BEFORE THE OFFICE
OF
THE UNITED STATES TRADE REPRESENTATIVE

REQUEST FOR PUBLIC COMMENTS REGARDING THE NATIONAL TRADE ESTIMATE REPORT ON FOREIGN TRADE BARRIERS

(Bangladesh, China, European Union, India, Indonesia, Japan, Korea, Philippines, Sri Lanka, Taiwan, Thailand and Vietnam)

SUBMISSION OF SUNKIST GROWERS

The following is submitted by Sunkist Growers in response to the Federal Register notice of August 19, 2013, 78 Fed. Reg. 50481, requesting submissions for inclusion in the 2014 *National Trade Estimate Report on Foreign Trade Barriers.*

Sunkist Growers is a non-profit, non-stock membership cooperative marketing association owned by, and operated for, the benefit of farmers who produce approximately sixty (60) percent of Arizona and California citrus fruit. The cooperative was formed to market its members produce, to develop and maintain reliable markets and gain the best return for their fruit, and to consistently supply consumers with top quality fresh citrus fruit and processed citrus products.

Sunkist is principally engaged in the sale of fresh oranges, lemons, grapefruit and Mandarins, and the manufacture and sale of citrus juice and peel products. Its face to face sales network has led to universal distribution of premium-quality Sunkist brand citrus.

Membership is limited to farmers and cooperative associations of farmers. Formed in 1893, as the Southern California Fruit Exchange, the organization incorporated in 1905, as the California Fruit Growers Exchange. Its present name was adopted in 1952 to more closely identify the organization with its world-known trademark **SUNKIST ®**. Sunkist exports approximately thirty-three (33) percent of its fresh fruit production, providing approximately forty-five (45) percent of its farmers' fresh fruit revenue.

Respectfully Submitted,

Michael Wootton
Sunkist Growers – Government Relations
14130 Riverside Drive
Sherman Oaks, CA 91423

October 21, 2013

GENERAL OVERVIEW

The U.S. fresh citrus industry faces a number of pressing trade-related disadvantages that are impairing its competitiveness in the global and U.S. marketplace.

Large Tariff Inequities

The average nominal tariff for fresh citrus entering the United States is about 2.5%. The average tariff for U.S. fresh citrus attempting to enter foreign markets is about 57%. A striking example of the tariff inequities is Japanese farmers can sell their oranges in the United States at less than a 2% duty, but Sunkist must sell its oranges to Japan at a 16% or 32% duty depending on the season, costing our growers millions of dollars each year. Our submission describes a number of tariff inequities existing in export markets of interest. The U.S. citrus industry is in urgent need of bilateral and multilateral tariff reductions to correct this imbalance.

Large Subsidy Inequities

According to U.S. government data, the EU has provided billions of dollars in annual subsidies to its horticulture and wine sector, including citrus. China is also supporting its citrus industry with various forms of subsidies. U.S. fresh citrus producers receive almost no government subsidies. These subsidy disparities can best be addressed through multilateral reforms and through U.S. assistance for WTO-consistent market promotion.

Growing FTA Disadvantages

In recent years, foreign citrus-producing countries, including the EU and China, have negotiated a growing number of "FTAs" with countries key to our export growth. These FTA access disadvantages for the U.S. industry can only be mitigated if the United States intensifies its efforts to pursue and close FTAs with important citrus-consuming markets that result in immediate duty-free access for U.S. citrus exports.

Unjustified Phytosanitary Barriers

In recent years, foreign governments have increasingly relied on non-scientific phytosanitary barriers to restrict citrus imports. FAS, APHIS/IS/PPQ, and USTR critically need increased resources to address these challenges. More aggressive and comprehensive U.S. government intervention is also needed. Sunkist plans to submit comments on these SPS barriers in response to USTR's separate Federal Register notice for its *SPS NTER.*

Rising Imports

In addition to the U.S. industry's export challenges, U.S. imports of low-priced citrus, which enter with no material duty, are capturing a growing share of the U.S. citrus industry's valuable domestic market. This puts downward pressure on U.S. industry profitability and increases the need for improved export growth.

The following comments more specifically address these trade concerns in each of the major citrus markets where they arise. A separate page is provided for each country as requested in the Federal Register notice. The countries are included in alphabetical order.

BANGLADESH

I. Trade Barriers (*Tariff Inequities*)

Bangladesh offers good growth opportunities for Sunkist orange and lemon exports if its high tariff and other import charges were reduced. Bangladesh imposes a total tax of 86% on U.S. oranges in containers weighing up to 2.5 kg. (5.5 lbs) and a total tax of 59% for fresh oranges in loose form or in containers weighing over 2.5 kg (5.5. lbs). The tax consists of an applied tariff of 25%, a 20% Supplemental duty, a 5% Regulatory duty, a 15% VAT, an Advance Income Tax of 3%, and a ATV of 2.3%. Its bound tariff on fresh oranges is 200%.

II. Potential Increase in Exports

The United States exported over $7 million of fresh oranges to Bangladesh in 2012, a more than 50% increase from 2010. If Bangladesh's high tariff and other charges were significantly reduced, Sunkist estimates it could increase exports by several million dollars annually to the market in the short term.

CHINA

I. Trade Barriers

Tariff Inequities and Discriminatory VAT

China imposes a 11% tariff on fresh oranges and a 13% VAT, raising the effective rate of duty to 24%. Fresh lemons and grapefruit are subject to a 12% tariff and 13% VAT. The VAT is applied to imported fresh citrus at the full 13% rate, while domestically produced citrus sold by Chinese producers is reportedly exempt from the tax. The discriminatory application of the VAT raises concerns about China's compliance with its WTO obligations.

Subsidies

U.S. government reports indicate that Chinese citrus producers benefit from various national, provincial, and local level subsidies including aid for citrus seedlings, subsidies for the building and renovation of orange orchards, subsidies for cold storage facilities and distribution centers, and favorable loans. Various documents also highlight the use of government-sponsored demonstration and export bases in the citrus sector that are supported at the provincial and sub-provincial level. The non-transparent nature of the subsidies has made it difficult to obtain details about the level of aid benefitting China's citrus industry. Chinese government goals for the citrus sector include consolidating citrus production in five key areas and developing orange varieties for fresh and juice production.

Intellectual Property Rights

A matter of continued concern to Sunkist Growers is the ongoing incidents of trademark infringement and breach of our intellectual property rights involving the SUNKIST® brand, which is being illegally applied to beverages and fresh fruit of various kinds in China. The use of counterfeit practices not only misleads Chinese consumers to pay premium prices for a presumed quality and safe product that our brand represents, but of equal concern is the liability risks inherent in such counterfeit products of questionable origin and food safety with our trademark. U.S. government efforts to urge China to aggressively enforce IPR and trademark integrity is critical. Sunkist has previously provided USTR with a detailed description of our efforts to deal with this problem in China.

II. Potential Increase in Exports

If China's tariffs were reduced, its VAT discrimination and citrus-sector subsidies eliminated, and its intellectual property rights infringement stopped, Sunkist conservatively estimates an increase in U.S. citrus sales into China of upwards of $500 million in the next five years. U.S. orange exports to China in 2011 were valued at about $34 million.

EUROPEAN UNION

I. Trade Barriers

Subsidies

For many years, European citrus producers in Spain, who are major competitors with American citrus growers both in the U.S. market and in key export markets, have enjoyed significant subsidies from the EU and their own national governments.

Under the EU's Common Agricultural Policy (CAP), EU Member State citrus growers are eligible for EU aid in the form of direct payments provided through the EU's Single Payment Scheme (SPS). Under that system, EU Member States receive an "envelope" of aid based on the level of EU monies received under the pre-2008 sector-specific subsidy programs. Because the "envelope" of aid is not product-specific and the EU does not track payments made by the Member States, it has not been possible to determine the full amount of subsidies paid to citrus growers under the revised system. The EU also funds 50% of citrus Producer Organization operational funds. Producer Organization operational funds can be used to acquire fixed assets, technical assistance, crisis prevention and management measures, research, and environmental measures.

At the Member State level, Spain has implemented a citrus plantation restructuring program for 2008-2013 under which up to 18,000 hectares is being restructured with the aim of planting new varieties, improving quality, saving water, and extending the production season. In 2009, applications for nearly 10,000 hectares were submitted for this aid.

With the help of these various subsidies, low-priced Spanish Clementine exports to the United States have grown significantly in recent years. As a result, Sunkist is suffering a decline in U.S. orange sales worth several million dollars annually.

Tariff Inequities

Fresh U.S. oranges are subject to EU seasonal tariffs and the EU's entry price system under which products entering below an established EU price (the EU's institutional entry price) are assessed a specific duty in addition to the ad valorem duty. In contrast, Spanish and other EU producers enjoy access to millions of American consumers at a tariff of less than 2%.

II. Potential Increase in Exports

Sunkist estimates that if the U.S. could obtain tariff treatment into the EU equivalent to the U.S. citrus tariffs for EU fresh orange, lemon and grapefruit exports, and EU subsidies were curtailed, our export sales would increase by $5 million to $25 million in the first two years.

INDIA

I. Trade Barriers (*Tariff Inequities*)

India offers a potentially large market for fresh oranges, lemons, and grapefruit. India has some 200-300 million consumers considered to be in the upper income category who can afford fresh high-quality citrus. Fresh citrus fruit is widely used in the Indian diet and provides major market opportunities for the United States.

India maintains very high bound and applied duties on fresh oranges and lemons. Its bound tariff on fresh oranges and lemons is 40%. Its applied tariff is 30% plus an additional 2% + 1% Education Cess, which makes the effective applied rate 30.9%. We are asking that persistent U.S. government efforts be undertaken to secure a significant reduction of the tariffs to more reasonable levels, which will benefit Indian consumers and U.S. exporters.

II. Potential Increase in Exports

Based upon our experience with new and emerging markets in Southeast Asia with similar dietary habits and consumer populations with disposable income similar to India, we estimate sales of our fresh citrus fruit to India could approach $100 million in five years provided market access and reduced tariffs are achieved. U.S. fresh orange exports to India in 2011 were valued at over $9 million with a slightly lesser volume in 2012.

INDONESIA

I. Trade Barriers

Import Licenses and Other Non-Tariff Barriers

In 2012, the government of Indonesia adopted three separate regulations intended to unfairly restrict access for U.S. and other third-country citrus suppliers into the Indonesian market. The restrictions included closing of the principal Jakarta port to horticulture products and new import license requirements. U.S. government efforts at senior levels to prevent the implementation of these unjustified restrictions have been successful in keeping the Jakarta port open to U.S. fresh fruit exports, but only after numerous announced closings and delays, which badly disrupted trade. Unfortunately, two new regulations imposing onerous import license requirements are set to take effect in the last quarter of CY 2012. The import license requirements threaten to block access or at best impose new documentation and cost requirements for U.S. exporters.

The new import license regulations, known as Regulation 30 issued by the Ministry of Trade and Regulation 3 from the Ministry of Agriculture, threaten to undermine the continued opening of the Jakarta port. Together, the regulations impose a new WTO-inconsistent import licensing system for horticultural imports that is complex, discretionary, and non-transparent. Under the system, approval from various agencies is required to obtain a license and licenses can be denied at any time based on an arbitrary decision about domestic production and demand. U.S. government efforts at the highest levels should continue until the Indonesian government agrees to permanently eliminate these new requirements. These same issues continue in 2013.

Tariff Inequities

Indonesia's bound tariffs are excessive at 50% on fresh oranges, mandarins, and other orange hybrids, and 40% on fresh lemons and grapefruit. Although the Indonesia government has temporarily lowered most of its applied rates based on the government's agreement with the International Monetary Fund (*i.e.,* to 5% on fresh oranges and lemons and 25% on Mandarins), the government is known for arbitrarily raising its applied tariffs, disrupting trade. In addition, a 10% VAT and a 2.5% income tax are applied to the imports.

II. Potential Increase in Exports

Indonesia's high bound tariffs should be substantially reduced. At the lowered applied rates, this is a good market for U.S. fresh oranges. Recent import license requirements, however, and threatened arbitrary closure of the port of Jakarta to fresh fruit imports, have disrupted trade. If these non-tariff barriers were permanently removed and California and Arizona fresh citrus benefited from duty-free access to this market, U.S. exports of fresh citrus would increase by several millions of dollars annually.

JAPAN

I. Trade Barriers (*Tariff Inequities*)

A huge tariff disparity exists between U.S. and Japanese tariff rates on fresh citrus to the detriment of U.S. citrus exporters. The duty imposed by Japan on U.S. fresh sweet oranges is 32% in the winter months and 16% in the summer months. This is an excessive duty when Japan produces no fresh sweet oranges, but only Mandarins. The impact of Japan's duty is significant. California and Arizona orange shippers pay Japan over $30 million in tariff fees annually. In contrast, the U.S. imposes a tariff of only about 2 cents per kilogram on Japanese Unshu oranges imported into our market, a less than 1 percent ad valorem equivalent duty.

II. Potential Increase in Exports

The reduction in Japan's tariff achieved in the Uruguay Round, while helpful, does not solve the problem. Japan's final bound duties are still excessive, with a consequence of repressed sales in the market. A significant reduction in the Japanese duty on fresh oranges would result in export sales increases upwards of $150 million in the first year. The gain would be greater in subsequent years and accelerated by duty elimination. In 2011, U.S. orange exports to Japan were valued at over $90 million with slightly lesser volumes exported in 2013. It is our hope these trade inequities will be addressed in the pending Trans Pacific Partnership agreement.

KOREA

I. Trade Barriers (*TRQ*)

With the implementation of the U.S.-Korea FTA on March 15, 2012, Sunkist benefits immediately from reductions in Korea's tariff on lemons that goes to zero in January 2013, and reductions in Korea's tariff on grapefruit that is being eliminated over 5 years and goes to zero in January 2016.

Sunkist also benefits from KORUS's immediate reduction in Korea's off-season orange tariff that applies from March 1 to August 31. That tariff was reduced from 50% to 30% on March 15, 2012, was reduced to 25% in 2013, and will eventually go to zero in January 2018. During the remaining six months of the year, from September 1 to the end of February, U.S. oranges are restricted by a tariff-rate quota that consists of only a small duty-free in-quota volume and a 50% over-quota tariff that is not reduced at all. Sunkist anticipates that the U.S. orange export gains realized during the off-season will recede during the TRQ period, even though historically the September through February time has been the U.S. industry's strongest export period. If there is any opportunity for the U.S. government to negotiate an expansion of the in-quota duty-free volume or a reduction in Korea's 50% over-quota tariff, this would help ensure continued strong export growth to this market.

II. Potential Increase in Exports

If Korea's tariffs on oranges, lemons, and grapefruit were eliminated immediately, exports of California and Arizona fresh citrus would increase by about $100 million annually.

PHILIPPINES

I. Trade Barriers (*Tariff Inequities*)

The Philippines maintains excessive bound tariffs on fresh citrus fruit including oranges, lemons, and grapefruit. Although the Philippines' applied citrus tariffs are 10%, its bound rates on all three varieties of fresh citrus are 40%-45%. The instability of the applied rates imposes a significant barrier to long-term competitive trade for U.S. citrus fruit. On occasion, Philippine authorities use an import permit system to limit or restrict imports of fresh citrus in order to prevent currency from being used for consumption goods. Such a policy has an adverse impact on our market opportunities.

II. Potential Increase in Exports

A substantial reduction in the bound tariffs on imported citrus fruit could result in increased sales in the $25 to $50 million range within the first three years.

SRI LANKA

I. Trade Barriers (*Tariff Inequities*)

Sri Lanka could be a strong growth market for Sunkist's oranges and lemons if its high tariffs were reduced. Sri Lanka imposes an effective tariff rate of 81% on U.S. fresh oranges and lemons consisting of an applied tariff of 30%, a 10% import surcharge, a 12% VAT, a 5% port levy, a 20% CESS rate, and a 5% nation building tax. Sri Lanka's bound tariff on oranges is 60% or RS .20 per kg., whichever is higher. Its bound tariff on lemons is 50%.

II. Potential Increase in Exports

If Sri Lanka's applied and bound tariffs for oranges and lemons were reduced to 10% or below, Sunkist estimates it could increase its orange and lemon exports to that market by several million dollars annually. The United States exports about $2 million of fresh oranges annually to that market even with an effective tariff of over 80%.

TAIWAN

I. Trade Barriers (*Tariff Inequities*)

Taiwan is a lucrative and very promising market for U.S. citrus exports despite high seasonal tariffs on fresh oranges of between 20% and 30% and between 20% and 15% on fresh lemons. The tariffs have price implications for Taiwanese consumers and reduce U.S. citrus exports. In contrast, U.S. citrus duties are between 1% to 2% ad valorem.

II. Potential Increase in Exports

It is estimated that a substantial duty reduction on fresh citrus imports would result in increased sales in the $25 to $50 million range within the first three years.

THAILAND

I. Trade Barriers (*Tariff Inequities*)

Although Thailand allows fresh citrus imports from California and Arizona, exports of U.S. fresh citrus fruit are limited by high duties of 30 percent or 25 B/kg for U.S. oranges and 40 percent or 33.5 B/kg for lemons and grapefruit. Moreover, our competitive position in the Thai market is compromised by the Free Trade Agreement between Thailand and China under which Chinese citrus now enters Thailand duty free. A similar FTA was entered into between Thailand and Chile, a major citrus producer and exporter. Established consumer attraction to our Sunkist brand is undermined by the duty and its impact on the price of product in the retail marketplace.

II. Potential Increase in Exports

If the U.S. government could achieve a substantial reduction in the tariff rates to a more competitive level, we estimate export volumes of fresh citrus fruit from California and Arizona to Thailand would increase by at least $5 million annually within five years. Citrus is a popular consumer item and a part of the Thai diet.

VIETNAM

I. Trade Barriers (*Tariff Inequities*)

Vietnam is a country where consumption of fresh fruit, including fresh citrus, is high. It has the potential to become a promising market for U.S. citrus exports, but high bound tariffs of between 20% and 30% on fresh oranges, grapefruit, and lemons make U.S. citrus exceedingly expensive for the average consumer. Vietnamese consumers have shown an interest in importing high-quality U.S.-origin citrus products even though domestically-produced oranges are available during the harvest season and cheap imports are available from China. Sunkist is hopeful that Vietnam's government will soon re-establish market access for US citrus and its participation in the Trans Pacific Partnership FTA will result in immediate duty-free treatment et for U.S. fresh oranges, lemons and grapefruit, upon implementation.

II. Potential Increase in Exports

Preferential immediate duty-free access into Vietnam for U.S. fresh oranges, lemons, and grapefruit under the TPP FTA will significantly increase opportunities for high-quality U.S. citrus exports to this market.