12125 WOODCREST EXECUTIVE DRIVE, SUITE 100, ST. LOUIS, MO 63141-5009 • PHONE: (314) 576-1770 • FAX: (314) 576-2786

TRADE EXPANSION BACKGROUNDER
July 2017

ASA Positions:

Trade Expansion (Senate Finance and House Ways & Means Committees, Agriculture Committees)

a. Work with the New Administration and Congress to ensure continued positive trade with China and NAFTA partners. Provide insight and assistance during renegotiations of current trade agreements.
b. Enhance U.S. trade relations with Asia-Pacific countries including through bilateral or multilateral free trade agreements.
c. Support legislative efforts to remove barriers to trade with Cuba, including ending the embargo.
d. Improve the timeliness and predictability of regulatory approvals for new biotech traits by China and the EU, including a comprehensive agreement for agriculture within the TTIP negotiations.
e. Develop low-level presence (LLP) policies that facilitate trade and innovation in biotech products.
f. Support a doubling of funding for the Foreign Market Development program and the Market Access Program.
g. Support global food security provisions in the next farm bill that provide USDA and the U.S. agriculture industry a central role in developing and implementing international agricultural development programs.

NAFTA

In 1993, the North American Free Trade Agreement (NAFTA) came into effect, creating one of the world's largest free trade zones and laying the foundations for strong economic growth and rising prosperity for Canada, the United States, and Mexico. In particular, America's farmers have benefitted greatly from NAFTA, because it's meant more export opportunities.

Since NAFTA was approved in 1993, United States agricultural exports to Mexico have nearly doubled. Mexico now imports $6.5 billion of United States agricultural products making it our third largest agricultural market. United States exports of agricultural products to Canada since implementation of NAFTA have increased 44 percent. Canada is the second largest market for United States agricultural exports, with Canadians purchasing $7.6 billion worth of American products last year. Canada and Mexico purchased over 25 percent of the United States agricultural product exported in 2000. American farmers can't afford to lose access to the NAFTA markets.

Thanks to trade agreements with our North American partners, U.S. soy exports have grown significantly over the past 25 years. These agreements reduced tariffs and further integrated the North American market for grains, oilseeds and related products. The improved market access allowed the

U.S. soy industry to meet the demands for quality food and feed products from Mexico which needed to meet their country's growing demand for proteins. In 2015, the U.S. exported $438 million and $2.44 billion of soy products to Canada and Mexico, respectively. Mexico saw the greatest growth, nearly quadrupling their imports of U.S. soy products since the implementation of NAFTA.

On January 23, 2017 President Trump issued an executive order announcing his desire to renegotiate NAFTA. Both Canada and Mexico have signaled a willingness to renegotiate. It is imperative that Agriculture maintain what it currently has under NAFTA while helping to modernize the agreement. ASA submitted comments to USTR regarding priorities in NAFTA on June 12. ASA also signed onto USBCA comments regarding biotech priorities in NAFTA. NAFTA negotiations could begin as early as mid-August now that the White House has notified Congress of its intent to renegotiate under TPA rules.

TPP/Asia Pacific

On October 5, 2015 negotiators on the Trans-Pacific Partnership (TPP) completed the deal. Passage of Trade Promotion Authority (TPA) in the summer of 2015 set the rules for how TPP and any future free trade agreement will be considered. However, opposition to TPP from both Democrats and Republicans kept the Bill from being sent to Congress for consideration under the Obama Administration.

On January 23, 2017 President Trump formally withdraw the U.S. from the TPP deal. This means the U.S. has no ability to reengage or pass the TPP at a later point in time. The U.S. will need to find an alternate way to engage with the Pacific Rim countries either through bilateral or a different multilateral trade package. In the absence of the TPP there is a lot of uncertainty as to how the U.S. will make headway in the Asia Pacific region.

Cuba

In December 2014, the Obama Administration announced a shift to normalize diplomatic and economic relations between the United States and Cuba. While the efforts by the President are necessary and encouraging, there are limits on what can be done administratively and Congress has to continue to address the issue through legislation. ASA supports efforts to help Congress eliminate barriers to trade, with the long-term goal of fully lifting the trade embargo. Currently there are bills in both the House and Senate to eliminate both trade and travel barriers with Cuba. While a number of these bill have bipartisan support, we have not seen significant legislative movement.

Obama Administration reopened the U.S. embassy in Cuba in late July 2015. The U.S. will be able to station more American personnel in Cuba, and that should be a big help in practical terms for promoting American businesses. Reopening the embassy was a critical step in enhancing the ability of Americans to travel and trade with Cuba.

President Trump took steps in June 2017 to roll back the gains and diplomatic relations established under the Obama Administration. This will present further barriers to normalizing trade with Cuba.

TTIP

The Transatlantic Trade and Investment Partnership (TTIP) negotiations stalled in the last few months of the Obama Administration when the U.S. and the EU failed to reach agreement on a number of issues. ASA had forcefully and repeatedly stated that TTIP must address five key issues: (1) reform the EU biotech approval process to make it timely, transparent, and science-based: (2) resolve soybean industry concerns with the EU's Renewable Energy Directive, which imposes unfair, costly and onerous sustainability and greenhouse gas emission reduction requirements on U.S. soybean production and soy oil used as a feedstock in EU biodiesel; (3) clarify the impact on access for U.S. soybeans and soybean meal to the EU market of the "coupled option" included in the recent CAP reform to support increased production of protein crops in the EU; (4) clarify the impact on U.S. access to the EU market of the EU's new pesticide law, which could de-list crop protection products used in the U.S.; and (5) meet the demands of the U.S. livestock industry for increased market access by eliminating sanitary regulations that restrict imports.

The Trump Administration has shown skepticism with resuming the TTIP negotiations. It is unclear if this Administration will regard the EU as a single entity or as individual countries.

Low Level Presence (LLP)

Countries that export and import biotech crops have different regulatory systems, resulting in asynchronous approvals. As a result, there can be delays of two years or more between the time a biotech trait is approved in an exporting country and its approval in a major foreign market. Since most countries with regulatory approval systems apply a "zero tolerance" for the presence of an unapproved trait, cargoes containing even a trace can be rejected, resulting in significant losses to the exporter. However, biotech companies are increasingly anxious to bring new traits to market, and are developing and implementing limited, stewarded launches prior to approval in all foreign markets. This raises the potential for error and liability.

The ultimate solution to these delays and risks would be a global agreement to synchronize approvals, or "mutual recognition agreements" under which importing countries would accept a decision to deregulate a trait in an exporting country. These approaches appear unlikely to be accepted in the near future. A workable alternative would be for governments to agree to accept a commercially feasible Low Level Presence (LLP) for a trait approved in an exporting country but not in importing countries. The grain trade indicates an LLP of 5%, for example, could be achieved under current marketing practices. In addition, if a country preferred, it could implement some other "trade facilitating measure" that would not set a threshold level for LLP but would otherwise accommodate the presence of an unapproved trait in a shipment.

The U.S. Government is participating with other exporting and importing countries in a Global Low Level Presence Initiative (GLI), with the goal of reaching an agreement on how to address the issues of synchrony and LLP on a global basis. However, EPA and FDA have policy requirements that aren't consistent with accepting imports that may contain biotech traits that haven't been approved in the U.S. (e.g., potential imports from Brazil).

The U.S. Biotech Crops Alliance (of which ASA is a member) has established a task force that has met with the USG inter-agency group multiple times to discuss the difference between science-based regulations and the need for a marketing-based standard, similar to those used to establish the grade or level of foreign material in a shipment. After the last GLI meeting the U.S. took the lead in developing a LLP practical approaches document. The USBCA weighed in on what they felt should be included which was largely accepted by the USG. The Canadian Government held a mini-GLI in Buenos Aires in mid-March. The latest full meeting of the GLI occurred during the week of June 12. The U.S. intended to get consensus on its practical approaches document at this meeting. Early indications from USTR/USDA indicate that the GLI meeting was very positive. Most of the GLI's 15-members were in attendance, along with most of the observer nations (which include China and the EU). Official announcements from the GLI are expected to be forthcoming in the future, but they reported the discussions were positive and that a work plan to promote the Practical Approaches paper is starting to be developed.

FAS and USTR also reported that a meeting of the "Like-Minded Group" of six countries (Australia, Brazil, New Zealand, Paraguay, South Africa, and the United States) also was held around the FAO meeting. This is the group of countries that tries to coordinate on issues such as biotechnology and other market access issues. They reported there was good discussion on modern plant breeding methods by the group, including the need to build coalitions and how to interface with the International Seed Federation on this issue.

Biotech Regulatory Approvals by China and the EU

China

China's regulatory approval process for biotech traits continues to lack transparency and timeliness. The Ministry of Agriculture (MOA) currently does not initiate its approval process until a biotech trait is approved in an exporting country, which can delay final approval by up to two years. MOA further requires field trials and testing, even when applications are for importation and use, but not for production. And it has reduced the number of "windows" during which it considers new approvals from three to one time per year.

Working with the U.S. Biotech Crops Alliance (USBCA), ASA was successful in having the biotech approval issue on the agenda during talks between President Obama and President Xi in September 2015. The issue was also included in the JCCT meeting in November 2017 where the USG presented the Chinese government with a paper on the impact of asynchronous approval. The asynchronous approvals paper was written by CAST at the behest of the USG.

In February President Trump met with President Xi in Mara Lago. The result of this meeting was the creation of the 100-day plan. This plan is an effort to make progress on a number of outstanding issues between the U.S. and China. In May a list of ten priorities was released that both sides would like to make progress on as a show of good faith. Biotechnology approvals were included on this list. The agreement delineated that China would progress the eight unapproved traits in a National Biosafety Committee meeting to be held May 24. After the NBC meeting China was to notify each company on whether their products were approved or denied. As of mid-June China has approved two of the eight traits- one corn and one soybean. The U.S. is maintaining pressure on the Chinese to approve the remaining six traits before the end of the 100-days plan on July 16.

EU

The European Union continues to struggle with providing timely and predictable approval of biotech traits and continues to shift away from science based risk assessments to hazard based risk assessments. After the EU voted to not move forward with the 2015 Opt-Out proposal there was hope that the EU Commission would return to reviewing biotech trait approvals based on their regulatory guidance. However, the U.S. continues to experience delays in approvals even after they have cleared the EFSA process.

We are also facing a potential new threat to the biotech approval process with a rule the EU Commission is considering on changes to the comitology. Comitology refers to the EU's risk management procedure that is used to approve new GM products, pesticides authorizations, among many other regulatory decisions. President Juncker wants to reform comitology to end the current situation where the Commission ends up approving new products in the absence of a Qualified Majority Vote (QMV) for or against. It appears the options on the table are:

(I) Changes in the voting rules in Appeal Committee

(II) Second referral to Appeal Committee at ministerial level;

(III) Give the right to the Commission to refer the matter to the Council of Ministers for an opinion/position. In addition, under this option, the Council would also issue a non-binding opinion/position which gives the Commission a political steer.

(IV) Expand the requirement of a positive opinion in the Appeal Committee to other areas. In addition, under this option, the Commission would grant product approvals in specific sensitive cases in the field of health and safety of humans, animals and plants only if explicit support by the Member States (a QMV in favor in the Appeal Committee).

None of these options look good, particularly option IV (where a QMV would be required in the Appeal Committee). Option I would be unpredictable and Options II and III would lead to additional delays. ASA is working with the USBCA to combat this rule.

MAP/FMD

ASA supports the doubling of funding for the Market Access Program and the Foreign Market Development Program to $400 million annually for MAP and for $69 million annually for FMD, with the increases phased in as part of the next Farm Bill.

Taiwan

Taiwan regulation for biotechnology-derived crops has been recognized internationally until recent years. Before 2014, food approval was required only for corn and soybean, and GMO labeling exempted highly refined products (e.g., oil, sugar, corn syrup, etc.) with 5% AP threshold. Over the last two years, however, the following regulations on GMO’s have newly come into force in Taiwan

(in chronological order), resulting in more regulations that are not science based and lack feasibility and predictability at the implementation level:

1) In Dec 30th of 2015, the Ministry of Education amended the School Health Act for ban of biotechnology food ingredients;
2) In May 25th of 2015, TFDA revised GMO labeling regulation for inclusion of highly refined products;
3) In Feb 4th of 2015, the Counsel of Agriculture (COA) passed amendment of Feed Control Act to regulate all biotechnology-derived crops for feed use;
4) In Feb 5th of 2014, Taiwan Food and Drug Administration (TFDA) implemented the expanded scope of food approval requirement to all biotechnology-derived crops[4].

All the new regulations in the last 2 years were passed without consistent process and WTO notice for international comments or scientific consultation. Also, they lack a scientific basis, and feasibility of the implementation is questionable. The non-scientific basis for the regulatory requirements and inconsistent process for policy development have impacted U.S. trade exports.