

**Statement of  
Ambassador Allen F. Johnson  
Chief Agriculture Negotiator  
Office of the U.S. Trade Representative  
before the  
Committee on Commerce, Science, and Transportation  
of the  
United States Senate  
April 19, 2002**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity today to meet with you and provide an update on the U.S. government's actions related to wheat trade with Canada. Canada is the United States' largest trading partner, and we are committed to ensuring that two-way trade is fair, transparent and in accordance with international trade obligations. In the area of wheat trade, however, Canada's single desk state trading enterprise, the Canadian Wheat Board (CWB), and Canada's impediments to market access for U.S. wheat into Canada distort trade and disadvantage U.S. wheat farmers. The CWB has unfair competitive advantages that hurt U.S. wheat farmers and undermine the integrity of our trading system.

The first week in April, I went to North Dakota to hear first hand from farmers and elevator operators about their concerns with the CWB and their interest in increasing access for U.S. wheat into Canada. I met with the North Dakota Wheat Commission (NDWC) and other U.S. and North Dakota farm organizations to discuss resolution of this long-standing issue. Those discussions were useful and provided a valuable perspective on critical issues to be addressed. There should be no doubt that Ambassador Zoellick and I share the same objectives as the NDWC and the U.S. wheat industry regarding the CWB.

As you know, on February 15, the United States Trade Representative (USTR) announced an aggressive approach to press for comprehensive and meaningful reform of the CWB and to level the playing field for U.S. wheat farmers. This Administration is committed to resolving once and for all the CWB's unfair trade advantages.

**Background**

On September 8, 2000, the NDWC submitted a petition to the U.S. Trade Representative (USTR) under section 301(b) of the Trade Act of 1974. Section 301 provides a means for businesses, farmers and workers in the United States to seek the aid of the U.S. government to gain relief from foreign unfair trade practices and policies.

On October 23, 2000, USTR initiated an investigation under section 301 of the wheat marketing practices of the CWB, a government trading enterprise with exclusive single desk export authority as well as exclusive rights to procure domestic supplies.

The NDWC alleged that the CWB's special privileges and benefits as a government-sanctioned single desk state trading enterprise have provided the CWB unfair competitive advantages in the hard red spring and durum wheat markets for many years. The petition states that the CWB - as a single desk seller - maintains the ability to price discriminate among buyers. The petition alleges that the CWB has substantial discretion in pricing grain due to its operating system. The CWB enjoys exclusive access to western Canadian wheat supplies, makes initial payments to producers based on a portion of the price that the CWB anticipates it can obtain for the grain, and is able to pool wheat sales revenues. The margin between the initial payment and final payment permits the CWB maximum pricing flexibility. The CWB also enjoys the financial backing of the Canadian Government, freeing the CWB of certain financial risks.

The petitioners also alleged that the CWB provides standing offers to undersell U.S. wheat in third markets. The petition alleges that these practices have resulted in the CWB taking traditional U.S. markets. The petitioners also highlighted that the CWB operates in a protected domestic market with cumbersome regulatory procedures that act as a barrier to imports of U.S. wheat.

### **USTR Investigation**

USTR's 16-month investigation under Section 301 was unprecedented in terms of the efforts taken to examine the NDWC's allegations and USTR's efforts to fully engage all interested parties. On November 16, 2000, USTR requested public views, including comments on the methodology to be used in conducting the investigation. For the first time ever, and in light of the NDWC's request that USTR gather extensive market data, on March 30, 2001, USTR asked the U.S. International Trade Commission (ITC) to conduct an exhaustive investigation.

As part of its investigation, the ITC held a public hearing, invited public comment, and issued questionnaires, backed by the ITC's subpoena power, to wheat buyers and sellers in the United States. In addition, USTR and the U.S. Department of Agriculture (USDA) sent questionnaires to buyers in third-country markets and to the CWB. The ITC obtained a comprehensive set of data on sales of Canadian wheat in the U.S. market through its questionnaires. The ITC also obtained some information from U.S. firms that sell Canadian wheat in third-country markets. Due to the refusal of the CWB to respond to our questionnaires, the investigation did not yield a comparable set of data on sales of Canadian wheat in third-country markets.

On September 27, 2001, the NDWC requested a 90-day extension of the original 12-month investigation to enable the U.S. government sufficient time to examine all the facts of the case. USTR

granted that request on October 16 extending the investigation until January 22, 2002. The ITC issued a public version of its report on December 21, 2001. USTR solicited public comment on the issues raised in the ITC report in a Federal Register notice issued on the same day. To permit as much public input as possible, as well as to provide sufficient time to fully consider all comments, USTR subsequently extended the investigation to February 15, 2002.

## **Investigation Findings**

On February 15, USTR issued its findings of the investigation and announced a multi-pronged approach to address the trade distorting effects of the CWB and the lack of market access into Canada.

USTR did find that for over ten years, the acts, policies and practices of the Government of Canada and the CWB are unreasonable and burden or restrict U.S. commerce. The investigation played a critical role in developing important information. USTR found that the CWB can unfairly benefit as a single desk state trading enterprise through subsidies, a protected domestic market, and special benefits and privileges sanctioned by the Canadian government. Specifically, the investigation found that:

- The CWB is insulated from commercial risk because the Canadian government guarantees its financial operations, including its borrowing, credit sales to foreign buyers, and initial payments to farmers.
- The CWB benefits from subsidies and special privileges, such as government-owned rail cars, government-guaranteed debt and below market borrowing costs. Considerable monies from the Canadian federal government at below-market interest rates resulted in a cost benefit, according to the ITC, of Can\$107 million (approximately US\$66 million) in 2000, 24 percent less than what a private borrower would have paid.
- The CWB has a competitive advantage due to its monopsony control over a guaranteed supply of wheat that western Canadian farmers are required to sell to the CWB, and sole control to export western Canadian wheat. These advantages allow the CWB to enter into forward contracts without incurring commercial risks and provide other benefits.
- The Government of Canada's burdensome regulatory scheme controlling the varieties and segregation of wheat marketed domestically result in de facto restrictions on imports of U.S. wheat.

The ITC report supported allegations in the NDWC petition that the CWB has greater pricing flexibility than private grain traders. This flexibility arises from the fact that, by law, all western Canadian farmers must sell their wheat to the CWB for an initial payment equal to only a portion of full market value, and the farmers must wait until beyond the end of the marketing year to receive full payment. In addition, the Government of Canada guarantees initial payment to farmers. Accordingly, the CWB can make sales at low prices without any risks to its financial position or of incurring losses, with the only consequence being the reduction in the end-of-the-year wheat pool return. The CWB also has a lower cost of capital than private firms, because the Government of Canada guarantees CWB borrowings.

## USTR Actions

In its September 2000 petition under section 301 of the Trade Act of 1974 and in subsequent submissions, the NDWC identified seven objectives for addressing Canadian wheat marketing practices and the CWB. The United States is committed to aggressively pursuing six of those seven objectives. Recognizing, however, that we need to use all available vehicles to address the CWB's special privileges and benefits, we chose to undertake actions that go beyond the NDWC's requests.

Ambassador Zoellick announced on February 15 a four-pronged approach to level the playing field for American wheat farmers.

- First, USTR is examining taking a possible dispute settlement case against the CWB in the World Trade Organization (WTO).
- Second, the Administration is working with the NDWC and the U.S. wheat industry to examine the possibility of filing U.S. countervailing duty and antidumping petitions, with a special emphasis on applying our trade remedy laws to the unique factual circumstances arising from the CWB's single desk status.
- Third, working with industry, USTR is identifying specific impediments to U.S. wheat entering Canada and will present these to the Canadians so as to ensure the possibility of fair, two-way trade. At our request, Canada has agreed to consultations to discuss various issues surrounding two-way wheat trade.
- Fourth, these short-term actions are complemented with the Administration's ongoing commitment to vigorously pursue comprehensive and meaningful reform of state trading enterprises in the WTO agriculture negotiations.

With the launch of the Doha Development Agenda in November 2001, the United States has an unprecedented opportunity to pursue permanent reform of the CWB through the development of new disciplines and rules on state trading enterprises that export agricultural goods. USTR shares the goal with the NDWC to end the CWB's single desk trading status and enhance the transparency of this government-backed institution. The goals are important priorities for the NDWC and were highlighted in my meetings in North Dakota.

In the WTO, the United States seeks:

- To end exclusive export and domestic procurement rights to ensure private sector competition in markets controlled by single desk exporters;
- To eliminate the use of government funds or guarantees to support or ensure the financial

viability of single desk exporters; and,

- To establish WTO requirements for notifying acquisition costs, export pricing, and other sales information for single desk exporters.

As recently as the last week in March, the U.S. WTO negotiating team succeeded in having "export competition", including state trading enterprises, placed first on the negotiating schedule as we launch intensive discussions following Doha. This next year will be critical in developing an international coalition to support meaningful rules and disciplines on STEs with a deadline of next March to agree on modalities for the agriculture negotiations.

In weighing the NDWC's seventh objective to impose an immediate tariff rate quota (TRQ) on imports of Canadian wheat, USTR's over-riding objective, supported by the NDWC, was to ensure that we achieve reform of the CWB. Canada and other countries would have seen a TRQ as a violation of U.S. WTO and NAFTA obligations. Therefore, unilaterally imposing a TRQ on imports of Canadian wheat would significantly detract from our mutual objectives of eliminating the CWB's special privileges and improving the transparency of its operations during the same time we are seeking to build an international consensus to support these objectives.

### **Conclusion**

USTR shares the goal of the NDWC and U.S. wheat farmers in seeking meaningful and permanent reform of the CWB, echoing demands from some Canadian farmers for reform. We are also building international coalitions to seek reform of the CWB in the WTO.

Through this aggressive strategy, USTR is pursuing actions which mutually reinforce each other in the ultimate goal to reform the single desk, government-sanctioned CWB and improve U.S. wheat access to the Canadian marketing system, thereby achieving relief for U.S. wheat farmers from the unfair trading practices of the CWB.