HEALTH, SANITARY AND PHYTOSANITARY BARRIERS TO FREE TRADE

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The American agricultural sector is the most competitive in the world. I say this with no fear of contradiction. No other nation in the world can produce agricultural products as economically, efficiently and safely as America.

While it is open to debate whether other sectors of the American economy are still able to compete with foreign rivals, the only obstacles to the global competitiveness of American agricultural products are the unfair trade barriers to U.S. farm products maintained around the world.

This brings me to the subject of international trade. I am fond of saying that if the movie, *The Graduate*, were made today, Dustin Hoffman would be encouraged to go into international trade rather than plastics.

New International Agricultural Trade

I say that because I think the conditions are ripe for one of the greatest expansions of world agricultural trade in history and that the area offers endless new opportunities.

To begin with, as recent events have shown, there is great international agreement on the merits of democracy, a market economy and the benefits of free trade. Indeed, I would say this consensus almost reaches the point of religious dogma. Free trade philosophy represents an almost religious hope in its promise of a brighter material future and a daily moral code in terms of its rules and sanctions.

For example, I am sometimes amused by the way people in formerly communist economies spout free market cliches. I assume, quite frankly, they have only a marginal idea of what they are talking about plus a belief that these phrases are some type of magic mantra, which, if chanted often enough, will solve all of their societies' problems.

Likewise, it is interesting to look at the Mexican officials guiding

the negotiation of the North American Free Trade Agreement for the Mexican government. Almost to a person, all of them are young, enthusiastic economists trained at American universities. They are steeped in free market principles and dedicated to the reform of Mexico's socialist economy.

Obviously, any country that wants to be a part of the modern international economy must profess and practice, to some degree, the principles of free trade.

Perhaps the enthusiasm of Mexico is justified because Chile has made a major contribution to this economic movement. Chile is now the powerhouse of Latin American economies, owing mainly to its commitment to free market principles. Indeed, Chile has become a model for the developing world, especially since its strong economy stands in stark contrast to the socialist experiments that have run amuck in the rest of the area.

Of course, bound up with the idea of free trade is the idea of democracy. However, ironically, the latter can often stifle the former. That is, a country may be officially dedicated to the principle of free trade. However, since it has an elected government, it must answer to an agricultural constituency that may be strongly opposed to market liberalization.

Enough with my views of the international free market explosion, but it does dovetail with my concerns about some real obstacles to opening markets for agricultural products.

Background of Phytosanitary Barriers

That brings me to my theme for today—health and sanitary, or phytosanitary, barriers to free trade and how this affects U.S. competitiveness and productivity. Phytosanitary regulations are concerned with the presence of pests, diseases or foreign matter on plant life that could pose a danger to the indigenous plant life of the importing country. I will be discussing a number of issues that, while not strictly phytosanitary concerns, are related to the issue of regulatory barriers and the misuse of science.

It is my thesis that, increasingly, you will see unfair trade barriers, based on these types of regulations, inhibiting free trade, rather than outright bans, quotas, high tariffs or other types of trade barriers. Indeed, I think tariffs have received far too much focus in relation to how much they really inhibit trade. This becomes especially true in cases in which a country's currency undergoes extreme exchange rate swings.

Like most people in the agriculture industry, I have a background in the basic agricultural sciences and economics. But, at the risk of sounding glib, let me say that in Washington, D.C., the main science I am involved with is political science in trade politics.

However, in recent years, as other trade barriers are dropped, I have noticed a dramatic increase in the use of science-based regulations. Why? Because beleaguered governments, being forced to open their borders, find phyto regulations a useful tool for helping to put off reform and thereby placate important constituencies.

For example, for years South Korea has prohibited agricultural imports because of balance of payments problems. Recently, through a General Agreement on Tariffs and Trade (GATT) proceeding, Korea agreed to phase out their tariffs over a seven-year period. Much to our chagrin, Korea recently announced a new schedule of pesticide tolerances. When comparing these tolerances to the U.S. or Codex tolerances each tolerance is stricter than the similar U.S. and Codex standard. The South Koreans formerly kept products out with a license requirement; now they obviously plan to use pesticide tolerances.

What is the attraction of using science-based phyto regulations for trade barriers? Let me suggest the following general reasons:

1. Science is immune to the type of compromises inherent in politics.
2. The public does not readily understand science issues, so these concerns can easily be used to inflame public concern.
3. Assembling scientific evidence is a time-consuming and costly enterprise. Translated into politics, it can "buy time" for important constituents.
4. The very nature of science leaves it open to question. That is, new concerns can always be raised and new data assembled to undercut the credibility of the old data and buy valuable time.
5. Most trade officials have a background in economics and therefore are not usually prepared to handle scientific issues. In a sense, phytosanitary issues help to short-circuit the traditional trade negotiating process.
6. And, finally, most governments are short on scientists.

Scientists Cannot Compromise

No respectable scientist would say he is willing to compromise on his research. After all, how much respect would you have for a prominent cancer researcher if he announced he had changed his position on cigarettes to accommodate the interests of the tobacco industry?

Politics, on the other hand, *is* the art of compromise.

That reminds me of a lobbying story. A lobbyist came into the Senate gallery one day and heard a senator violently denouncing a piece of legislation important to the lobbyist. Alarmed, the lobbyist

quickly wrote a note to the Senator reminding him that he had agreed to support the legislation. One of the Senator's aides quickly delivered it to the Senator, who was still ranting on the Senate floor against the legislation. The Senator took the note from his aid and, continuing to talk, quickly scanned the note.

Then, without missing a beat, he announced, "Now that's what I don't like about the legislation. But let me tell you what I do like about this legislation, why I plan to support it and why it's the greatest single piece of legislation to be introduced in this august body in the last century."

Scientists, on the other hand, will only reverse themselves when presented with the appropriate data. This makes them immune to the types of political pressures politicians must deal with. And this immunity usually means delay, delay, and more delay in resolving trade issues.

Public Concern

A related concern is the use of phytosanitary issues to inflame public opinion. In a democracy, politicians can more easily reject demands from other democracies if they can show their public is dead set against a particular issue.

Once again, phytosanitary issues can come in handy to whip up public opposition to an issue. Even though it might actually work against the general public's interest to do so.

Let me start with the premise that very few people in any society really have much of an understanding of scientific issues. And this is often true for the well-educated as well as the uneducated. Moreover, a specialist in one science may have little or no understanding of the science involved in another area.

Science, like most bodies of knowledge in the modern world, has become increasingly specialized and esoteric and its practitioners likewise.

However, scientific issues affect us every day and consequently the new media must deal with them in some way. But, because of their complexity, scientific issues are usually served up to the general public in greatly simplified form. In fact, so simplified the issue generally comes down to good or bad, up or down, yea or nay. Of course, few issues in this world come down to that simple a choice. So, in a sense, the public is misled.

For example, when doing risk assessment, the question arises as to what is an acceptable risk. Most people, if asked, would say they would not accept a million-in-one risk. After all, it is just human nature to think it will be your luck to be the poor sap who gets hit with the one-in-a-million piece of misfortune.

But a one-in-a-million risk basically means there is no risk. To the average person this seems insupportable, since they would prefer to hear something is absolutely risk-free.

This is ironic, since, for example, you have a much higher chance than one-in-a-million of being killed or injured in a car accident. Yet, they would ignore this fact but still wildly howl about a pesticide residue that has a one-in-a-million risk factor.

Several instances of the misuse of science come to mind. The most glaring is the Alar incident. Basically, the controversy over Alar came down to two different sets of scientists having differing opinions on the risk assessment of the chemical. However, note that no one had ever died, gotten sick, or had any illness that could be traced to the use of Alar. Rather, the debate concerned what the relevant risk factor was.

However, after the Natural Resources Defense Council and "60 Minutes" got hold of the issue, they simplified it to such a degree that the general public gathered one general conclusion—apples are unsafe because they contain a dangerous chemical. Down the drain went the apple juice and in the garbage can went the fresh apples. Moreover, this boycott did not end in the United States because many foreign nations began refusing U.S. apples. Whatever the reality, I think the general public had only one vision in their minds—Snow White lying dead with an apple in her hand.

Of course, I don't want to belittle the impact of what happened. The apple industry suffered a devastating slump and people were forced out of business. Indeed, agriculture producers suddenly realized they could be put out of business in the time it takes to issue a press release.

In a sense this was a domestic phyto problem, but the ramifications extended to the export market when numerous nations closed their frontiers to U.S. apples.

This is the misuse of science at its worse. And I think it is ironic that a discipline based on reason and logic was used to kindle the most base and primordial fears to which human beings can be subject.

Of course, these same types of incidents have been used in the international arena also. The most prominent that comes to mind is the beef hormone issue in the European Community (EC).

In 1989 the EC issued a directive banning importation of all red meat from animals treated with growth hormones for fattening purposes. Since the majority of U.S. beef is produced with hormones and the bulk of our exports to the EC are offals from hormone-treated animals, American exports of beef were severely curtailed.

Now, what led to this ban? Two main things. One was that, in-

deed, the EC public had become concerned about the use of hormones due to their improper use in Germany and Italy. In these highly publicized cases, hormones had been blatantly misused in veal products and several children were born malformed as a result. Let me emphasize that the hormones were used in a blatantly improper and illegal fashion.

However, these events occurred simultaneously with a perennial EC problem—a surplus of agricultural products, in this case a surplus of beef.

Obviously, the Community had a golden opportunity to kill two birds with one stone—appease the public's outcry while simultaneously ridding themselves of their beef surplus.

Since 1989, U.S. beef containing hormones has not entered the EC. The United States has considered the idea of shipping beef marked according to whether it contains hormones or not. However, the industry rejected such a move, since they presumed consumers would always reject the hormone-labeled beef.

And it is important to note that the EC has never claimed the hormones are dangerous. Indeed, there is virtually universal agreement that the hormones are safe if properly used.

However, the EC claims it cannot go against the public will, even if the substances are safe. Consequently, the ban continues, the EC consumers pay much more for their meat than Americans, and the beef industry continues to suffer from millions in lost revenue each year.

Buying Time

Assembling scientific evidence is a time-consuming and costly process. For example, if a foreign country claims a certain insect might be present on your produce, you must produce scientific data to disprove this. Such procedures generally take years, sometimes many years, according to the testing protocol developed by the nation concerned.

As an MIT scientist told me, it is extremely difficult to prove a negative. It is almost like the Napoleonic code—you are guilty until proven innocent.

You can find many uses of this ploy. For example, when U.S. pecan producers sought to export their product to South Korea, the Koreans refused because of their concern over the possible presence of the coddling moth. This came as a surprise to U.S. producers, since they had never had any problems with this pest.

Moreover, a comprehensive search of the scientific literature worldwide found no reference to pecans being hosts to the coddling

moth. Furthermore, there was no record of any other country in the world regulating pecans because of the coddling pest.

Still, the burden of proof fell on the U.S. producers. Pecans finally did enter Korea, but only after years of scientific testing to prove coddling moths did not infect pecans.

These procedures were costly to the pecan industry and time-consuming to the U.S. Department of Agriculture (USDA), which has to be heavily involved in such issues. Moreover, in addition to the costs of the scientific tests, the industry was faced with opportunity costs related to lost sales.

Let me give you another example. All of you have been following the progress of the North America Free Trade Agreement (NAFTA) proceedings which have been described as encouraging.

But, behind the scenes, the U.S. apple, peach and strawberry farmers have suffered. Mexico has had licenses on numerous agricultural crops that were scheduled to be removed when it became a member of GATT in 1987.

On May 31, 1991 the apple license was removed and U.S. apple growers had envisioned some $100 million in exports to Mexico.

Having learned that the license was removed, I sent a fax of congratulations to the apple negotiator. Unfortunately, the fax was premature—Mexico implemented a new phytosanitary standard for apples that prevented the apples from entering Mexico.

This is an interesting case. For years, apples entered Mexico, admittedly through suspicious means, but with Mexico's approval. However, after Mexico agreed to remove the license and with no advance notification, new phyto restrictions were imposed and apples were stopped from entering Mexico.

What was the lost income and what was the social impact to the apple raising communities in the state of Washington? Difficult to quantify but significant.

As I mentioned previously, the very nature of science leaves it open to question. After all, as any scientist will readily admit, science is not about establishing what is objectively true under all circumstances. Rather, it is about predicting how things will generally work under set conditions when observed or examined in a certain manner.

It is this last point on which I want to dwell. One of the great changes that has taken place in the last several years is the greatly improved ability of scientists to detect the presence of a substance in a food product.

At one time it was considered amazing that something could be

detected in parts per million. Now, things can often be detected in parts per billion and in even more minute parts.

What this means is that some substance can always be found about which to raise objections. Recently for example, the South Koreans raised objections to the presence of benzoic acid on raisins. This came as quite a surprise to the USDA and the domestic industry, since they do not use the chemical.

After further tests, it was discovered that benzoic acid occurs naturally on raisins and, one way or the other, presented absolutely no harmful potential to consumers.

Still, the ban on raisins continues as the raisin industry attempts to allay the Koreans' supposed concerns.

Trade Officials

I think America's trade officials are some of the finest in the world. However, I think the changing nature of trade barriers may require a different orientation than in the past.

Currently, the typical member of the U.S. Trade Representative's office has a background in economics, or economics and law. I think we need to see the development of a new type of trade negotiator—the scientist trade specialist.

Currently, most trade officials simply aren't prepared to handle phytosanitary problems. As a result, the problem often gets shifted around from one bureaucracy to another as trade officials grapple with which bureaucracy is best suited to handle the problem.

Likewise, economic relations between nations are generally handled at a high level. However, in this country anyway, most phytosanitary problems get referred to the Animal Plant Health Inspection Service (APHIS), an office in USDA.

Moreover, once the problem gets to the scientist there is a problem—the scientists really are not trained to handle things in a political way. Rather, they are more inclined to patiently gather whatever evidence the other nation is calling for. Again, this could mean many lost years of export revenue to the affected industry.

Reform

Currently, GATT negotiations are attempting to address the problem of using phytosanitary regulations as trade barriers. Much of their strategy is to require that all regulations be based on science.

However, as I alluded before, there can be quite a bit of controversy on a topic even among scientists. Will this expedite matters, or only make them worse?

Likewise, GATT negotiators are calling for some type of dispute settlement mechanism. Will this result in a public outcry if, for example, a panel overrides a regulation that has great public support, as in the hormone ban? Or, as in the current tuna dispute with Mexico, what if an international body overrides a regulation that has great support among America's environmental movement?

Solutions

What must be done? I'll give my own prognosis. I think it is time for the politicians to get involved and quit leaving so much to the scientists. Instead of science, I would call for an equal emphasis on *common* sense. If a specific product has been shipped all over the world in the past with no problems, it should be considered safe by a new importing nation after a cursory scientific examination.

My firm is currently working on a problem with Japan. A client would like to ship to Japan fruit accused of having a virus. No scientist in the United States can be found to defend Japan's action and, what is even more disturbing, Japan's estimated time to review the project in eight years, whereas the United States claims two to three years is acceptable.

I think it might be time to consider establishing some type of high-level position in the USTR to handle purely science-based phytosanitary issues. This position would call for a person with a strong background in science, but with the political and international skills to enable him or her to cut through some of the nonsense that keeps American produce out of foreign markets. Likewise, this person would have the clout necessary to bring problems to the attention of our nation's elected officials at the highest level.

Another need is to encourage more students to combine the disciplines of international trade with a scientific background. Just as international trade will grow, so, I feel confident, the need for scientists with an international background and political savvy will grow.

Conclusion

In conclusion, I hope my observations will provide a background for further discussion on this topic. I think this area offers an important area of work for public policy education efforts. Many of the nation's agricultural producers are still not aware of the amazing export potential of U.S. products. Granted, this is not always easy. It takes a lot of time and money and the efforts are often multifaceted.

A market must be identified, research conducted to determine the presence of any trade barriers, the existence of competition from like or similar products, the condition of the general business environment and, as we have discussed today, the existence of any phytosanitary barriers that might impede exports.

These vary widely according to the nation involved. Most trade officials give high marks to the South Koreans for their inventiveness in raising phytosanitary barriers. Likewise, the Japanese are known for establishing long and time-consuming scientific protocols.

Still, once opened, a market can offer long-term benefits to U.S. agricultural producers and opportunities for long-term expansion of an industry.