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Joan Claybrook, President

July 17, 2003

Secretary Ann M. Veneman
U.S. Department of Agriculture
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Washington, DC 20250

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Dear Secretary Veneman:

We are writing to urge you to put yourself squarely on the side of U.S. consumers by resisting pressure from the cattle industry to end the current U.S. ban on the import of ruminants[1] and ruminant products from Canada, where a case of bovine spongiform encephalopathy (BSE), otherwise known as Mad Cow Disease, was reported on May 20 of this year. The source of that case has not been clearly identified and the possibility thus exists of more, asymptomatic cases lurking in the Canadian herds.

The U.S. Department of Agriculture (USDA) maintains a list of countries with actual cases of BSE as well as those with inadequate surveillance systems or less stringent import restrictions than the USDA deems desirable to reliably preclude BSE.[2] Such countries cannot export ruminants or ruminant products into the United States. As new countries have discovered cases of BSE, this list has been expanded. At least four countries on the list have, like Canada, reported only a single case of BSE (Austria, Finland and Greece in 2001; Israel in 2002).[3] We are not aware of any country ever being removed from this list by the United States.

U.S. policy with respect to the import of ruminants and most ruminant products from such countries is thus very straightforward: since 1989, we do not accept them. A justifiable exception to this policy was made for the single case of BSE diagnosed in Canada in 1993, because that case occurred in an animal imported from Britain. In the

[1] Ruminants include cattle, sheep, goats and deer, animals that have four-chambered stomachs and chew the cud.
[2] 9 CFR 94.18 and 9 CFR 94.404(a)3
[3] Food Standards Agency. Confirmed cases of BSE worldwide. Available at: http://www.food.gov.uk/bse/facts/worldwidefig/incidence. Last updated June 23, 2003.

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present case, the evidence strongly suggests that the cow was infected in Canada itself, presumably from the consumption of contaminated feed.

Lifting the ban on the importation of Canadian ruminants and ruminant products would not only be contrary to US policy, but would also be inconsistent with the recommendations of the Office of International Epizootics (OIE), which is the World Trade Organization- (WTO) recognized international standard-setting organization for animal health and related issues. Under OIE designations, Canada is no longer "BSE-free," but is rather a country with "moderate BSE risk," the second-worst of five categories.[4] A country with a case of BSE cannot be considered "BSE-free" unless it has had no indigenous (as opposed to imported) cases for seven years and a feed ban that has been effectively enforced for at least eight years. Canada meets neither criterion. Because in other contexts the USDA has been more than willing to embrace the international harmonization mandate of the WTO and the related OIE and Codex Alimentarius standards, it would be hypocritical for the US to ignore these international standards when they provide a more rigorous guideline for determining whether a country is BSE-free.

As the USDA-sponsored Harvard risk assessment of the risk of BSE in the United States clearly pointed out, compliance with the Food and Drug Administration's (FDA's) 1997 feed ban is the most important factor in preventing a BSE outbreak.[5] This ban, with some exceptions, precludes the recycling of parts of dead ruminants into the feed of other ruminants, the method by which the British BSE epidemic almost certainly began and was amplified. However, public information regarding the enforcement of the Canadian feed ban, which is very similar to the U.S. ban and was enacted at about the same time, is unavailable. It is not on the website of the Canadian Food Inspection Agency and a telephone call to the Agency requesting those data has not produced any information. Most tellingly, the report from the team of international experts that investigated the Canadian government's response to the outbreak makes no mention of compliance with the feed ban.[6] It is simply impossible to assess the wisdom of lifting the ban you wisely put in place on an emergency basis without these data.

If the Canadian experience with its feed ban is at all similar to the U.S. one, there are significant grounds for concern. For many years, FDA did little to assure compliance with its feed ban and compliance was accordingly spotty. By January 2001, over three years after the feed ban went into effect, 28% of renderers and 9% of FDA-licensed feed mills did not have adequate procedures to prevent mammalian parts from entering ruminant feed. Of the 1,593 non-FDA licensed feed mills that handled material prohibited from use in ruminant feed, 26% did not at that time have adequate procedures to prevent the recycling of mammalian parts as feed for ruminants. Moreover, 8% of

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[4] Office of International Epizootics. Bovine Spongiform Encephalopathy. Terrestrial Animal Health Code 2003. Chapter 2.3.13. Available at http://www.oie.int/eng/normes/mcode/A_00068.htm.

[5] Cohen JT, Duggar K, Gray GM, et al. Evaluation of the Potential for Bovine Spongiform Encephalopathy in the United States. Harvard Center for Risk Analysis. Available at: http://www.aphis.usda.gov/lpa/issues/bsc/bsc-riskassmt.html.

[6] Report on Actions Taken by Canada in Response to the Confirmation of an Indigenous Case of BSE. June 26, 2003. Available at: http://www.inspection.gc.ca/english/anima/heasan/disemala/bsecsb/internatc.shtml.

renderers and 32% of FDA-licensed feed mills had not even been inspected once for compliance with the feed restrictions and some 6,000 to 8,000 feed mills were not even required to register with the FDA.[7]

In January 2002, the U.S. General Accounting Office (GAO) concluded that "FDA has not acted promptly to compel firms to keep prohibited proteins out of cattle feed and to label animal feed that cannot be fed to cattle."[8] According to the GAO, noncompliant firms had not been reinspected in two years, firms with multiple infractions evaded any penalty and the FDA's inspection data were "severely flawed." Consequently, the GAO stated, "FDA does not know the full extent of industry compliance." Just last week, FDA obtained a Consent Decree against X-Cel Feeds, Inc. of Tacoma, Wash., which admitted violating the feed ban.[9] Even if compliance with the feed ban in Canada is now perfect, that provides little reassurance regarding what transpired during the intervening years.

Attempts to downplay the Canadian case by ascribing it to infection prior to the feed ban thus rest on shaky ground. The affected animal has been variously described as being 6-8 years old. It must therefore have lived most of its life in the post-feed ban period. Infection during this period, when the ban was most likely not strongly enforced, is a strong competing explanation for when the infection occurred.

Moreover, there is little reason to assume complacently that this is the only case of infection in Canadian cattle since 1993. BSE is characterized by a period of several years during which the infected animal is asymptomatic; most U.S. cattle are slaughtered well before the latency period is over. It is simply not reasonable to assume blithely that, even though this animal was infected from consuming infected feed presumably consumed by other cattle, it was the only animal to become infected. Moreover, Canada, like the United States, tests only a small fraction of its cattle for BSE. The limits of that system in detecting BSE (aside from the obvious fact that most infected cattle are likely to have normal brain pathologies at slaughter) are reflected in the four-month lag between the slaughtering of the infected animal and the BSE test conducted on its brain.

This situation has two important implications. First, any other infected animal(s) might have been fed to humans, potentially leading to cases of the human form of BSE that are still in their lengthy latent period. (Fortunately most people who consume infected material do not become infected, in part because the younger animals usually consumed are less infectious.) Second, the infected animal(s) might have been recycled and fed to other ruminants. Of course, to the extent that the feed ban was enforced, this latter possibility is reduced. However, in the absence of publicly available feed ban enforcement data from Canada, there is no assurance that such contamination of the animal feed supply has not occurred.

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[7] U.S. Food and Drug Administration. Ruminant feed (BSE) activities. Updates of January 10, 2001 and March 23, 2001.

[8] General Accounting Office. Mad Cow Disease: Improvements in the animal feed ban and other regulatory areas would strengthen U.S. prevention efforts (GAO –02-183). January 2002. Available at www.gao.gov.

[9] FDA News. U.S. Department of Justice Files Consent Decree Of Permanent Injunction Against X-Cel Feeds, Inc. Based on Violations of FDA's 1997 Animal Feed Rule. July 11, 2003. Available at: http://www.fda.gov/bbs/topics/NEWS/2003/NEW00924.html.

The USDA's importation policy is clear and has to date been consistently enforced. The policy is well grounded in science and consistent with both the USDA's own regulations and the OIE guidelines. To our knowledge, the United States has never lifted a ban on the import of ruminants or ruminant products from countries with indigenous BSE outbreaks. To select Canada for special treatment is to open the door to trade challenges from other countries with similarly small BSE outbreaks that wish to export ruminants or ruminant products to the United States. While it is true that the United States imports more cattle from Canada than from the rest of the world combined (1.7 million head from Canada of an international total of 2.5 million head imported in 2002 [68%]), these imports still represent less than 2% of cattle in the United States.[10] While the extent of the integration of the Canadian and U.S. cattle industries creates undeniable pressure on you to make an exception in an otherwise ironclad policy, this same integration has the potential to result in significant exposure to the BSE agent for both the U.S. human and cattle populations. For this reason, we insist that the ban on Canadian ruminants and ruminant products remain in place.

Yours sincerely,

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[10] Economic Research Service. Background data for BSE coverage. Available at http://www.ers.usda.gov/news/BSECoverage.htm.