20508

Re: R-CALF USA Comments on USTR's Request for Comments Concerning Free Trade Agreement With the Republic of Korea (Docket No. USTR-2009-0020)

Subject Matter: Cattle and Beef Products Found In FATUS 310101 and 310201 and HTSUS 0102, 0201, 0202, and within 0206, 0210, 0504, and 1602.

Dear Ms. Blue,

The Ranchers-Cattlemen Action Legal Fund United Stockgrowers of America (R-CALF USA) appreciates this opportunity to submit its views regarding the Office of the United States Trade Representative's (USTR's) notice and request for comments concerning the free trade agreement with the Republic of Korea. R-CALF USA is a non-profit cattle-producer association that represents thousands of U.S. cattle producers in 46 states across the nation. R-CALF USA's mission is to represent the U.S. cattle industry in trade and marketing issues to ensure the continued profitability and viability of independent U.S. cattle producers. R-CALF USA's membership consists primarily of cow-calf operators, cattle backgrounders, and feedlot owners. Various main street businesses are associate members of R-CALF USA.

On behalf of its cattle-producing members, R-CALF USA strongly urges USTR to reject completely the free trade agreement between the United States and the Republic of Korea (U.S.-Korea FTA). Our request is based on the U.S.-Korea FTA's failure to include even rudimentary principles for a consistent, cohesive, and sound national trade policy that can be universally applied to achieve the United States' overarching national trade strategy. As more fully described below, the U.S.-Korea FTA does not include the key provisions necessary to ensure that U.S. cattle farmers and ranchers can both maintain economically viable cattle farming and ranching operations in the U.S. and participate profitably in the global marketplace. It is important to the U.S. cattle industry that permanent trade agreements like the U.S.-Korea FTA not be based on whether a potential trade partner is currently a net importer or net exporter of cattle and products derived from cattle as such trade designations can and do change over time.

I. THE U.S.-KOREA FTA FAILS TO INCORPORATE EVEN RUDIMENTARY PRINCIPLES FOR A CONSISTENT, COHESIVE, AND SOUND

INTERNATIONAL TRADE POLICY THAT CAN BE UNIVERSALLY APPLIED TO ACHIEVE THE UNITED STATES' OVERARCHING NATIONAL TRADE STRATEGY

A. The U.S.-Korea FTA Fails To Include Adequate Rules Of Origin.

Any FTA providing preferential access to the U.S. cattle and beef market should include a born, raised, and slaughtered rule of origin for beef. Currently, the U.S. only requires beef to be slaughtered in a country in order to be considered an originating good from that country, and the U.S. continues to apply this inadequate rule of origin in its FTAs, including the U.S.-Korea FTA.

Without a born, raised, and slaughtered rule of origin, FTAs can create a large incentive for third-country beef exporters to send their cattle to an FTA country for slaughter and shipment to the U.S. on preferential terms. Yet these third countries need not provide any reciprocal access to U.S. producers in order to benefit from an FTA's preferential access – in fact, they can keep their markets completely closed to U.S. beef and export freely through manipulation of a weak rule of origin. Meanwhile, benefits for cattle producers in the FTA partner country are diluted as third-country producers take advantage of the access to the U.S. market that was negotiated for their benefit. Inclusion of a born, raised, and slaughtered rule of origin will avoid these outcomes and ensure that the benefits of the agreement accrue to its participants. R-CALF USA views the inclusion of a born, raised, and slaughtered rule of origin as a fundamental component for any national trade policy.

B. The U.S.-Korea FTA Fails To Include Special Rules For Cattle And Beef As Mandated By Congress.

Any FTA providing preferential access to the U.S. cattle and beef market should include special rules for perishable and cyclical products. The inclusion of special rules will give effect to principal negotiating objectives for trade agreements covering perishable and cyclical agricultural products that Congress articulated in the Trade Act of 2002.[1] Cattle and beef are highly perishable products and have very limited marketing periods. Thus cattle producers have an acute need for effective and speedy relief mechanisms when they are faced with import surges and price volatility. In the U.S. – Australia FTA, for example, the U.S. sought to address these special needs of the cattle and beef industry through the inclusion of a product-specific safeguard. However, such a safeguard should be designed to protect domestic producers from sudden surges in volumes of imports and from excessive price volatility, both of which pose a particularly severe risk for producers of perishable products like cattle and beef. Safeguards should be triggered automatically, without the need for producers to engage in either a formal petition process or an informal process to convince agencies with enforcement discretion to take action. An automatic mechanism will ensure that safeguards take effect as soon as possible to assist domestic producers in need of immediate relief. Finally, the safeguard should recognize cattle and beef as like products, so that declining prices or rising imports in either product

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[1] The Act directs U.S. negotiators to, "eliminat[e] practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture," and "ensur[e] that import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries." 19 U.S.C. §3802(b)(10)(A)(ix) and (x), respectively.

automatically triggers the safeguard for both products. The inclusion of such special rules will facilitate competition in the global marketplace while simultaneously allowing the U.S. and other nations to maintain viable cattle industries. R-CALF USA views the inclusion of such special rules as a fundamental component of any national trade policy.

C. The Proponents Of The U.S.-Korea FTA Have Failed To Explicitly Evaluate The Likely Impacts Of Cattle And Beef Trade Liberalization On Upstream Cattle Producers.

R-CALF USA has long urged USTR and the USITC to consider the following when assessing the economic effects of liberalizing U.S. import restraints on beef:

1. The adequacy of traditional economic modeling in predicting the likely effect of liberalization in beef trade, particularly the impact on upstream cattle producers, especially given the high concentration of the meat packing sector in the U.S. and the perishable nature of live cattle.
2. External barriers to U.S. exports that have resulted in a large U.S. trade deficit in cattle and beef.
3. The demonstrated ability of certain countries to export to the U.S. in excess of quota levels despite out-of-quota tariffs.
4. The cumulative impact of bilateral and regional Free Trade Agreements that liberalize trade in beef.

The USITC previously found that the most significant impact of beef import liberalization is likely to be the impact on cattle producers. In fact, in its evaluation of the economic effects of increased beef access for Australia under the Australia FTA, the Commission noted that an analysis from the perspective of cattle producers is likely to be more useful and relevant than an analysis of trade impacts from the perspective of the meat packing industry:

> … U.S. beef packers operate on the margin between wholesale beef prices and slaughter cattle prices. Furthermore, market structure suggests that processors can eventually pass most, if not all, of any decrease in the price of wholesale beef that results from increased import access … on to U.S. cattle producers in terms of lower slaughter cattle prices. Therefore, this section addresses the impact of the FTA on the domestic industry from the focus of live cattle producers rather than beef processors.[2]

To date, there has been no discernable consideration given to the impact that the current structure of the domestic cattle and beef market has on the sectoral distribution of gains and losses arising from trade liberalization within the multi-segmented beef supply chain. The Government Accountability Office has recommended that market structure factors be taken into account in the economic analyses of cattle trade, finding that neither the CGE model nor other economic models used by the ITC explicitly account for concentration, marketing agreements, and forward

[2] U.S. – Australia Free Trade Agreement: Potential Economywide and Selected Sectoral Effects, Inv. No. TA-2104-11, USITC Pub. No. 3697 at 41, fn. 1 (May 2004).

contracts.[3] These factors are important, because they determine how direct impacts of imports on the meat packing industry will be passed on to downstream consumers and upstream producers.

The increased leverage of the meat packing industry over cattle prices that results from growing market concentration and new contracting practices will determine how liberalization of beef imports affects cattle prices and thus cattle producers. As former U.S. International Trade Commission Chairwoman Lynn Bragg observed in the Commission's investigation on cattle imports from Canada, "The concentration of packers increases the packers' leverage relative to cattle producers, thus providing packers the ability to use imports [of cattle] to reduce domestic live cattle prices and/or prevent price increases."[4] This insight is equally relevant with regard to imports of beef.

In addition, the structure of the meat packing industry will affect whether and to what extent lowered prices resulting from increased beef imports are fully passed on to beef consumers. Market concentration and contracting practices in the meat packing industry can prevent lower cattle prices from automatically translating into lower beef prices for consumers. This disconnect between the dollar returns to producers and the prices paid by consumers is reflected in the producer's declining share of each retail dollar spent on beef.

II. USTR SHOULD NOT OVERLAY YET ANOTHER FTA ON THE U.S. CATTLE INDUSTRY UNTIL AN INVESTIGATION IS COMPLETED TO EXPLAIN WHY U.S. CATTLE PRODUCERS HAVE NOT REALIZED THE BENEFITS PROMISED BY PROPONENTS OF THIS AND OTHER FREE TRADE AGREEMENTS

A. Contrary To Popular Opinion, Increased Exports Do Not Automatically Translated Into Higher, More Sustainable Prices For U.S. Cattle Farmers And Ranchers.

As revealed in Chart 1 below, the nominal price of U.S. fed cattle – which is the price that determines the economic viability for the hundreds of thousands of U.S. farmers and ranchers who raise and sell live cattle – remained persistently depressed *when the volume of U.S. beef exports climbed to historical highs*. In fact, when U.S. beef exports fell to a 19-year low in 2004, nominal U.S. fed cattle prices reached the highest levels in history, providing needed financial relief for family farmers and ranchers who were suffering from a long-run lack of profitability.

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[3] U.S. General Accounting Office (now the Government Accountability Office), Economic Models of Cattle Prices: How USDA Can Act to Improve Models to Explain Cattle Prices, GAO-02-246 at 8 (March 2002).
[4] Live Cattle from Canada, Inv. No. 731-TA-812 (Final), USITC Pub. 3255 at 50 (November 1999).

Chart 1

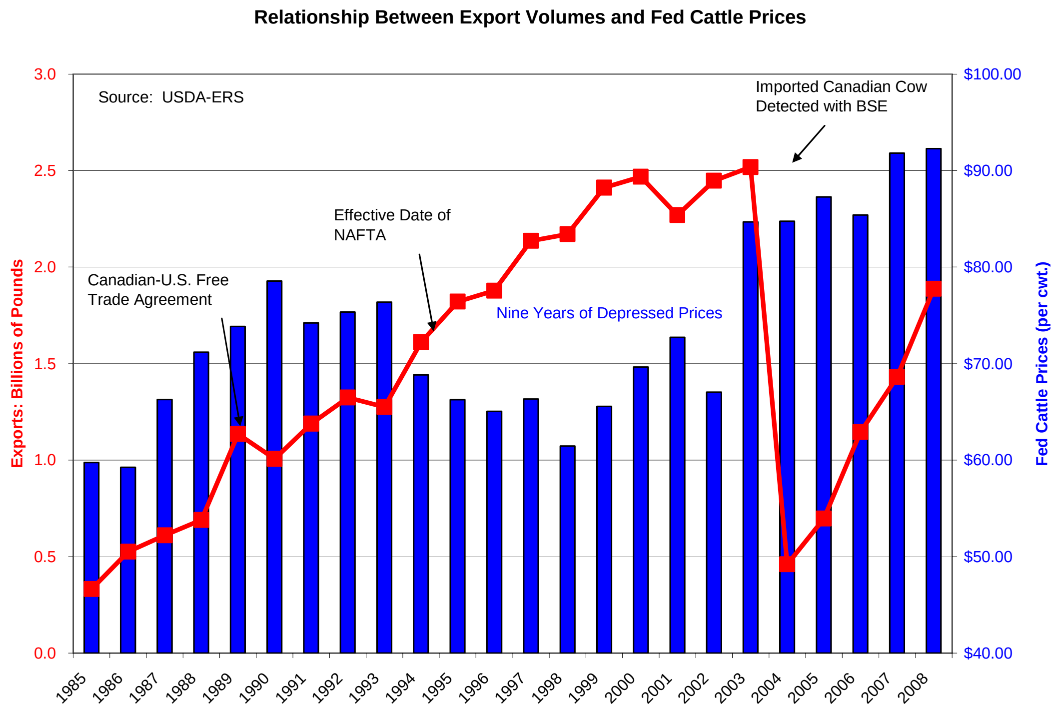
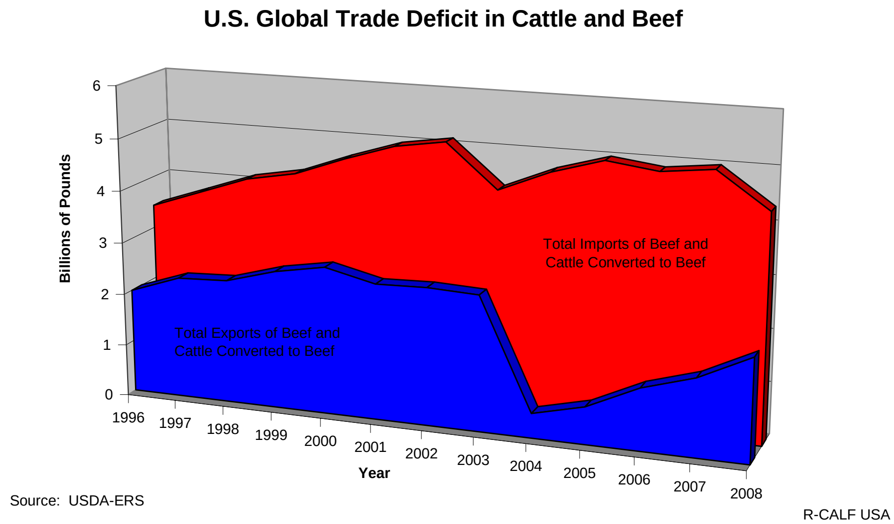


Chart 1 dispels the erroneous assertion made by beef industry participants and their trade associations that cattle farmers and ranchers automatically share in the economic benefits derived from increased export volumes. Until and unless USTR determines how the concentrated meatpacking industry is exercising market power to effectively capture the benefits of increased export volumes away from U.S. cattle farmers and ranchers, and then takes affirmative action to halt this market manipulation practice, USTR must flatly reject the popular theory that suggests that because free trade agreements increase export opportunities, benefits will automatically flow to U.S. cattle farmers and ranchers. History and experience prove otherwise. The U.S.-Korea FTA continues to be driven by this deception.

B. U.S. Cattle Farmers And Ranchers Already Are Overwhelmed By A Substantial Global Deficit In Both The Volume And Value Of Cattle And Beef Trade.

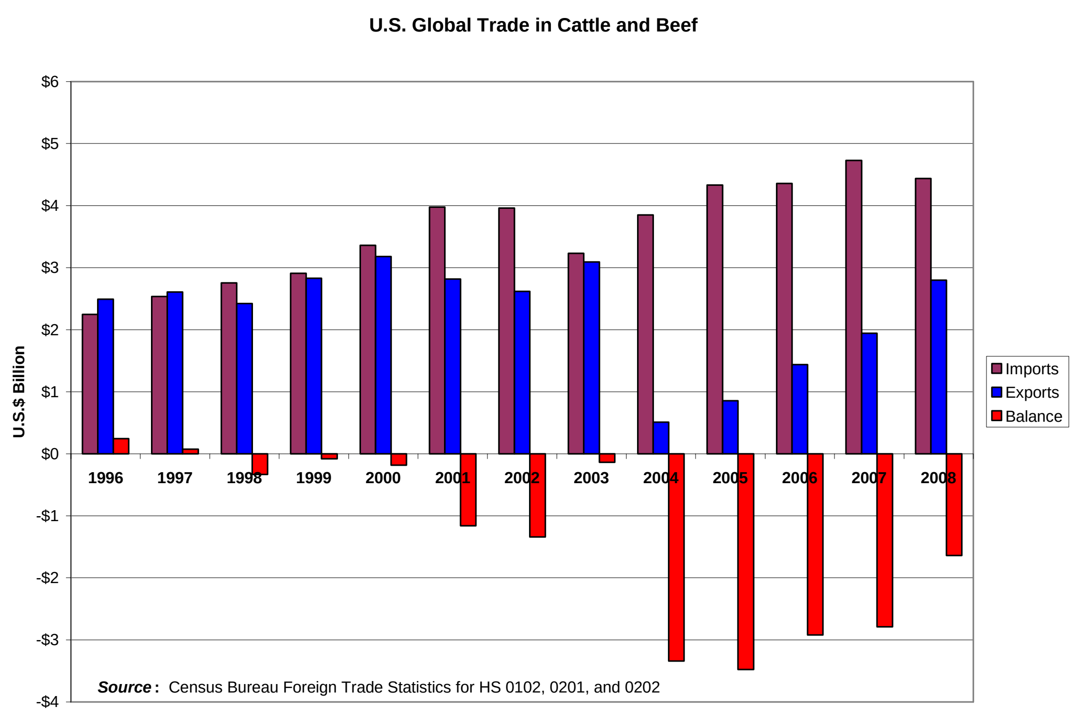
As revealed in Chart 2 below, the economic viability of U.S. cattle farmers and ranchers is compromised by a long-run global trade deficit in cattle and beef when measured by volume and this deficit was rising long before U.S. export markets were closed due to the 2003 detection of a Canadian-born cow with bovine spongiform encephalopathy (BSE) in the United States.

Chart 2



As revealed in Chart 3 below, the United States' global volume-based deficit in the trade of cattle and beef is consistent with the United States' substantial global value-based deficit in the trade of cattle and beef. This global value-based deficit emerged in 1998 and has persisted each year since, growing to $3.5 billion in 2005 and exceeding $2 billion through 2007.

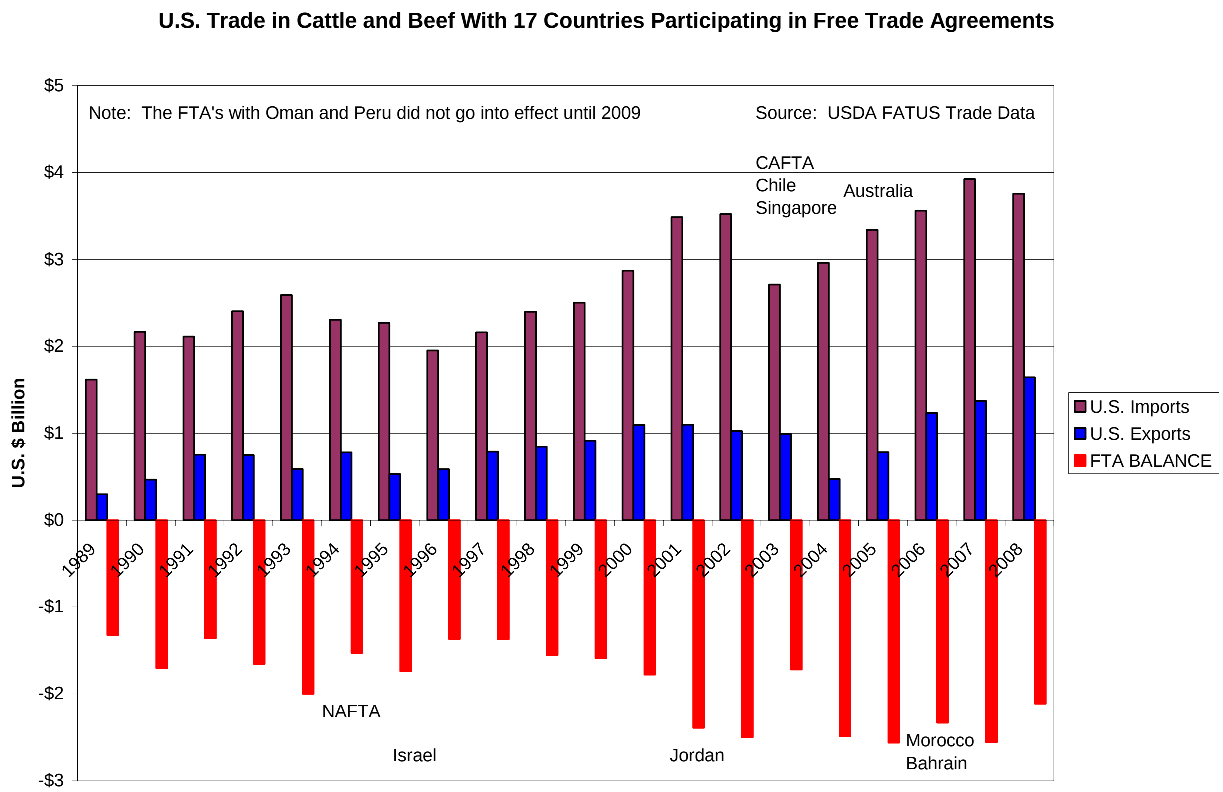
Chart 3



C. The U.S. Cattle Industry Has Faired Poorly In Terms Of The United States' Persistent Trade Deficit With The 17 Countries Now Participating In Free Trade Agreements With The United States.

Chart 4 below shows that the U.S. has maintained a persistent trade deficit with the group of 17 countries that are now participating in FTA's with the United States. These FTA countries include: Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, and Singapore. This chart does not reveal a discernable benefit to U.S. cattle producers who witnessed an increasing trade deficit in the years following the 1994 implementation of NAFTA.

Chart 4



D. The Effect of the United State's Long-Run Global Trade Deficit in Cattle and Beef Is that Our Domestic Industry Is Shrinking and Imports Are Capturing the Growth in the Total Available U.S. Beef Supply.

As revealed in Chart 5 below, imports are capturing an ever increasing share of the total available beef supply in the United States. This indicates that imports are effectively supplanting domestic production, i.e., beef produced exclusively from cattle exclusively born, raised, and slaughtered in the United States. Unfortunately, the U.S. Department of Agriculture (USDA) does not recognize that beef is imported into the U.S. in two distinct forms: beef imported as the commodity beef and beef imported as live cattle that are converted to the commodity beef in U.S. slaughtering plants. R-CALF USA has made this important distinction in Chart 5 by assigning beef produced from imported cattle to the category of "beef from imported cattle," and reserving the category of "beef produced from domestic cattle" for beef produced exclusively from cattle born, raised, and slaughtered in the United States.

Chart 5

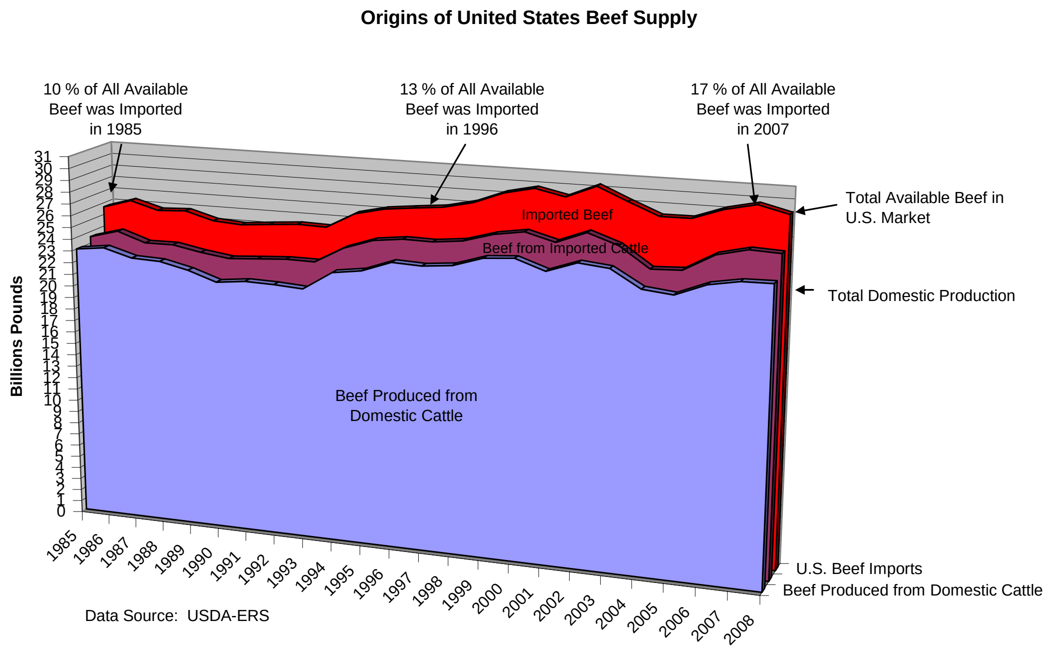
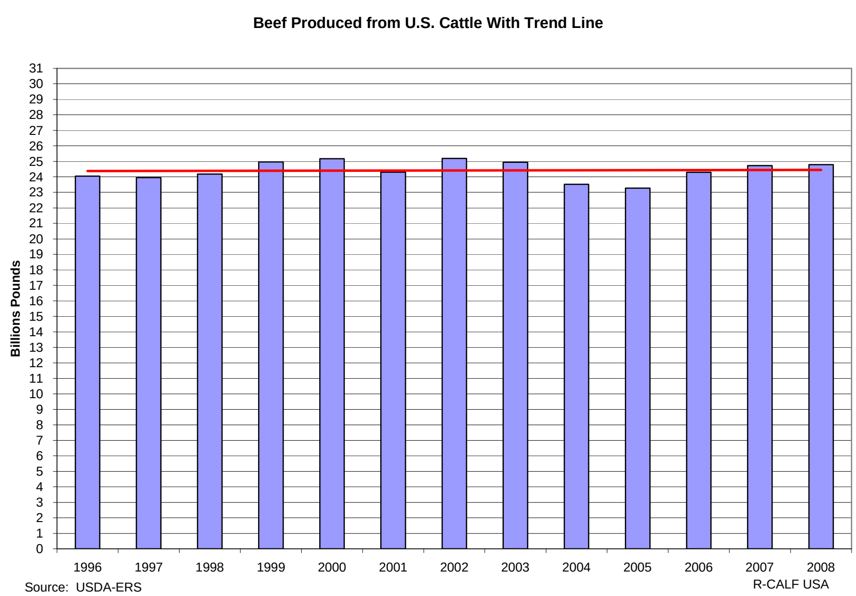


Chart 6 below shows that our domestic production (i.e., beef produced from cattle born, raised, and slaughtered in the U.S.) has remained stagnant for the past 13 years – which is made even more alarming by the fact that the U.S. has been liquidating its cattle herd during this 13-year period, resulting in more breeding cattle than normal being diverted to slaughter and added to beef production.

Chart 6



Equally alarming to the long-term stagnation in domestic beef production is the fact that domestic beef production is lagging far behind domestic beef consumption. During 2004-2007, the U.S. cattle industry experienced an unprecedented gap between domestic beef production and domestic beef consumption. Chart 7 below illustrates how domestic beef production continues to lag far behind domestic beef consumption and how rising imports are making up the difference – to the detriment of the well-being and sustainability of the entire domestic cattle industry.

Chart 7

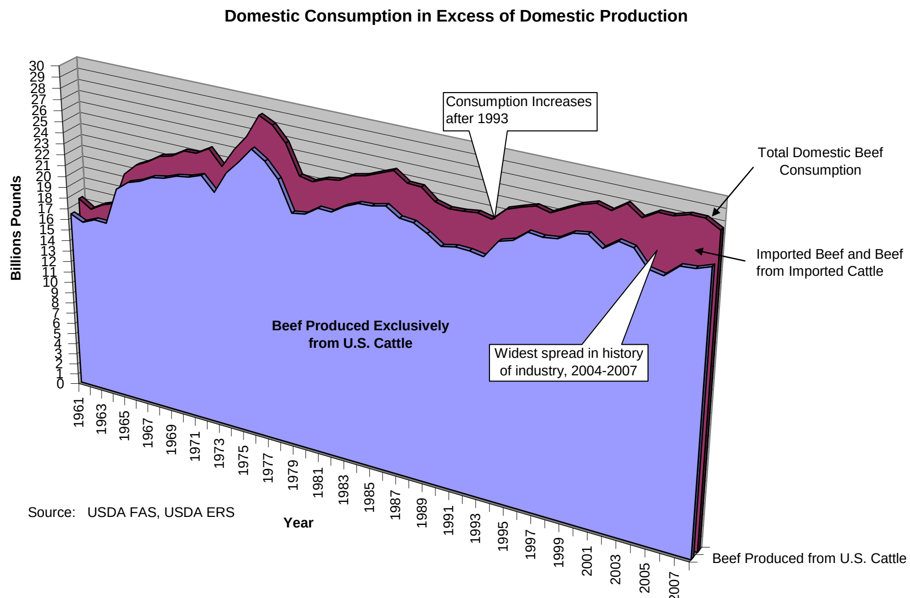
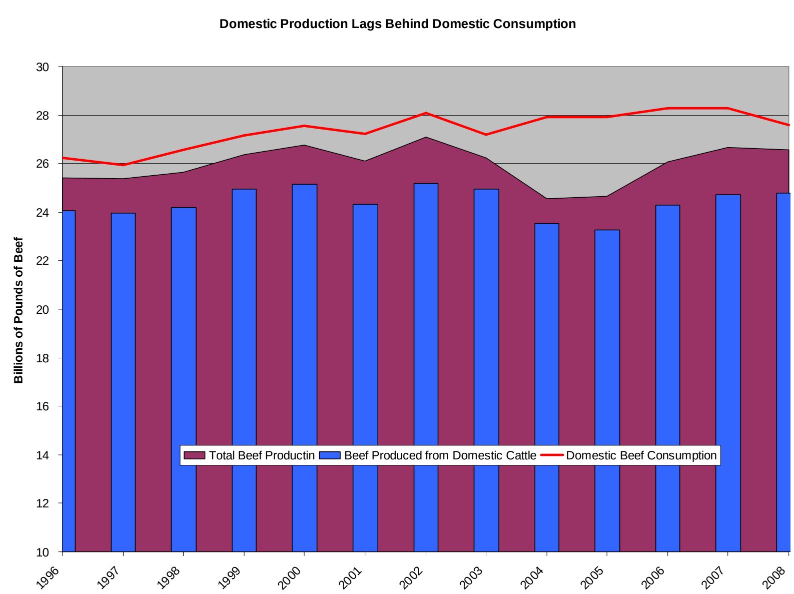


Chart 8 below provides a closer view of the phenomenon in which the production of beef produced exclusively from cattle born, raised, and slaughtered in the U.S. remained relatively stagnant while aggregate beef consumption in the U.S. increased. This is indicative of an unhealthy industry – an industry that has been categorically ignored by U.S. trade policies that have facilitated increased imports without regard to the impact on the U.S. cattle industry.

Chart 8

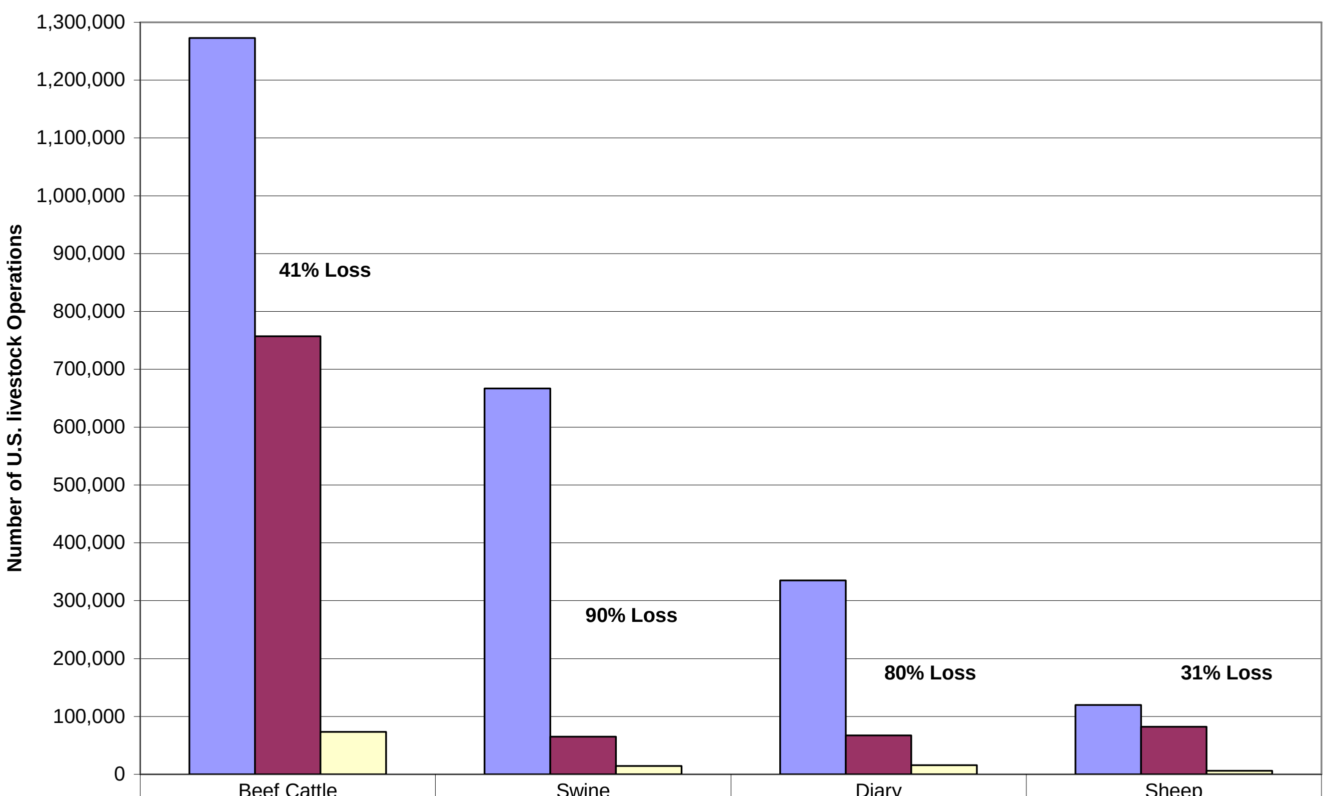


E. The Result Of Current Trade Policies Is A U.S. Cattle Industry in Crisis – A Shrinking, Unhealthy Industry That Will Not Long Support Independent Family Farmers And Ranchers Who Are Being Driven Out Of The Industry By The Tens Of Thousands Each Year.

Chart 9 below reveals that the U.S. cattle industry is fast being relegated to an industry comprised no longer of disaggregated, independent family farmers and ranchers, but rather, of large, vertically integrated corporate food production units. This has already occurred in the swine, dairy, and poultry industries. Though conservative and somewhat arbitrary, the 100-head herd size featured in Chart 9 is a baseline for determining the number of remaining operations within each livestock industry that are large enough to be considered economically viable production operations, i.e., sufficiently large to maintain an economically viable farming or ranching operation.

Chart 9

Loss of U.S. Livestock Operations 1980-2008



	Beef Cattle	Swine	Diary	Sheep
1980	1,272,960	667,000	335,270	120,000
2008	757,000	64,760	67,000	82,330
>100 Hd	73,000	14,150	16,000	6,175

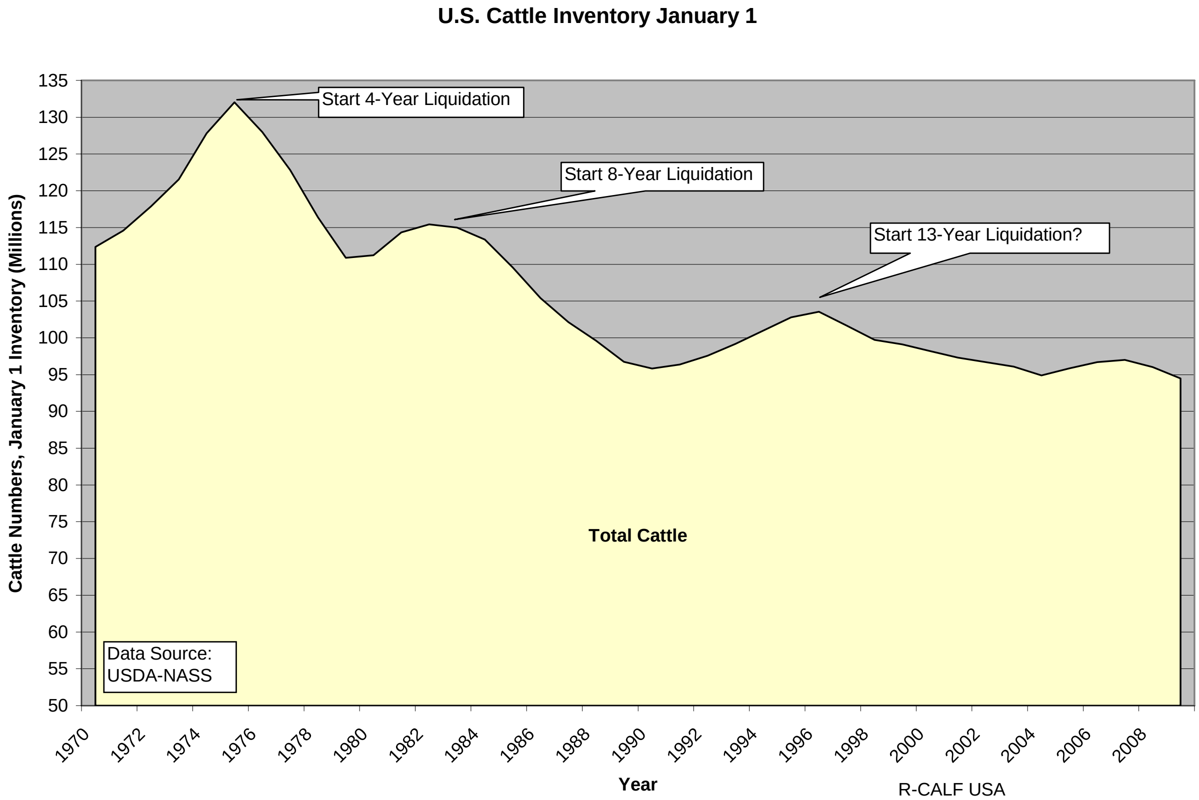
Type of Livestock Operations

Source: USDA-NASS

R-CALF

Chart 10 below shows that not only is the U.S. cattle herd shrinking rapidly, but also, the U.S. cattle cycle – the bellwether indicator of a competitive industry – has been materially disrupted, with each liquidation phase lasting longer than the last.

Chart 10



F. What Current U.S. Trade Policy Ignores, And What Makes The U.S. Cattle Industry Highly Susceptible To Economic Harm From Ongoing, Misguided Trade Policies, Are The Unique Characteristics Of The U.S. Cattle Industry.

The U.S. cattle industry – that segment of the multi-segmented beef supply chain comprised of hundreds of thousands of disaggregated farmers and ranchers that raise and sell cattle – is uniquely susceptible to economic injury arising from unsound trade policies. The U.S. cattle industry is uniquely susceptible for the following reasons:

1. As confirmed by the U.S. International Trade Commission (USITC), the U.S. live cattle industry is extremely sensitive to even slight changes in increased import volumes. For example, the staff at the USITC found that the farm level elasticity of demand for slaughter-ready cattle is such that: "[E]ach 1 percent increase in fed cattle numbers would be expected to decrease fed cattle prices by 2 percent."[5]

[5] U.S.-Australia Free Trade Agreement: Potential Economywide and Selected Sectoral Effects, United States International Trade Commission (Publication 3697; May 2004) at 44, fn 26, available at http://hotdocs.usitc.gov/docs/pubs/2104f/pub3697.pdf.

2. Despite this extreme sensitivity to import volumes, the U.S. cattle industry is incapable of timely responding to market supply signals because cattle have the longest biological cycle of any farmed animal, making it extremely difficult for industry participants to timely respond to changes in demand.[6]

3. Slaughter-ready cattle are highly perishable products that must be marketed within a narrow window of time; otherwise, the animals would degrade in quality and value.[7]

4. The demand for live cattle is bounded on a weekly basis by available slaughter capacity, which is a limiting factor on demand for cattle, i.e., slaughter capacity sets the weekly slaughter cattle-marketing limit.[8]

5. The combination of the perishable nature of slaughter-ready cattle and limited weekly slaughter capacity creates market access risk for U.S. cattle producers within the U.S. cattle market. The USDA's 2007 Livestock and Meat Marketing Study defines market access risk as "the availability of a timely and appropriate market outlet"[9]

6. Transparency in the U.S. live cattle market is already limited as was reported by the Government Accountability Office (GAO) in 2005. The GAO reported on a number of deficiencies in the government's Livestock Mandatory Reporting system with regard to the transparency of the reporting system and accuracy of the data reported.[10]

7. Regional competition for raw products, which would include competition for slaughter-ready cattle, is inherently less intense than is competition in processed food products.[11]

8. Transportation costs limit marketing options for live cattle.[12]

Current trade policies and trade agreements are void of any considerations or accommodations for the inherent trade sensitivities of the U.S. cattle industry and, consequently, the U.S. cattle industry has faired poorly – as have the rural communities they support – under preexisting trade policies and free trade agreements. R-CALF USA implores USTR to correct this oversight before proposing any new free trade agreements, including the U.S.-Korea FTA.

G. Other Concerns Regarding U.S.-Korea FTA.

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[6] Economic Models of Cattle Prices, How USDA Can Act to Improve Models to Explain Cattle Prices, U.S. Government Accountability Office (formally the General Accounting Office), (GAO-020246, March 2002), at 30.

[7] GIPSA Livestock and Meat Marketing Study, January 2007, Volume 3, at 5-4, available at http://archive.gipsa.usda.gov/psp/issues/livemarketstudy/LMMS_Vol_3.pdf.

[8] *See* Beef Pricing and Other Contentious Industry Issues, Special Report, Kevin Grier and Larry Martin, George Morris Centre, March 16, 2004 (an analysis of the live versus beef price disparity in Canada).

[9] GIPSA Livestock and Meat Marketing Study, January 2007, Volume 3, at 5-4, available at http://archive.gipsa.usda.gov/psp/issues/livemarketstudy/LMMS_Vol_3.pdf.

[10] U.S. Government Accountability Office, Livestock Market Reporting: USDA Has Taken Some Steps to Ensure Quality, but Additional Efforts Are Needed, GAO-06-202 (Dec. 2005).

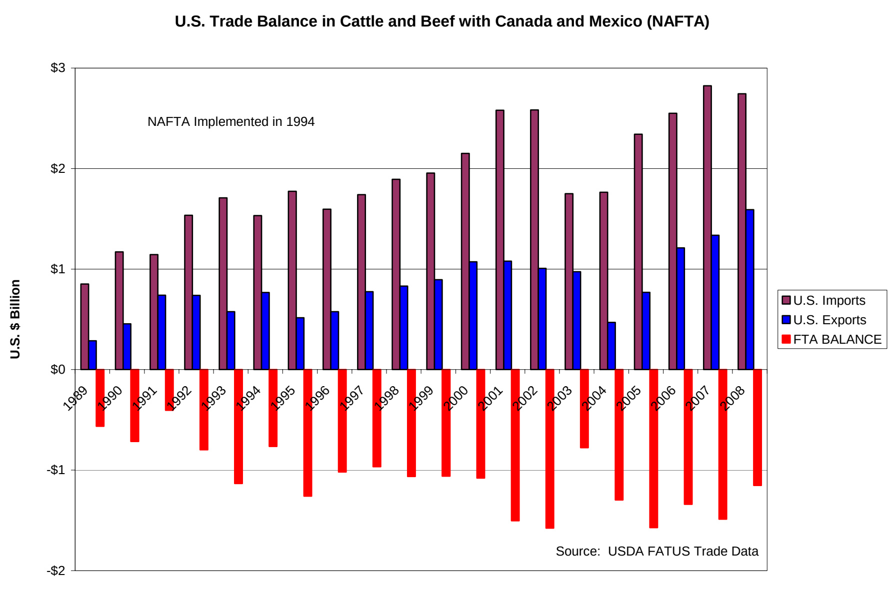
[11] Captive Supplies and the Cash Market Price: A Spatial Markets Approach, Mingxia Zhang and Richard J. Sexton, Journal of Agricultural and Resource Economics, 25(1): 88-108, at 90, fn 7.

[12] Examining Packer Choice of Slaughter Cattle Procurement and Pricing Methods, Oral Capps, Jr., et al., Agricultural and Resource Economics Review, April 1999, at 15, 16, and 21.

The U.S. appears to lack a discernable national trade strategy. During the past decade the only discernable national strategy was to pass as many FTA's as possible and as quickly as possible, without regard to the impact these FTA's likely would have and have had on the hundreds of thousands of disaggregated U.S. cattle producers who, until the BSE-related anomaly in 2003, were persistently receiving prices for their cattle that were too low to cover their costs of production. The lineage of the U.S.-Korea FTA is rooted in this time of FTA frenzy. R-CALF USA implores USTR to take a hard, critical look at what is lacking in the U.S.-Korea FTA and other FTA's before proceeding with an FTA that fails to, e.g., adequately prevent ongoing currency manipulation, ensure that imports into the U.S. meet or exceed U.S.-established health and safety standards during all phases of the product's production, ensure that the U.S. does not continue outsourcing its critical production capacity, and ensure that FTA's cannot be used as leverage by dominant, domestic industry participants to exploit other industry participants, i.e., cattle farmers and ranchers, and consumers.

It is extremely disconcerting that in the wake of NAFTA – the agreement touted by government and multi-national industry officials alike as the quintessential FTA – there has been no recognition for the substantive, ongoing harm accruing to the hard working men and women involved in the U.S. cattle industry as a result of this agreement. Instead, the U.S.-Korea FTA and other FTA's are being aggressively pursued under NAFTA's mantle. As Chart 11 below shows, however, trade with Canada and Mexico has consistently contributed to untenable cattle and beef trade deficits, starting with a record trade deficit of over $1.2 billion in 1995 – just one year after NAFTA's implementation – and generating new record breaking deficits in the ensuing years.

Chart 13



Based on the noticeable trend of increased cattle and beef imports and record breaking deficits from 1995 through 2002, what likely saved the U.S. cattle industry from utter destruction was the 2003 BSE anomaly that gave U.S. farmers and ranchers temporary respite from price depressing imports. This occurred because imports of live cattle from Canada were curtailed for over two years and beef imports also were curtailed but for a shorter period. This anomaly disrupted the ever-mounting deficit but it has now been reignited. The solution to this ongoing and reignited problem is not to fan the flames with new FTA's such as the U.S.-Korea FTA, the solution is to disengage from the multinational interests that negotiated and supported this agreement and to identify, specifically, what corrective actions are needed to preserve a viable cattle farming and ranching industry in the United States.

III. CONCLUSION

For the foregoing reasons R-CALF USA believes the U.S.-Korea FTA represents a continuation of the fundamentally flawed FTA's that have each ignored the unique characteristics of the U.S. cattle industry that make it extremely susceptible to unlimited import volumes and manipulation by dominant industry participants. Because the U.S.-Korea FTA fails to address the cattle industries susceptibilities, we strongly urge USTR to reject completely the U.S.-Korea Free Trade Agreement.

Sincerely,

Bill Bullard

Bill Bullard, CEO
R-CALF USA