R-CALF USA

R-CALF United Stockgrowers of America
P.O. Box 30715
Billings, MT 59107
Phone: 406-252-2516
Fax: 406-252-3176

2100 M Street NW, #170-200
Washington D.C. 20037
Phone: 202-785-1700
Fax: 202-785-1701

E-mail: r-calfusa@r-calfusa.com • Website: www.r-calfusa.com

September 29, 2006

PUBLIC DOCUMENT

Ms. Marilyn Abbott
Secretary
United States International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Re: R-CALF USA Prehearing Brief Regarding the *Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects* (Inv. No. TA-2104-023)

Dear Ms. Abbott:

The Ranchers-Cattlemen Action Legal Fund – United Stockgrowers of America (R-CALF USA) appreciates this opportunity to submit its views regarding the Commission's investigation on the potential economic effects of the Colombia Trade Promotion Agreement (TPA). R-CALF USA is a non-profit cattle-producer association that represents over 18,000 U.S. cattle producers in 47 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.

In developing its investigation into the economic effects of the Colombia TPA, the Commission is charged with assessing the impact of the agreement on exports and imports, and impacts on the production, employment, and competitive position of industries likely to be significantly affected by the agreement.[1] The U.S. live cattle industry, which is uniquely situated within, and is affected by, the condition of the U.S. beef industry, is one such sector that deserves particular attention from the Commission in its investigation of the potential economic effects of the Colombia TPA.

[1] *See U.S.-Colombia Trade Promotion Agreement: Potential Economy-wide and Selected Sectoral Effects*, Inv. No. TA-2104-023, 71 Fed. Reg. 54,840 (Sept. 19, 2006).

I. Introduction

R-CALF USA believes that as the U.S. continues to seek out new trade agreements with partners throughout the hemisphere, it is vital that the U.S. use these agreements to create a coherent set of trade rules for both the cattle and beef sectors. R-CALF USA believes U.S. cattle producers can compete and thrive in global markets if the rules are fair. Unfortunately, U.S. cattle producers currently face a grossly distorted international market for cattle and beef, and the U.S. ran a record trade deficit of $3.3 billion in cattle and beef in 2005.[2] While much of the deterioration in the U.S. cattle and beef trade balance is due to the loss of export markets after the discovery of a Canadian animal with bovine spongiform encephalopathy (BSE) in 2003, rising imports have also contributed to the growing deficit. Thus, as the U.S. presses to re-open priority markets to U.S. beef exports and to address trade-distorting tariffs and subsidies at the WTO, it must also ensure that bilateral and regional free trade agreements help to level the playing field for U.S. producers.

R-CALF USA is concerned that the Colombia TPA will do little to promote exports of U.S. beef, while subjecting domestic producers to substantial risks of increased beef imports. Significant increases in U.S. beef exports to Colombia are unlikely, given the region's sizable domestic herd, excess domestic production, and relatively low per capita GDP. The vast majority of any potential export market therefore available for U.S. beef exports to the region is of limited quantities of high-quality U.S. beef targeted to premier restaurants and restaurants that service the tourist industry.

While U.S. export opportunities to the region are limited, the likelihood of increased imports from the country is substantial. Colombia has a herd of 25 million head of cattle, and it has rising production and exports of beef and a growing net beef trade surplus. If the TPA stimulates foreign investment in Colombia as intended, and if this investment flows to the region's cattle and beef industry to expand herd size, improve genetics, eradicate disease, and upgrade slaughtering capability, exports of Colombian beef to the U.S. could rise dramatically. In addition, lax rules of origin in the TPA may result in large volumes of cattle being sent from other countries in Latin America through Colombia for processing and export to the U.S.. The MERCOSUR nations alone have a combined herd size of more than 250 million head, and Venezuela has another 16 million.[3]

Finally, while the Colombia TPA does include a quantity safeguard on imports of fresh, chilled and frozen beef from Colombia, this safeguard phases out when the quota on imports of such beef expires in year ten of the agreement. Thus, unlike the U.S. – Australia FTA, there is no safeguard designed to insulate producers from abrupt price

[2] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics. Import volumes for HTS 0102.90, 0201, 0202, 0206.10 – 0206.29, 0210.20, 0504 .00 and 1602.50.
[3] FAOSTAT Production database, available on-line at http://faostat.fao.org/site/410/DesktopDefault.aspx?PageID=410 .

fluctuations due to imports after the quota expires. This feature increases the risk that liberalized trade under the FTA will result in volumes of low-priced imports that will drive down prices for U.S. cattle producers.

As the Commission investigates these probable effects, R-CALF USA urges that market dynamics in the U.S. – such as the high concentration of meat packers, their reliance on non-traditional contracting practices, and the perishability of cattle and beef – be taken into account. These market factors increase the leverage of packers and processors, facilitating their ability to use imports of beef to drive down the prices paid to U.S. cattle producers. Because of the limited marketing window of live cattle, producers are particularly susceptible to these types of market manipulations. Thus, increased openness to imports of Colombian beef is likely to have a significant adverse affect on U.S. cattle producers.

II. U.S. Beef Exports to Colombia

The U.S. exports very small amounts of beef to Colombia. Even before the closure of Colombia's market to many U.S. beef exports after the discovery of a Canadian animal with BSE in the state of Washington in late 2003, the U.S. generally shipped 2,000 MT or less of beef to Colombia each year. These exports rarely exceeded $3 million, and have represented less than two-tenths of one percent of U.S. beef exports to the world.

U.S. Beef Exports to Colombia and the World[4]

	Value of Beef Exports ($)		**Volume of Beef Exports (MT)**	
	U.S. Exports to Colombia	**% of Total U.S. Beef Exports**	**U.S. Exports to Colombia**	**% of Total U.S. Beef Exports**
2000	1,109,047	0.03 %	535	0.04 %
2001	1,938,632	0.06 %	1,320	0.10 %
2002	3,321,389	0.10 %	2,334	0.18 %
2003	2,992,249	0.08 %	1,732	0.13 %
2004	1,836,348	0.19 %	699	0.17 %
2005	1, 428,760	0.09 %	603	0.11 %

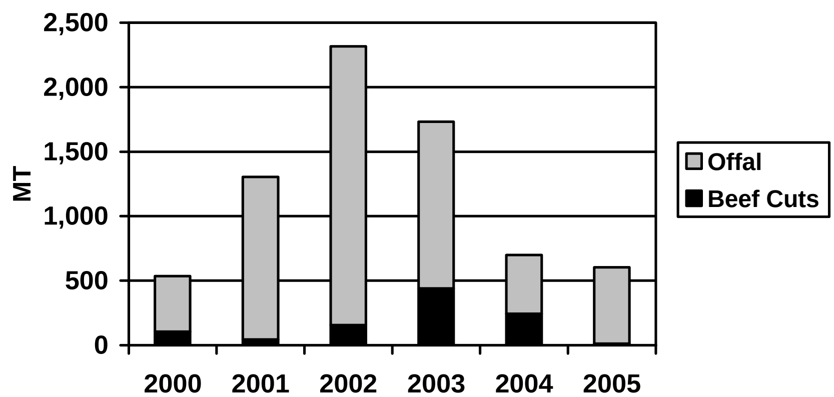
While some have argued that there is significant growth potential in the Colombian market for additional beef exports, U.S. exports of beef to Colombia started to decline even before the discovery of an animal with BSE in the U.S. at the end of December of 2003. U.S. beef exports to Colombia fell 26 percent by volume and 10 percent by value from 2002 to 2003.[5] They continued to fall for the next two years, and 2005 exports were only one-quarter of 2002 exports by volume, and 40 percent of 2002

[4] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics for HTS 0201, 0202, 0206.10 – 0206.29, 0210.20, 0504.00 and 1602.50
[5] *Id*.

exports by value.[6] This is consistent with the trend in Colombia's overall beef imports from the world, which have also fallen since 2002.[7] The reduction in Colombia's overall beef imports may be explained by the fact that Colombia has been increasing its domestic beef production, as discussed in Section III, below. Colombia's production of beef and veal increased from 675,000 MT in 2002 to 750,000 MT in 2005, representing an 11 percent increase in three years.[8]

In addition to importing very small and declining amounts of beef from the U.S., Colombia has also traditionally tended to import more low-value beef offal from the U.S. instead of higher-value beef cuts. Even before problems with BSE in late 2003, offal represented three-quarters or more of the volume of U.S. beef exports to Colombia, and 60 percent or more of the value of U.S. beef exports to Colombia.

Types of U.S. Beef Exports to Colombia[9]



U.S. exports to Colombia represent a very small portion of the overall export market for U.S. beef, and tend to be dominated by lower-value beef products. The U.S. does not currently import large volumes of beef from Colombia due to foot-and-mouth disease (FMD) in the country that makes it ineligible to ship fresh, chilled and frozen beef to the U.S. But, as reviewed in more detail below, Colombia has significant export potential if FMD is eradicated.

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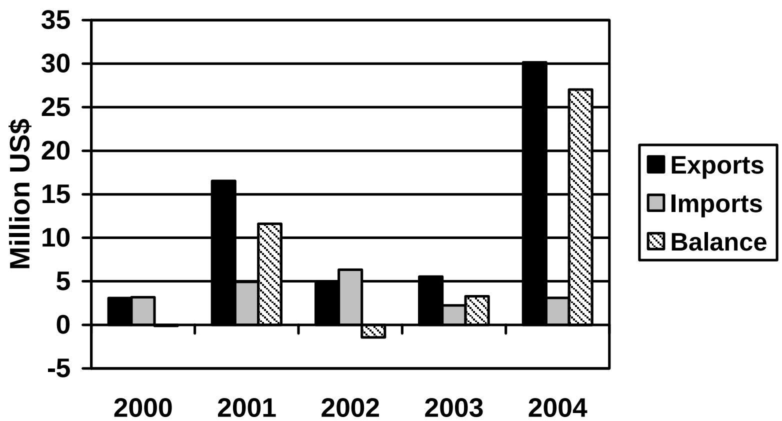
[6] *Id*.
[7] FAOSTAT TRADEstat database. Colombia's imports of fresh, chilled, and frozen beef, along with offal and prepared bovine meats, fell from 5,894 MT in 2002 to 2,716 MT in 2004, the most recent year for which data is available.
[8] FAOSTAT Production database.
[9] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics for HTS 0201, 0202, 0206.10 – 0206.29, 0210.20, 0504.00 and 1602.50. Cuts of beef are classified at HTS 0201 and 0202, and offal is classified at 0206.10 – 0206.29 and 0210.20. There were also 16 MT of variety meats exported to Colombia in 2001 that do not appear in this chart.

III. Colombia's Beef Production and Exports

Colombia has a cattle herd of 25 million head, and its beef production has been growing over the past several years. In 2005, Colombia produced 750,000 MT of beef, about 48,000 MT more than its domestic consumption.[10] Given this excess production, it is not surprising that Colombia is a net exporter of beef to the world, even with market access barriers due to its FMD problems. In fact, exports have grown dramatically since 2000, and Colombia now has a growing beef trade surplus.

Colombia's Trade in Beef[11]



Colombia is able to support and increase beef exports through the country's policy of beef subsidies. In the U.S., cattle and beef producers receive no direct trade-distorting subsidies. But Colombian producers receive substantial subsidies that encourage exports. Colombia grants producer-financed export subsidies for beef under a "price stabilization" fund.[12] Under WTO rules, Colombia is currently entitled to subsidize 8,430 MT of beef exports with $4,543,677 in funds.[13] Colombia also provides financial support for producers to re-stock their cattle herds, further subsidizing cattle and beef production.[14] The FTA does not address these subsidies, allowing them to continue as trade in beef is liberalized under the agreement.

While Colombia does not currently export beef to the U.S. due to FMD issues, once these issues are addressed the country may be able to quickly ramp up exports to the U.S. Once FMD problems are eradicated in the region, countries in South America have proven their ability to expand exports to the U.S. quickly and aggressively. For example,

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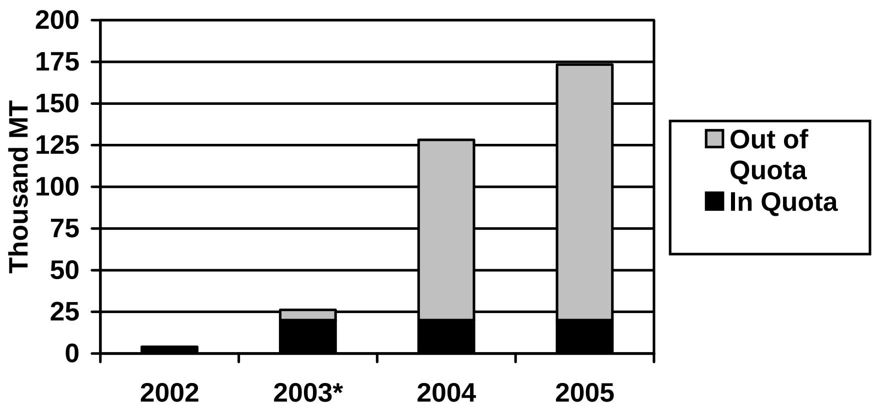
[10] FAOSTAT Production and Consumption databases.
[11] FAOSTAT TRADEstat database.
[12] *See, e.g.*, U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers 2006* at 168.
[13] Colombia WTO Schedule of Commitments, Part IV, Section II: Agricultural Goods, Export Subsidy Commitments.
[14] U.S. Department of Agriculture, Foreign Agricultural Service, *Colombia Dairy Products Annual 2004*, GAIN Report No. CO4013 at 3.

Uruguay was declared FMD-free in May of 2003,[15] and it rapidly became a major exporter of beef to the U.S.

Uruguay exported 26,180 MT of beef to the U.S. in 2003.[16] By 2004, in just one year, Uruguay's exports to the U.S. nearly quintupled to 128,189 MT. Exports rose again in 2005, to 173,392 MT. The U.S. is such an attractive market for South American cattle and beef producers – even without an FTA in place – that Uruguay was willing to pay an out-of-quota duty on most of its exports to ship to the U.S. In fact, in 2005, Uruguay filled its annual 20,000 MT dedicated quota before the end of February.[17] Uruguay continued to ship more than eight times its quota amount, paying the out-of-quota tariff of 26.4 percent on more than 150,000 MT of exports.

U.S. Beef Imports from Uruguay[18]



* Uruguay became eligible to export to the U.S. in May 2003

Another recent example from South America is Chile. The Chile FTA went into effect in January of 2004, but Chile did not gain access to the U.S. market for its beef exports until November of 2005 due to problems with FMD.[19] Under the FTA, Chile gained a dedicated import quota for beef of 1,000 MT in the first year of the agreement, under which beef can enter the U.S. duty-free, and unlimited access to the U.S. market in year four of the agreement.[20] From January to June of 2006, Chile had shipped 32.7 MT of fresh, chilled, and frozen beef to the U.S., nearly eight times more in just six months

[15] *See* 68 Fed. Reg. 31,940 (May 29, 2003).
[16] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics. Import volumes for HTS 0201 – 0202.
[17] Information on Uruguay's quota for beef exports to the U.S. and the out-of-quota tariff is from the U.S. Harmonized Tariff Schedule at Chap. 2, headings 0201 – 0202.
[18] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics. Import volumes for HTS 0201 – 0202.
[19] *See* 70 Fed. Reg. 70,033 (Nov. 21, 2005).
[20] *See* U.S. – Chile FTA, Annex 3.3, Tariff Schedule of the United States, Annex I, Note 2.

than it had shipped to the U.S. in any other year since 1989.[21] Meanwhile, Chile's exports to the world have been growing rapidly as well, rising from 186 MT in 2000 to 12,328 MT in 2004.[22] The Chilean government estimates that Chile's exports of beef to the world could grow five-fold by 2007, to $100 million.[23]

Once Colombia is able to eradicate FMD, it is highly likely that it will be able to pursue a similar path as Chile and Uruguay, quickly expanding its exports to the U.S. under the preferential terms of the TPA. In addition, the added security that the TPA provides to foreign investment in Colombia, together with the incentive of preferential access to the U.S. market, is likely to stimulate additional investments in herd health, processing efficiency, and other measures needed to increase Colombia's export competitiveness.

The history of cattle and beef trade under the North American Free Trade Agreement (NAFTA) may provide additional useful lessons regarding the potential impact of the TPA with Colombia. NAFTA was promoted as an agreement that would stimulate U.S. beef exports and improve the U.S. trade balance with Canada and Mexico, despite the potential for increased cattle imports from Canada under the agreement. In fact, the Commission's analysis of the NAFTA's potential impact on trade in livestock and meat products concluded that, "NAFTA will likely have no impact on the level of U.S. imports of livestock and meat because U.S. duties are already small."[24] Since NAFTA went into effect, however, U.S. imports of fresh, chilled and frozen beef from Canada and Mexico have increased by 259 percent in value and 146 percent in volume.[25] Meanwhile, U.S. exports of fresh, chilled or frozen beef to Canada and Mexico have risen by only 57 percent in value and 51 percent in volume since NAFTA was implemented.[26] Thus, the U.S. beef trade surplus with Canada and Mexico of $73 million in 1993 became a persistent, annual trade deficit starting in 1996.[27] The U.S. trade deficit in beef trade with NAFTA countries was $613 million in 2005.[28] This does not even include the large increase in cattle imports under NAFTA, which further undermined U.S. cattle producers. The Commission should consider the NAFTA experience in its assessment of the potential impacts of the Colombia TPA.

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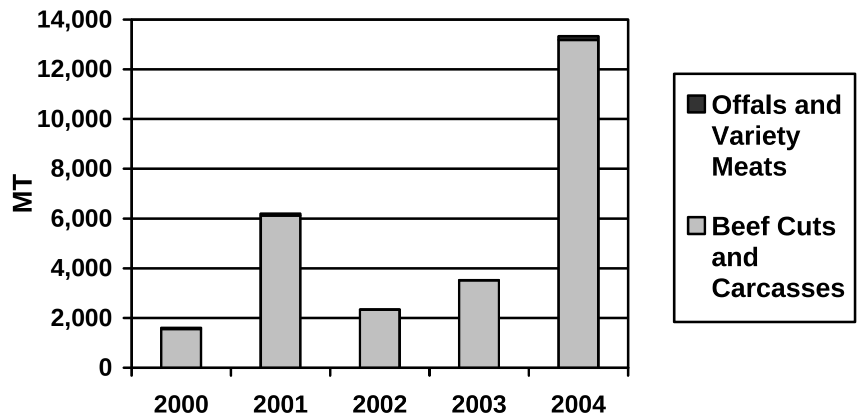
[21] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics. Import volumes for HTS 0201 and 0202.
[22] FAOSTAT TRADEstat database.
[23] "Putting Meat on the FTA's Bones," Tom Azzopardi, *Business Chile*, available on-line at: http://www.businesschile.cl/portada.php?w=old&id=40&lan=en.
[24] *Potential Impact on the U.S. Economy and Selected Industries if the North American Free Trade Agreement*, Inv. No. 332-337, USITC Pub. No. 2596 at 27-2 (January 1993). The report did not include more detailed, specific analysis of NAFTA's impact on beef trade. This conclusion thus refers to imports of all livestock and meat products.
[25] U.S. Department of Commerce, Census Bureau, Foreign Trade Statistics. Data for HTS 0201 and 0202, percent change from 1993 to 2005.
[26] *Id*.
[27] *Id*.
[28] *Id*.

Finally, it is important to note that Colombia's exports are dominated by beef carcasses and cuts, rather than the lower-value offal products that Colombia imports from the U.S. Such cuts and carcasses accounted for 99 percent of Colombia's beef exports to the world in 2004, both by volume and by value.

Types of Beef Exported by Colombia[29]



Colombia's generous beef subsidies, excess beef production, and growing beef trade surplus, indicate that liberalized beef trade with the country under the Colombia TPA may result in large inflows of Colombian beef into the U.S. market once health and safety issues are addressed. In addition, these trends call in to question the assumption that liberalized trade will stimulate significant U.S. exports of beef to Colombia, given the country's already declining imports, and given that Colombia's domestic beef production already exceeds domestic consumption. Furthermore, since Colombia tends to import lower-value offal while exporting higher-value beef cuts and carcasses, increased trade with the country may put additional pressure on U.S. producers as they are confronted with rising imports of high-value product and only limited opportunities to export lower-valued beef products.

IV. Beef Trade Under the Colombia TPA

A. Market Access

Under the Colombia TPA, U.S. exports of carcasses and prime and choice beef are granted immediate duty-free access upon implementation of the agreement.[30] As reviewed above, this has not traditionally been a major area of exports from the U.S. to Colombia. Standard (non-prime or choice) cuts of beef are accorded a TRQ of 2,100

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[29] *Id.*
[30] U.S. – Colombia TPA, Annex 2.3 – Tariff Schedule of the Republic of Colombia.

MT, which rises gradually and then phases out in year ten of the agreement.[31] The base tariff of 80 percent on out-of-quota imports is also reduced over ten years, with a front-loaded cut in the first year of the agreement.[32] U.S. exports of offal, the area in which the U.S. has traditionally exported the most to Colombia, are granted a TRQ of 4,642 MT, which also grows each year until it phases out in year ten of the agreement.[33] Tariffs on salted, smoked or dried beef is subject to a ten-year phase-out, and tariffs on other variety meats are eliminated upon implementation of the agreement.[34] Thus, the product areas in which the U.S. has traditionally exported more beef to Colombia (particularly offals), is where Colombia achieved extended TRQ phase-outs under the TPA.

Under the Generalized System of Preferences and the Andean Trade Preferences Act, the U.S. already accords duty-free treatment to Colombia's exports of beef carcasses and cuts that fall within the general "all others" quota of 64,805 MT a year.[35] This duty-free treatment within the general quota is locked in under the TPA.[36] In addition, the TPA grants Colombia an additional dedicated quota of 5,250 MT, which increases each year until Colombia achieves unlimited access to the U.S. market for carcasses and beef cuts in year ten of the accord.[37] The base rate tariff of 26.4 percent on out-of-quota imports is reduced in equal yearly amounts until it reaches zero in the year the quota phases out.[38] Variety meats currently subject to low tariffs will enter duty free immediately, and the current duty-free treatment for other beef products such as offal will be locked in under the TPA.[39] Thus, the products that dominate Colombia's beef exports to the world – carcasses and cuts – are also the products subject to TRQs under the TPA.

This approach is largely consistent with the practice of the U.S. in other free trade agreements. Yet, despite the continued closure of foreign markets to U.S. beef exports due to BSE, the U.S. did not make access to the additional quota for beef carcasses and cuts conditional on the resumption of U.S. beef exports to the world, as it did with another major beef producer in the Australia FTA.[40] The failure to do so ensures that Colombia will enjoy expanded access to the U.S. market whether or not U.S. exports to the rest of the world have resumed their historical level. This will increase the squeeze on U.S. producers as their imports increase but their exports continue to face substantial barriers abroad.

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[31] *Id*.
[32] *Id*.
[33] *Id*.
[34] *Id*.
[35] U.S. Harmonized Tariff Schedule at Chap. 2, headings 0201 – 0202.
[36] U.S. – Colombia TPA, Annex 2.3 – Tariff Schedule of the United States.
[37] *Id*.
[38] *Id*.
[39] *Id*.
[40] *See* U.S. – Australia FTA, Annex 2-B,Tariff Schedule of the United States, General Notes.

B. Safeguards

In the Trade Act of 2002, Congress directed U.S. trade negotiators to seek provisions in future trade agreements to "improv[e] import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture."[41] In a colloquy regarding these provisions on the Senate floor, Senators agreed that this language "would clearly cover livestock and fresh meat products."[42] Senator Enzi of Wyoming explained why livestock is considered a perishable product under the legislation:

> Cattle ready for slaughter, for example, must be processed within two to three weeks of reaching their optimal weight. Once above the optimal weight, cattle gain fat and not muscle. With this quality loss, livestock producers suffer drastic price discounts that can wipe out their profits.[43]

The Chairman and ranking member of the Senate Finance Committee, with jurisdiction over trade matters, agreed with the interpretation, stating, "there can be no other reading of the legislation."[44]

Import relief mechanisms for perishable products can include safeguards, based on quantities of imports, prices, or both. Even a small increase in imports can have a dramatic impact on prices and domestic production of perishable products such as cattle, because of cattle's very limited marketing periods and the resulting lack of bargaining power that cattle producers can exert on markets. Even a relatively minor increase in beef imports or drop in beef import prices during this limited marketing window can force domestic cattle producers to sell at a loss, since they cannot hold their product in inventory like other non-perishable products. Thus, responsive and effective import relief mechanisms are particularly important to prevent large market disruptions, particularly in the cattle sector.

The U.S. and Colombia both included quantity safeguards on some imports of beef under the Colombia TPA.[45] The U.S. has a quantity safeguard on imports of beef carcasses and cuts as long as an import TRQ applies to those imports in years one through nine of the agreement. The safeguard is triggered if imports from Colombia in these categories exceed 140 percent of the quota allocation. In years one through four of the agreement, the U.S. may apply a tariff of up to 100 percent of the difference between the reduced rate and the MFN rate that applies under the U.S. tariff schedule. In years five through seven, an additional tariff of up to 75 percent of this amount can be applied, and, in years eight and nine, an additional tariff of up to 50 percent of this difference can

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[41] 19 U.S.C. § 3802(b)(10).
[42] Congressional Record, Page S4800 (May 23, 2002) (Sen. Enzi).
[43] *Id*.
[44] *Id*. (Sen. Grassley)
[45] *See* U.S. – Colombia FTA, Annex 2.18 – Agricultural Safeguard Measures.

be imposed on imports exceeding 140 percent of the quota level. Colombia also included a quantity-triggered safeguard on its imports of standard quality beef from the U.S., which operates in the same fashion.

One important difference between the two safeguards is the amount of the tariff snap-back. While the base out-of-quota rate to which U.S. tariffs may initially snap back under the safeguard is 26.4 percent, Colombia's MFN tariff is much higher at 80 percent. While these MFN rates may come down during the life of the agreement, if, for example, the Doha Round at the WTO results in cuts to either country's MFN tariff rate, the current rates provide a good indicator of the strength of each country's safeguard measure. In effect, the disparity in the base rate gives Colombia the ability to impose a much stricter limit on imports that exceed the quota levels agreed to under the TPA.

Colombia TPA Beef Safeguards[46]

	U.S. Safeguard on Colombian Carcasses and Beef Cuts				**Colombian Safeguard on U.S. Standard Quality Beef Cuts**			
Year	Duty-Free Quota* MT	Out-of-Quota Duty %	Safeguard Trigger MT	Maximum Safeguard Duty %	Duty-Free Quota MT	Out-of-Quota Duty %	Safeguard Trigger MT	Maximum Safeguard Duty %
1	5,250	23.76	7,350	26.4	2,100	50	2,940	80
2	5,513	21.12	7,718	26.4	2,205	44.44	3,087	80
3	5,788	18.48	8,103	26.4	2,315	38.89	3,241	80
4	6,078	15.84	8,509	26.4	2,431	33.33	3,403	80
5	6,381	13.20	8,933	23.1	2,553	27.78	3,574	66.95
6	6,700	10.56	9,380	22.44	2,680	22.22	3,752	65.56
7	7,036	7.92	9,850	21.78	2,814	16.67	3,940	64.17
8	7,387	5.28	10,342	15.84	2,955	11.11	4,137	45.56
9	7,757	2.64	10,860	14.52	3,103	5.56	4,344	42.78
10	--	0	--	0	--	0	--	0

* This is an additional dedicated quota for Colombia, on top of the duty-free access under the "all others" quota of 64,805 MT.

For example, in year five of the agreement, Colombia can impose a total duty (the basic out-of-quota tariff plus the additional safeguard tariff) of 67 percent on imports of standard quality beef from the U.S. exceeding the trigger level of 3,574 MT. In that same year, the U.S. can impose a total duty of 23 percent on imports of beef carcasses and cuts from Colombia exceeding the trigger amount of 8,933 MT. In addition, in the case of the U.S., this safeguard duty will only be triggered if there is no duty-free quota access to Colombia available under the 64,805 "all others" quota, requiring Colombia to use, and exceed, its dedicated TPA quota. Thus, though both the U.S. and Colombia

[46] *Id*. Trigger amounts are calculated by multiplying the yearly quota amount by 140 percent. Maximum safeguard duty is the sum of the scheduled out-of-quota duty for the relevant year plus the additional safeguard duty that can be applied to imports exceeding 140 percent of quota.

eventually bring all tariffs on beef to zero under the TPA, and though both countries achieved a quantity based safeguard with similar operational guidelines on certain beef products, the fact that Colombia started the TPA negotiations with a much higher base tariff than the U.S. results in a pair of quantity-based safeguards that will impose much stricter discipline on U.S. exports to Colombia than on U.S. imports from Colombia.

There is no price-based safeguard on beef in the Colombia FTA, as there was in the U.S. – Australia FTA. R-CALF USA believes a price-based safeguard triggered by declining cattle prices should have been included in the FTA, to guard against price volatility resulting from increased beef imports, especially after the beef import TRQ limits and quantity-based safeguard expire in year ten of the agreement. Without a price-triggered safeguard, cattle producers will be susceptible to substantial market volatility as beef trade is liberalized under the TPA.

C. Rules of Origin

Colombia is bordered by other large global beef producers, particularly Brazil, which has a herd size of nearly 170 million head. Yet the Colombia TPA's rules of origin allow beef produced from foreign cattle to qualify for preferential treatment under the agreement. Thus, Brazil, which has no free trade agreement with the U.S., would be free to ship cattle to Colombia for processing to be sent to the U.S. under the terms of the TPA. This structure creates a large incentive for third-country cattle and beef exporters to send their cattle to Colombia for slaughter, thus raising U.S. imports and undermining the domestic cattle industry. Designation of their product as a Colombian originating good will enable third-country exporters to take advantage of higher and eventually unlimited quota levels, as well as duty-free treatment within that quota. These concerns are particularly serious in the Latin American context, with more than 250 million head of cattle in the MERCOSUR countries alone and another 16 million in Venezuela.

The failure to include a "born, raised and slaughtered" rule of origin in the Colombia TPA could not only dramatically increase exports of beef to the U.S.; it will also dilute the benefits of the agreement for cattle producers in the U.S. and Colombia. In addition, this weak rule of origin effectively rewards producers in third-countries who have made no reciprocal market-access commitments. Third countries need not provide any reciprocal access to U.S. producers in order to benefit from the TPA'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. Inclusion of a born, raised and slaughtered rule of origin would have avoided these outcomes and ensured that the benefits of the agreement accrue to its participants.

In assessing the economic impacts of the Colombia TPA, the Commission should consider how this rule of origin may inflate volumes of beef exports from Colombia to the U.S.

IV. Economic Modeling and the Impact of the Colombia TPA

R-CALF USA submitted detailed comments and testimony to the Commission in its recent fifth update of its investigation into the economic effects of significant U.S. import restraints (Inv. No. 332-325), urging the Commission to weigh the following in assessing the economic effects of liberalizing U.S. import restraints on beef:

- 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;
- External barriers to U.S. exports that have resulted in a large U.S. trade deficit in fresh, chilled and frozen beef since 2003;
- The demonstrated ability of certain large producers to export to the U.S. in excess of quota levels despite out-of-quota tariffs; and
- The cumulative impact of bilateral and regional Free Trade Agreements that liberalize trade in beef.

In the current investigation, the ITC has the opportunity to update its economic modeling to take these factors into account. The Commission has 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.[47]

In its study of the Australia FTA, the Commission also noted the high sensitivity of cattle prices to increases in beef supply. The Commission stated that each percentage point of increase in beef supply was likely to translate into a decrease in live cattle prices of 2 percent.[48] The Commission should expand upon this analysis in the current investigation.

In particular, the Commission should consider how to account for the particular structure of the domestic cattle and beef market in its analysis. The GAO has recommended that the Commission take market structure factors into account in its

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[47] *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).
[48] *Id*. at 44.

economic analyses of cattle trade, finding that neither the CGE model nor other economic models used by the ITC "explicitly accounts for concentration, marketing agreements, and forward contracts."[49] 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."[50] 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. The Commission should take this dynamic into account in its analysis in order to generate more reliable results.

V. Conclusion

R-CALF USA urges the Commission to consider the factors discussed above in assessing the potential economic impacts of the Colombia FTA on the U.S. cattle industry.

- Though Colombia does not currently export beef to the U.S., it has significant export capacity and is already increasing exports to the world and enjoying a growing trade surplus in beef. Meanwhile, U.S. beef exports to Colombia have been declining along with Colombia's overall imports of beef from abroad.
- The agreement allows Colombia to impose a safeguard on U.S. exports of standard quality beef that will likely have a much more restrictive effect than the safeguard that the U.S. achieved on imports of beef carcasses and cuts from Colombia.
- In addition, the agreement contains no price-based safeguard, leaving cattle producers vulnerable to significant import penetration and price depression or suppression as beef trade is liberalized.

[49] 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).
[50] *Live Cattle from Canada*, Inv. No. 731-TA-812 (Final), USITC Pub. 3255 at 50 (November 1999).

- The lack of a born, raised and slaughtered rule of origin also opens up the possibility that Colombia could serve as a conduit for massive amounts of beef produced from third-country cattle, a particular concern given the large herd sizes in the region.
- Finally, the Commission should consider these factors in the context of the U.S. cattle and beef market – a market in which beef packers and processors exert significant market power and cattle producers must market their perishable product in a very limited marketing window.

Together, these factors raise concerns that the Colombia TPA will have significant adverse impacts on U.S. cattle producers. With limited additional market opportunities for U.S. producers and only minimal safeguards under the TPA, large additional volumes of imports from Colombia would likely depress prices and disrupt domestic cattle production in the U.S. This risk is exacerbated by the recent erosion of a competitive beef market in the U.S. and persistent distortions in global cattle and beef trade that disadvantage U.S. cattle producers.

We appreciate the opportunity to present our views to the Commission in this important matter.

Sincerely,

Chuck Kiker

Chuck Kiker
President, R-CALF USA