

WHEAT KARNAL BUNT AND OTHER GRAIN DISEASE ISSUES

W.M. Miner

INTRODUCTION

Bob Riemenschneider provides a useful summary of the background and trade issues related to wheat karnal bunt. I have some observations to offer on the proposal to change the quarantine status of the fungus but first I will make some comments on the general policy situation of relevance to handling agricultural disputes.

The role of technical regulations in border disputes affecting the North American grain trade should be examined in the context of the overall policy environment. That framework will indicate the types of disputes that are likely to arise, and the political and economic difficulties to be overcome in resolving them. Each dispute should be handled on the basis of the facts in relation to the relevant rules and commitments but in reality they are often linked to the situation in the policy environment and to more than one program or regulation. While it should be possible to separate technical disputes from other policies and political developments, particularly those dealing with plant and animal health and food safety issues, separation has proven to be difficult, particularly in the case of Canada/U.S. grains irritants. These observations reinforce the importance of developing effective trade rules and dispute settlement mechanisms including initiatives to try to manage the political pressures to allow the mechanisms to work.

THE POLICY ENVIRONMENT

It is now widely accepted that the North American agriculture and food sectors are operating in a continental market setting, and as Paul Haddow emphasized in his opening presentation, the world is changing.

The policy environment is being driven by the dominant influences of advances in technology, changes in consumer tastes and life styles, and the progressive integration of marketing activity. These trends lead directly toward more segmented markets, a broadening range of differentiated products, and a growing demand for information on food safety, nutrition and processing methods. Although government policies and regulations, and even trade agreements, generally trail these developments, and some policies may seek to confront or to offset them, the benefits of freer trade, compatible regulations and harmonized standards have become increasingly apparent to most countries. As a consequence, the negotiation of NAFTA followed by the WTO Agreement on Agriculture provided much stronger rules and enforcement mechanisms to handle policy and technical trade disputes.

Although the NAFTA partners did not agree to implement common agriculture and food regimes, they are committed to move toward policies that are less trade distorting. Under NAFTA it was also agreed to establish a framework of rules and disciplines based on science, covering sanitary and phytosanitary (SPS) measures that may directly or indirectly affect trade between the partners including formal mechanisms to guide the development and enforcement of these measures.

The WTO Agreement on Agriculture took a further useful step in defining the more acceptable forms of support policies combined with modest commitments to reduce the aggregate level of trade distorting support. The WTO Agreement on SPS measures extended the NAFTA precedent on a multilateral basis. Thus NAFTA and the WTO established the basic mechanisms for dealing with disputes in the grains sector whether these disputes arise from farm support policies or border and technical regulations. Of course, to these multilateral mechanisms must be added the use of domestic trade protection laws which in turn are subject to some but insufficient international discipline. As trade barriers come down, and competition increases, greater attention is paid to differences in domestic policies and systems and technical regulations, which in turn give rise to irritants and disputes.

THE GRAINS EXPERIENCE

Overall, the NAFTA and WTO dispute resolution mechanisms have worked effectively. However, the progress that has been made in developing a framework for long-term solutions to trade irritants has been inadequate to handle trade tensions in the North American grain sector. Grain production, handling and processing developed separately in each country, and this difference is largely true for grain policies and regulations. Although the policy frameworks are being adjusted toward a more open and integrated market-structure, the changes are slow, fragmented and at times regressive, as evidenced by the proposed (2002) U.S. Farm Bill. There is no doubt that existing policies and regulations in addition to market developments are contributing to continuing trade friction and a number of problems and trade irritants are related to technical standards and regulations. The developments in the policy environment, particularly the integration of markets, place greater pressure on governments to take additional steps to manage and resolve trade difficulties. In the case of grains, several special initiatives have been taken.

The Canada/U.S. Joint Commission on Grains was one such initiative taken by the two governments in the mid 1990s to examine a range of disputes and irritants affecting the sector. The Commission undertook a side-by-side comparison of both countries' policies and regulations in 1995, including quality assurance systems, in part because trade irritants are often linked. This comparison identified differences that give rise to irritants as seen from both sides of the border. The objective of the Commission was to reach "long-term solutions to existing problems in the grain sector." A number of recommendations were made to both governments, including several related to grading and technical regulations. An emphasis of many of these recommendations was the need to undertake a regular and structured consultative process at the policy and technical levels, some involving the industry, to reduce trade distortions. Since policies and programs do differ, in some respects quite significantly, it was considered necessary to add additional mechanisms to try to manage disputes. Although the key and toughest issues remain, Bob and I agreed in earlier discussions that some progress has been made on all of the other issues.

Subsequently the U.S. and Canadian governments undertook a series of bilateral discussions in an effort to resolve key issues in bilateral agricultural trade, including a number of trade irritants related to plant and animal diseases and cross-border movement of grains. These discussions did not cover differences over basic policies such as U.S. crop subsidies or the Canadian Wheat Board due to persistent political differences and pressures. In the 1998 Record of Understanding, the two governments described in strong terms their commitment to problem resolution and keeping the borders open. Although it is almost embarrassing to reproduce the commitments in the light of recent events, the two governments agreed to five actions:

- They reaffirmed their commitment to maintaining an open and dynamic trading relationship in agriculture and food products.
- They affirmed their commitment to market oriented agricultural policies and more open and fairer trade.
- They agreed that actions that disrupt trade should be avoided.
- They emphasized the importance of the SPS agreements in NAFTA and the WTO, and rejected the use of SPS and other technical measures as barriers to legitimate trade. And
- They agreed to meet at the ministerial level at least annually to review the state of bilateral agricultural trade and trade problems, and to encourage industry associations to engage in a similar cross-border dialogue.

A specific action plan was agreed which included several grain-related issues dealing with disease control for in-transit movement such as Karnal bunt, phytosanitary certification, and the harmonization of pest control products. Regular meetings are ongoing at the federal ministerial and official levels, at provincial levels, and among industry associations aimed primarily at avoiding disputes and resolving differences.

Despite the existence of a stronger rules-based continental and multilateral trade system, and extensive activity bilaterally to address grains issues before they become formal disputes, or to settle them expeditiously, long-standing issues remain unresolved. The U.S. Trade Representative

issued an affirmative finding following the Section 301 investigation of the Canadian Wheat Board which included four proposed actions:

- an examination of a possible WTO dispute settlement case;
- an examination of options with petitioners regarding counter vail and anti-dumping petitions;
- further work on identifying specific Canadian import impediments with a view to improving access to Canadian markets; and
- further negotiations to discipline state trading in the Doha Development Round.

At the same time, the Canadian Minister of Agriculture mounted an attack on the U.S. Farm Bill which threatened to raise further the level of support provided to U.S. grain farmers. This support already far exceeds grain support provided in Canadian programs, and indeed, for the first time, exceeds that available to grain farmers in the European Union based on OECD comparative data. These developments demonstrate that the basic differences not only remain, but underlie and aggravate other grains issues. While much of the tension is politically driven, the differences over U.S. subsidy levels and the Canadian marketing system are sharp, and they are perceived as very important in farm circles.

ASSESSMENT

There are several levels of rules, understandings and dispute resolution mechanisms in place to deal with grains issues among the NAFTA partners. For wheat Karnal bunt and other grain disease issues, the mechanisms are being used and are proving to be effective although not always to the full satisfaction of the complaining parties. Underpinning the dispute resolution process are two key factors:

- the rules themselves, and
- the mechanisms to consult, share information and to co-operate at the technical level between the regulatory agencies, the Canadian Food Inspection Agency (CFIA), the USDA Animal and Plant Health Inspection Service (APHIS), and the Canadian Grain Commission (CGC).

Regarding this process, I agree with Riemenschneider's comment that there is no substitute for thorough scientific evaluation, and that openness and transparency are essential. Good communications and sharing information on procedures and results are important parts of the process. Regarding a Canadian inquiry over the status of the recent outbreak in the United States, I am confident that officials were seeking to satisfy their certification requirements, i.e. to be able to certify in relation to trans-border movement that the fungus does not exist in Canada. Although Canada initially banned all imports including transshipments of U.S. durum wheat, and all grain imports from the four states where Karnal bunt was detected, the restrictions were lifted from all sources apart from the infected states following consultations and testing. Canada also agreed to relax this prohibition based on adequate survey and sampling information which so far, I understand, has not been provided.

A similar situation exists over U.S. imports of wheat from Mexico. The United States banned imports of Mexican wheat in the early 1980s due to Karnal bunt. Following consultations under the SPS Committee established under NAFTA, some Mexican wheat was allowed to enter. Mexico also restricts wheat produced in the four states in the United States where the fungus was found. Wheat from U.S. areas not under quarantine is allowed to enter if certified free of Karnal bunt, or if it is fumigated.

Regarding other SPS-related grains issues identified in the Canada/U.S. action plan, progress has been made through the consultative process on all of them. The certification program developed by the CFIA permits in-transit movement of U.S. grain through Canada, and considerable volumes are moving. Steps were taken by the CGC to facilitate the access of U.S. wheat to Canadian licensed primary elevators. In addition to plant health requirements, the Canadian system of varietal control and kernel visual distinguishability is the reason for the restrictions on access of U.S. wheat to Canadian primary elevators. Advance authorization to handle U.S. wheat is given to those primary elevators that indicate a desire to participate in the certification program. Although little use is being made of these access arrangements, this appears to be for economic reasons.

A further SPS procedure to facilitate access of U.S. wheat and other cereals into Canada has been developed through the cooperation of the inspection agencies in both countries to reduce the amount of sampling and testing required. Individual growers may ship wheat under a "Master Phytosanitary Certificate" without requiring testing each shipment. Growers in fungus-free states must be approved to be eligible, and must have samples tested annually. The Certificate must satisfy the requirements for freedom from Karnal bunt, dwarf bunt and flag smut.

These examples demonstrate the effective use of existing mechanisms to address trade irritants and to avoid formal disputes. They also show linkages between SPS issues and differences in policies and regulatory controls in each country. Riemenschneider also related the resolution of technical disputes to market conditions, which, of course, may contribute to political pressures in resolving issues. Although the speed in which the U.S. authorities were able to obtain acceptance of their certification from some importers may have been linked to their need for wheat, this factor would not apply to Canada. While progress has been made in many technical areas, it is obvious that issues will continue to emerge, and are likely to be aggravated as long as policies and regulations are not compatible. I conclude that there is considerable progress being made in harmonizing health, SPS requirements and procedures, and these efforts need to be continued.

Turning to Riemenschneider's indication that U.S. authorities may propose a change to the pest risk status of Karnal bunt through the appropriate international institutions, I am sure that Canadian officials will examine a proposal openly and in a scientific manner. I am surprised at the comment that Canada should cooperate because the fungus may become endemic in the United States and their agencies could abandon their control program. A great number of markets list the fungus for quarantine purposes, and do not want its undesirable characteristics in their bread. I would expect both the U.S. and Canadian authorities to support the control and elimination procedures for both scientific and marketing reasons. The best option at this time certainly appears to be along the lines being adopted.

The key will be to have the approach based on science and to avoid undermining basic plant health disciplines for economic reasons.

CONCLUSION

Returning to the broader picture, we see there are even indications of practical steps toward applying regulations and enforcement at both ends of the trade transaction rather than at the border. Contract buying to precise specifications combined with identity preserved grain movement is an example. This example appears to be the direction of the future. The evolution of markets and their integration is forcing governments toward compatible policies, harmonized regulations and their cooperative enforcement. In the longer term, this is the only way to open borders, and to keep them that way.

REFERENCES

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