

Fighting for the U.S. Cattle Producer!



R-CALF
USA

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November 3, 2009

Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Via E-Mail: www.regulations.gov

Re: Docket Numbers USTR-2009-0031 and USTR-2009-0032: Request for Public Comment to Compile the National Trade Estimate Report on Foreign Trade Barriers and Reports on Sanitary and Phytosanitary and Standards-Related Foreign Trade Barriers by the Ranchers-Cattlemen Action Legal Fund – United Stockgrowers of America (R-CALF USA)

Dear Sir or Madam:

The Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America (R-CALF USA) appreciates the opportunity to submit comments to the Office of the United States Trade Representative concerning the National Trade Estimate Report on Foreign Trade Barriers. These comments are submitted in response to the *Request for Public Comments to Compile the National Trade Estimate Report on Foreign Trade Barriers and Reports on Sanitary and Phytosanitary and Standards-Related Foreign Trade Barriers* at 74 Fed. Reg. 48811-48813 (Sept. 24, 2009).

R-CALF USA is a non-profit association that represents thousands of U.S. cattle producers in 47 states across the nation. R-CALF USA works to sustain the profitability and viability of the U.S. cattle industry, a vital component of U.S. agriculture. 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.

I. Global Distortions in the Cattle and Beef Sector

The world market place for cattle and beef is one of the most grossly distorted markets of any sector. The inability to achieve any semblance of balance between disparate tariffs, subsidies, and sanitary and phytosanitary standards has wreaked havoc, and threatens to destroy, what has historically been the single largest segment of U.S. agriculture – the U.S. live cattle

industry, which also provides the economic cornerstones for most rural communities across America.¹

A. Tariff Distortions

U.S. tariffs on cattle and beef imports are among the lowest in the world. The U.S. has only minimal tariffs, and no quotas, on cattle imports.² In-quota tariffs on beef imports range from 4.4 to 13.2 cents per kilogram,³ and calculated duties for all beef imports in 2008 equaled less than 2.6 percent of the value of those imports.⁴ In addition, dozens of countries receive duty-free access to the U.S. market for in-quota beef imports, either through bilateral free trade agreements or unilateral trade preference programs.⁵ Major U.S. trading partners, on the other hand, apply tariffs rates four to ten times higher than the effective U.S. rate. The European Union, for example, imposes tariffs of at least 12.8 percent on beef imports.⁶ Japan applies a tariff of 38.5 percent on beef imports, and Korea's tariffs on beef imports are 40 percent or higher.⁷ American cattle and beef producers face a profound disadvantage in overseas markets due to such disproportionately high tariffs.

B. Subsidy Distortions

Major cattle and beef producing nations provide billions of dollars of subsidies to cattle and beef producers through export subsidies and domestic support programs. Australia, Brazil, Canada, China, the EU, Japan, Korea, Mexico and other producers all subsidize cattle and beef production, while the U.S. provides no subsidies to the cattle and beef industry outside of disaster assistance and drought relief.⁸ Commodity-specific support to beef and veal producers in 2006 was 6.3 percent in Mexico,⁹ 2.1 percent in Canada,¹⁰ 48.8 percent in the European Union,¹¹ and zero in the United States.¹² Moreover, Mexico, a major exporter of live cattle to the U.S.,

¹ U.S. Farm Sector Cash Receipts from Sales of Agriculture Commodities, 2004-2008F, U.S. Department of Agriculture, Economic Research Service, available at http://www.ers.usda.gov/briefing/farmincome/data/cr_t3.htm (Though the sale of cattle and calves has historically been the leading sector in U.S. agriculture, generating approx. \$50 billion annually, the corn sector surpassed the live cattle sector in 2008.).

² U.S. Harmonized Tariff Schedule (2009), Supp. 1, Rev. 1, at Chap. 1, heading 0102 (live cattle).

³ U.S. Harmonized Tariff Schedule (2009), Supp. 1, Rev. 1, at Chap. 2, headings 0201 (fresh and chilled beef) and 0202 (frozen beef).

⁴ Calculation based on data from the U.S. International Trade Commission's Interactive Tariff and Trade DataWeb for HS 0201 and 0202.

⁵ U.S. Harmonized Tariff Schedule (2009), Supp. 1, Rev. 1, at Chap. 2, headings 0201 – 0202.

⁶ Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Exports, U.S. International Trade Commission, USITC Publication No. 4033, September 2008, at 7-12, 7-13.

⁷ *Id.*, at 5-13, 6-14.

⁸ For a summary of foreign subsidies in the cattle and beef sector, see Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Exports, U.S. International Trade Commission, USITC Publication No. 4033, September 2008, at 3-16, 5-14, 6-16, 7-14, 8-13, 9-14, 10-12, 11-13; *see also* Office of the U.S. Trade Representative and the U.S. Department of Commerce, *Subsidies Enforcement Annual Report to Congress*, February 2004, at 37 – 43.

⁹ *Id.*, at 11-13.

¹⁰ *Id.*, at 10-12.

¹¹ *Id.*, at 7-14.

¹² *Id.*, at 3-16.

gives its producers approximately 300-500 pesos (U.S. \$27-45) for each head of cattle to improve pastureland.¹³ And, in 2004 Canada provided \$400 million to encourage increased slaughter capacity and to assist producers affected by BSE.¹⁴

In addition, countries such as Australia and Canada use state trading enterprises for beef and for cattle feedstuffs such as wheat. Wheat Boards in these countries, for example, are able to guarantee domestic cattle producers artificially low feed prices, further disadvantaging American ranchers. These massive subsidies severely distort the global market for cattle and beef, artificially depressing prices and undercutting American producers. R-CALF USA believes that these trade-distorting subsidies in this sector need to be addressed in order to create a balanced international cattle and beef market in which the domestic industry can compete and thrive.

C. Sanitary and Phytosanitary Distortions

In addition to contending with tariffs and subsidies to cattle and beef producers through export subsidies and domestic support programs, the U.S. cattle industry is hamstrung with a U.S. policy that has irresponsibly relaxed essential sanitary and phytosanitary standards in order to facilitate the importation of higher-risk cattle and beef. The first of these relaxations occurred in the mid-1990s when the United States abandoned its requirement that beef from foreign countries meet standards at least equal to U.S. standards:

The United States can no longer require foreign countries wishing to export meat and poultry products to have meat and poultry inspections that are ‘at least equal’ to those of the United States; instead, foreign inspection systems must be [only] ‘equivalent to’ domestic inspection systems.¹⁵

More recently, the U.S. further relaxed essential U.S. sanitary and phytosanitary standards to facilitate the importation of cattle and beef from Canada, a country with an inherently higher risk for the invariably fatal disease known as bovine spongiform encephalopathy (BSE). As a result of relaxing its BSE controls, the U.S. has jeopardized its ability to achieve a more favorable disease-risk rating from the World Organization for Animal Health (OIE). For example, the U.S. currently meets the OIE’s eligibility criteria to be designated as having a negligible BSE-risk profile because it has not detected BSE in an indigenous animal born within the past 11 years.¹⁶ Canada, on the other hand, has detected 10 cases of BSE in cattle born after March 1, 1999, with one case known to be born as recently as 2003.¹⁷ Therefore, Canada, and its cattle herd, are ineligible for the more favorable OIE risk classification and will remain ineligible for many years. Moreover, the U.S. Department of Agriculture’s (USDA’s) own risk assessment predicts, with a high level of certainty, that current

¹³ Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Exports, U.S. International Trade Commission, USITC Publication No. 4033, September 2008, at 11-13.

¹⁴ *Id.*, at 10-13.

¹⁵ 60 Federal Register, at 38,688.

¹⁶ 2009 Terrestrial Animal Health Code – OIE, Chapter 11.6, Article 11.6.3 (3) (b).

¹⁷ BSE (Bovine Spongiform Encephalopathy, or Mad Cow Disease), Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, available at <http://www.cdc.gov/ncidod/dvrd/bse/index.htm>.

U.S. regulations will cause the introduction and subsequent spread of fatal BSE within the United States.¹⁸

Despite this, the U.S. continues to allow Canadian cattle born after March 1, 1999, and beef from Canadian cattle of any age to enter the U.S. and mingle with the U.S. cattle herd and the U.S. beef supply, respectively. Thus, the U.S. has assumed Canada's higher BSE risk and has relegated itself to the less favorable status of a BSE controlled-risk country, just like Canada, while it continues to practice BSE controls that are considered too lenient by every major export customers with which the United States maintains a positive trade balance. This reprehensible situation has not changed in the past six years.¹⁹

Until the U.S. restores its sanitary and phytosanitary standards to a level that would genuinely protect the United States from the introduction of substandard beef products, and from the introduction and spread of pernicious animal diseases like BSE, the U.S. will continue to assume an unnecessary and avoidable risk for BSE and the global beef market for U.S. cattle producers will remain highly distorted and the U.S. cattle industry will continue to shrink.

BSE STANDARDS OF MAJOR BEEF IMPORTING COUNTRIES

Country	Age Restriction	Specified Risk Material (SRM) Definition	Commodity Restrictions
Japan	20 months or younger	Head (excluding tongue and cheek meat), palatine and lingual tonsils, spinal cord and dura matter, distal ileum, vertebral column, and dorsal root ganglia.	No ground beef, processed beef, head meat, finely textured beef, or mechanically separated meat.
Korea	Under 30 months	Skull, brain, eyes, distal ileum, tonsils, spinal cord, vertebral column.	Cattle must be born and raised in the United States, or imported from a country deemed eligible by the Korean government to export beef or beef products to Korea, or raised in the United States for at least 100 days. Traceback records must be maintained for at least 2 years. No mechanically recovered meat or mechanically separated meat.
Mexico	Under 30 months	Skull, brain, eyes, tonsils, spinal cord, and small intestine.	No ground meat, feet, sweetbreads, weasand meat, or head meat.
Hong Kong	Under 30 months	Skull (including brain, eyes and trigeminal ganglia), tonsils, spinal cord, dorsal root ganglia (with the vertebral column) and intestine.	No ground beef, bone-in beef, edible offal, or beef derived from advanced meat recovery systems.

Source: USITC Publication 4033, September 2008, 4-9.

II. The Debilitating Effects of Ongoing Global Distortions

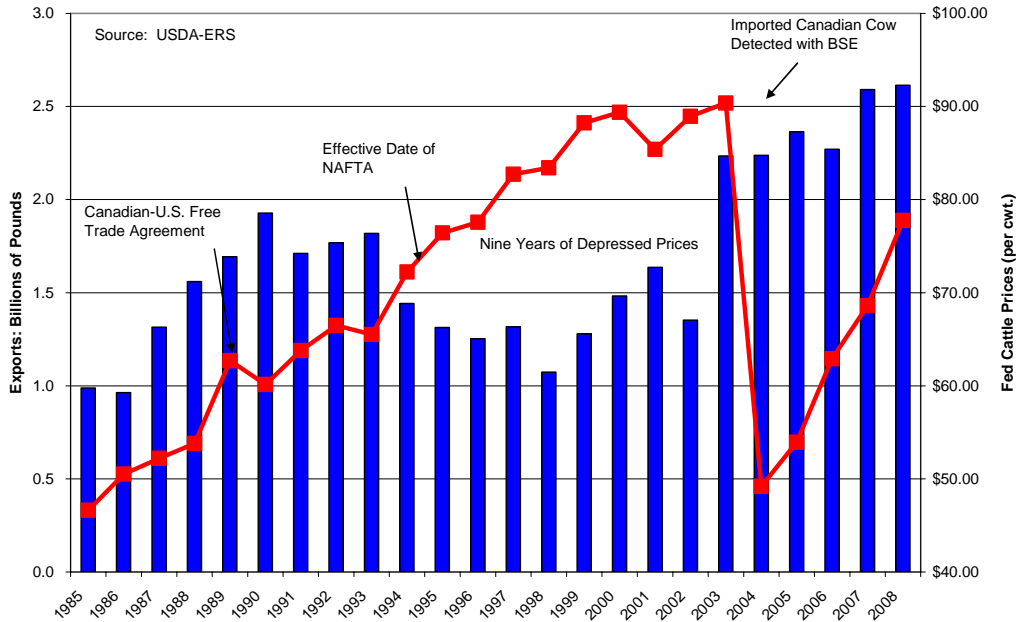
Together, these global distortions drive down prices for U.S. producers, close markets for U.S. exports, and flood the U.S. with cheaper and higher-risk imports. As a result, the U.S. cattle

¹⁸ 72 Fed. Reg., 1109, col. 2; 72 Fed. Reg., 53347, col. 1 (USDA's risk modeling for its over-30-month rule (OTM Rule) predicts the U.S. would import between 19 and 105 BSE-infected cattle from Canada, which would subsequently produce BSE infections in 2 to 75 U.S.-born cattle over a 20-year period).

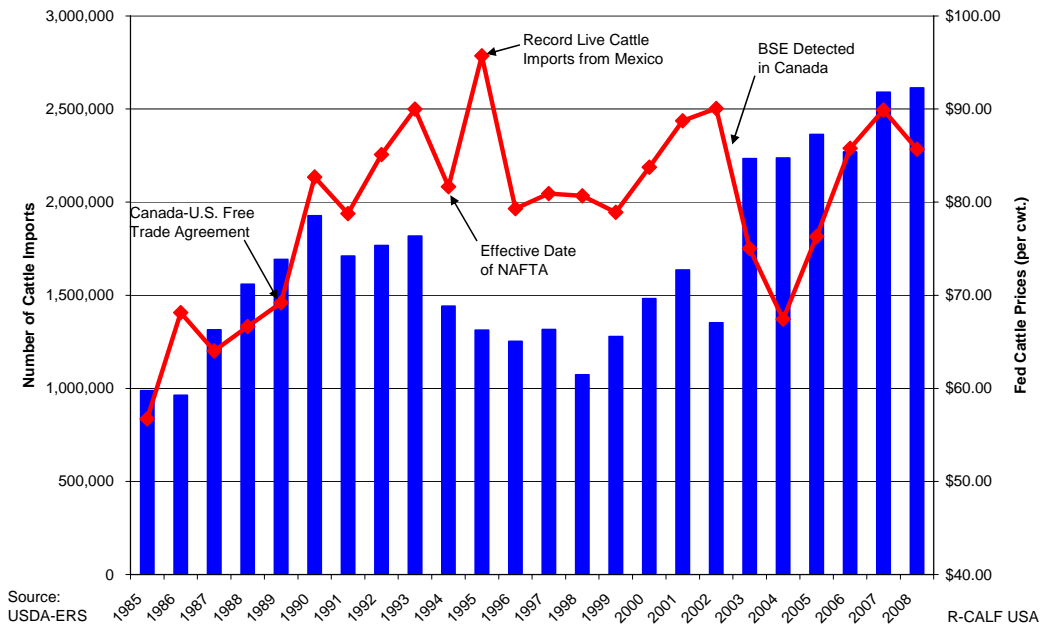
¹⁹ Global Beef Trade: Effects of Animal Health, Sanitary, Food Safety, and Other Measures on U.S. Exports, U.S. International Trade Commission, USITC Publication No. 4033, September 2008, at 4-9 (Japan, with a 37.2% share of U.S. exports in 2003 disallows beef from cattle over 20 months and disallows ground beef; Korea, with a 21.2% share of U.S. exports in 2003 disallows beef from cattle over 30 months of age; Mexico, with a 19.6% share of U.S. exports in 2003 disallows beef from cattle over 30 months of age.).

industry suffered catastrophic losses during the 1990s and early 2000s when U.S. beef export volumes were reaching record highs. From 2003-2008, prior to the current relaxation of U.S. sanitary and phytosanitary standards, domestic cattle prices increased and losses to U.S. livestock producers were temporarily abated.

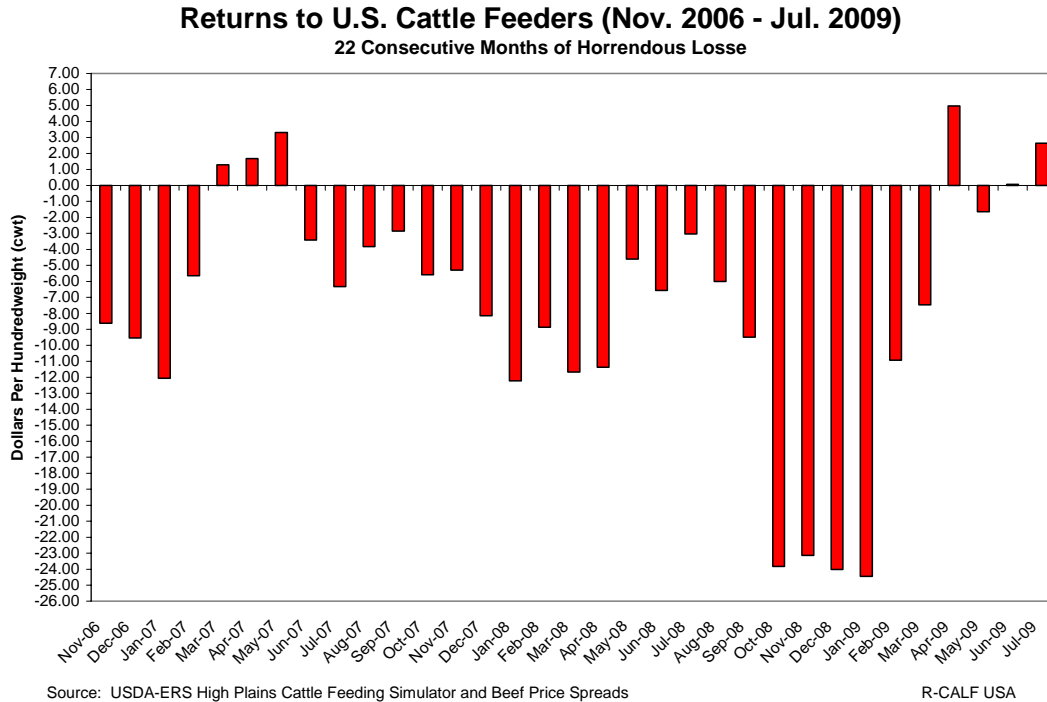
Relationship Between Export Volumes and Fed Cattle Prices



RELATIONSHIP BETWEEN CATTLE IMPORTS AND FED CATTLE PRICES



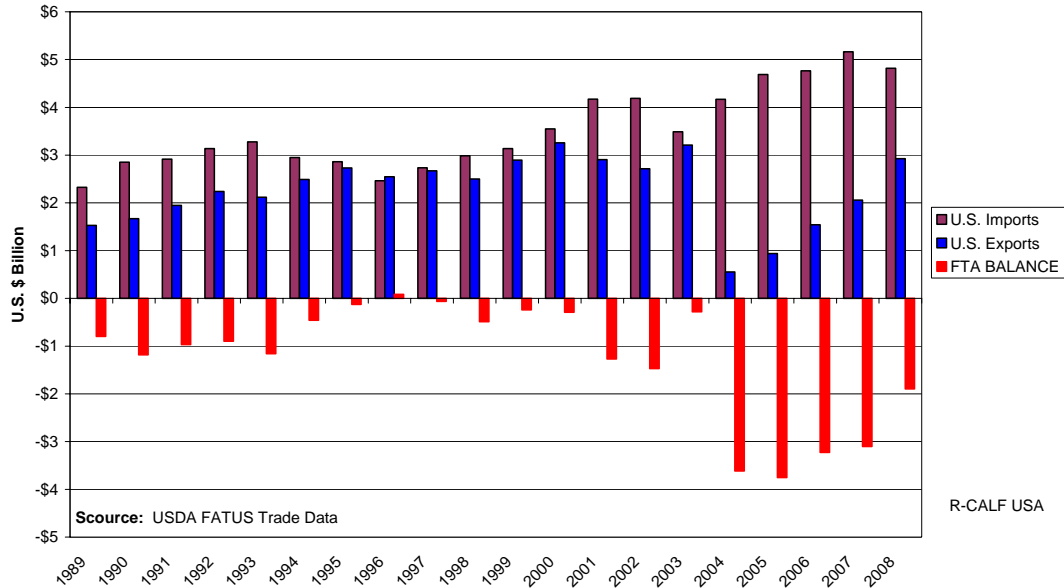
But, during the past two years these catastrophic losses to U.S. cattle producers have resumed with a vengeance.



Additionally, these global distortions have saddled the U.S. with a persistent, long-term trade deficit that is draining billions of dollars from the U.S. cattle industry and from the tens of thousands of rural communities it supports.

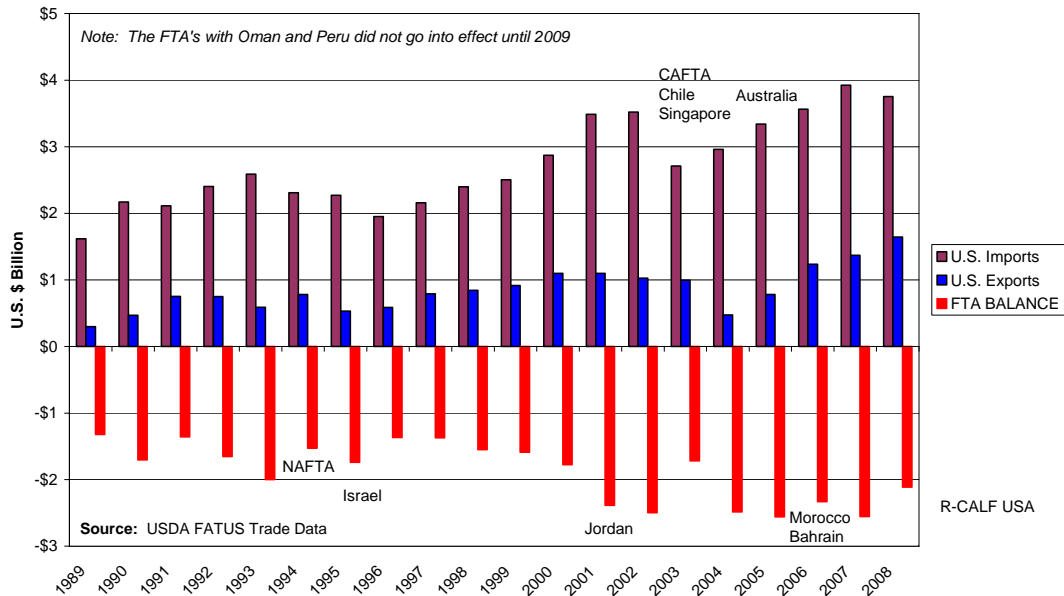
U.S. Global Trade in Cattle and Beef

20-Year Cumulative U.S. Trade Balance = Negative \$25.2 Billion



U.S. Trade in Cattle and Beef With 17 FTA Countries

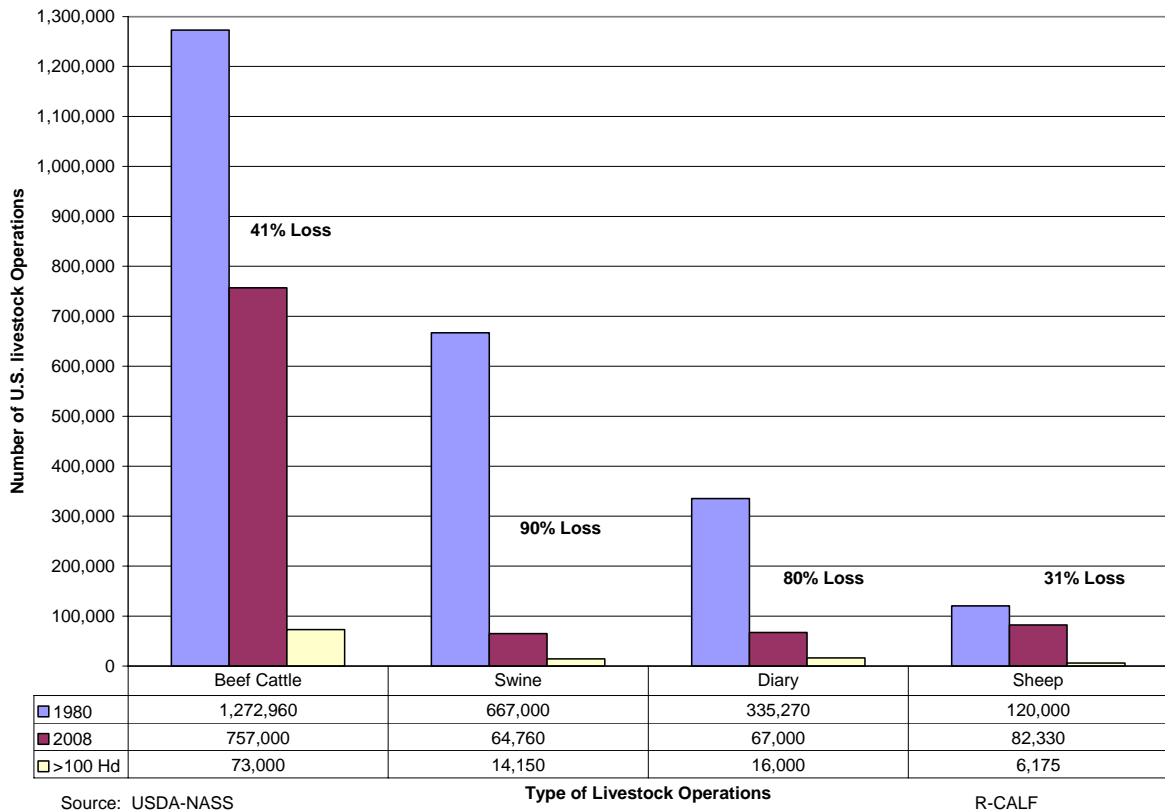
20-Year Cumulative U.S. Trade Balance = Negative \$37.6 Billion



The current condition of the U.S. cattle industry is dire. Since 1980, the industry has lost more than 40 percent of its participants and the inventory of cattle and calves in the U.S. is dropping at an alarming rate. The steep decline of the cattle industry – a vital component of

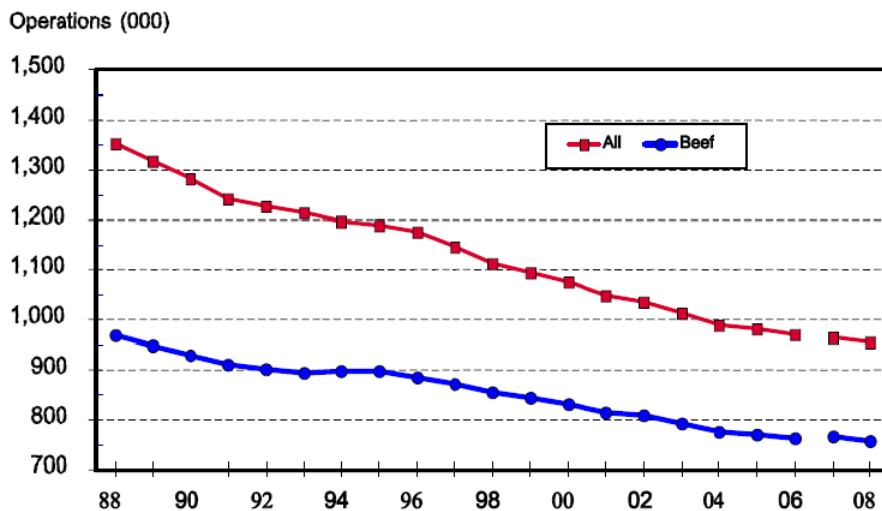
America’s rural economy – has devastated ranching families and rural communities across the nation. The underlying problems facing the American cattle industry are caused in large part by the massive distortions in the global cattle and beef market.

Loss of U.S. Livestock Operations 1980-2008



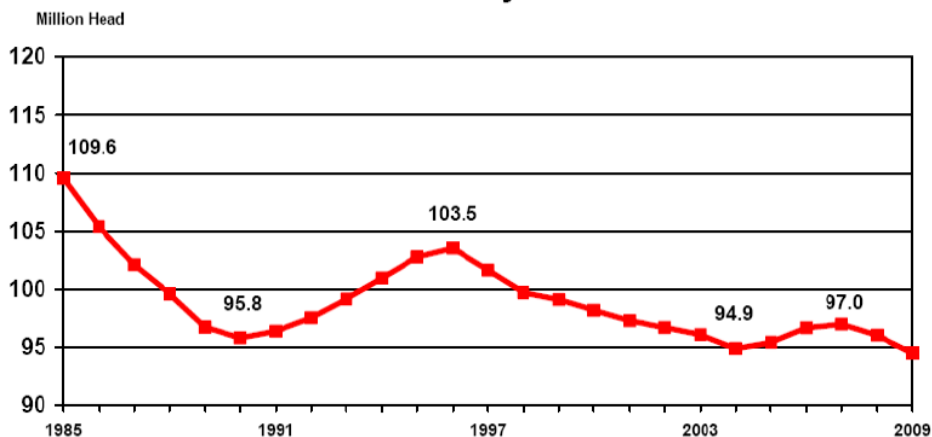
R-CALF

Number of All Cattle and Beef Cow Operations United States, 1988-2008



Source: USDA National Agricultural Statistics Service

U.S. Cattle Inventory January 1



Source: USDA National Agricultural Statistics Service

R-CALF USA is hopeful that the identification of foreign trade barriers in the cattle and beef sector in the National Trade Estimate Report will lead to the immediate and fundamental reform of trade policies and practices that are largely responsible for the U.S. cattle industry's rapid decline.

III. Conclusion

R-CALF USA appreciates the opportunity to submit these comments and encourages the U.S. Trade Representative to initiate fundamental trade reforms to address the systemic problems

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associated with global beef and cattle market distortions that include disparate tariffs, subsidies and sanitary and phytosanitary standards. The U.S. cattle industry has been devastated by the failure of current trade policies and practices to recognize these unrelenting distortions and the future of the U.S. cattle industry, along with the tens of thousands of rural communities it supports, hangs in the balance.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Bullard". The signature is written in a cursive, somewhat stylized font with a prominent horizontal line across the middle.

Bill Bullard
CEO