INSTITUTE FOR AGRICULTURE AND TRADE POLICY

Submitted electronically to: agriculturalworkshops@usdoj.gov)

December 28, 2009

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Attorney General Holder and Secretary Vilsack:

I am writing to provide comments and suggestions for the upcoming Department of Justice/U.S. Department of Agriculture competition workshops in 2010 on behalf of the Institute for Agriculture and Trade Policy (IATP), based in Minneapolis, Minnesota. IATP is an established leader in key international debates on policy related to agriculture, food systems and trade agreements. We work with farmers, activists and researchers from around the world who are greatly concerned with market concentration by agribusinesses and its impacts in this country and abroad. We have written about the negative impact of corporate concentration on the food system in grain and meat production, seeds, fertilizers and the retail sector. We are deeply troubled by the concentration of livestock and grains markets that has been the result of deregulation, privatization and increased agricultural trade. As such, we welcome this opportunity to weigh in on these issues at the upcoming hearings, particularly those on livestock production and farmer concerns.

In both the United States and at the global level, the livestock sector has become much more concentrated over the last 20 years. Today, only a few corporations control large-scale production and global trade in grains and livestock. According to the UN Food and Agriculture Organization (FAO), the U.S. is the largest global producer of both chicken and cattle meat and the second largest pork producer in the world.[1] Just four companies—Tyson, Cargill, Swift and Co. and National Beef Packing Co.—control close to 85 percent of U.S. beef packing. Cargill is also the third largest company out of four that own beef feedlots. It is the fourth largest pork packager, the third largest producer of turkeys, the second largest for animal feed plants, the first for flour milling and the third for soybean crushing.[2] Cargill's grain and oilseed supply chain employs 15,000 people in 50 countries.[3] In another example, Archer Daniels Midland (ADM) employs 27,600 people in 58 countries on six continents to supply human consumers and livestock.[4] In other words, certain U.S. agribusinesses are involved in a wide range of activities, heavily influencing production, consumption and employment around the world.

In the past, there were many U.S. farmers on the land tending to their cattle. Today, the reality is that the majority of the U.S. meat industry is dominated by only a few large producers. Many small family farms have been replaced by large-scale operations that have vastly expanded their production and influence trade and investment rules to increase markets globally. The combination of high market concentration and the increased use of captive supplies—livestock owned outright by packers or controlled through contracts with farmers and ranchers—has meant lower prices, a smaller share of the retail dollar and shrinking markets for farmers and ranchers.[5] Those independent small farmers are left to assume the costs of guaranteeing quantity, quality and uniformity of their products without being guaranteed a fair price for their goods. This needs to be addressed in the upcoming hearings.

Concentration in U.S. markets and has impacts globally as well. Livestock production and trade is contributing heavily to deforestation, increased displacement and migration, loss of biodiversity and a reduced number of animal breeds.[6] Mono-cropping of grains such as corn and soy to supply industrial meat production has also led to soil degradation, water contamination and climate change. For example, hypoxia in the Gulf of Mexico is in large part as a result of crop fertilizer run-off that is a direct result soy and corn production in the Midwest,[7] which also serves to supply industrial meat production for global trade. Increased meat production for trade has also been linked with arsenic and hormones being used on animals in the CAFOs, putting consumers at risk in the U.S. and abroad.

Alongside general statistics of global impacts and trends of corporate concentration of meat, we have a marked experience of concentration of livestock markets in North America that has been facilitated by the rules on investment, market access and sanitary and phytosanitary standards in the Canadian-U.S. Free Trade Agreement (CUFTA) and the North American Free Trade Agreement (NAFTA). We would urge you to consider the contribution of these trade agreements to unfair market practices.

The investment provisions in CUFTA and NAFTA enable corporations to easily shift production in order to profit from lax enforcement of regulations, as well as labor and environmental laws. The threat of lawsuits under the investor-state provision in NAFTA is a disincentive to progressive regulatory reforms. That provision grants investors the right to sue governments for compensation for indirect expropriations, including regulatory changes.

IATP has calculated how U.S. agricultural policies result in grains being exported at prices substantially below the cost of production. This dumping has devastated farmers in many countries, including in Mexico, where recent estimates conclude that more than 2 million people have been displaced from the sector since NAFTA's inception.[8] This displacement, and the consequent concentration in agricultural markets, could be addressed in part through reforms to allow countries to protect key agricultural sectors. Developing countries have raised proposals for Special Products (SPs) and Special Safeguard Mechanisms (SSMs) in the Doha Round of WTO negotiations. SPs and SSMs allow countries the flexibility to use tariffs and non-tariff measures to protect their national markets from import surges and dumping as well as to exempt markets of certain staple goods from trade. The U.S. Trade Representative, working with the USDA, should support this kind of reform in NAFTA and in global trade talks.

In February 2009, IATP organized a meeting with the Asociación National de Empresas Comercializadoras de Productores del Campo (ANEC), the Canadian National Farmers Union, Food & Water Watch and the Western Organization of Resource Councils (WORC, a U.S. organization) in Billings, Montana to discuss the impact of corporate concentration of livestock markets under NAFTA and to identify some policy options moving forward. We examined the impacts of NAFTA on small cattle and hog producers in the three countries and then discussed potential ways farmers, consumers and other key constituencies could work collectively toward ecologically sustainable, healthy food systems.

Participants discussed the vertical integration of industrial meat production, with U.S. agribusiness owning and operating much of production, processing and retail of livestock and feedstuff. Small-scale and medium Mexican producers have great difficulty meeting the standards required to gain access to U.S. meat and grain markets. Rather than benefiting from NAFTA, prices for their goods have dropped significantly and those countries are now importing cheap meat and grains from the U.S. Prior to CUFTA, the Canadian market was dominated by independent producers. Today, the market is dominated by two large U.S. corporations.[9]

Free trade in all three countries has shifted the location of the packing plants, ownership of the plants, the distribution of cattle, the connection between packers and feedlot cattle, the ownership of cattle auction yards, marketing efforts, and trade and regulatory frameworks in favor of those who buy and process cattle rather than those who raise it. In addition to change in trade agreements, IATP supports other changes that could greatly improve agricultural policy in support of small-scale diversified farming. These include captive supply reform that enforces a packer ban making it unlawful for a packer to own, feed, or control livestock intended for slaughter. Other reforms would require a mandatory fair price for producers and public bidding for livestock. Since both USDA and DOJ have publicly announced intentions to increase scrutiny of anti-competitive practices and structures in the livestock and poultry sectors, we are also urging that a memorandum of understanding (MOU) be developed between USDA and DOJ explicitly outlining the procedures for cooperation on Packers and Stockyards Act enforcement cases.[10]

We request that the U.S. government move forward with food labeling that informs consumers of the contents, place of origin and methods of production. The American consumer has a right to know where their food comes from, what is in it and how it is being produced. U.S. livestock producers also want Country-of-Origin Labeling (COOL) because it helps them to better brand their products.

Lastly, in the upcoming hearings, the U.S. should explore the potential to re-establish its own domestic public- and farmer-owned reserves as a means to stabilize prices and meat and grain supply as well as to improve the lives of small-scale farmers.

We look forward to attending and participating in the workshops in 2010 and expect that the USDA and the DOJ will take seriously these recommendations that are being put forth.

Sincerely,

Alexandra Spieldoch
Global Governance Coordinator
Institute for Agriculture and Trade Policy

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[1] FAO, (2007). "FAOSTAT, commodities by production: top production, world." http://faostat.fao.org/site/339/default.aspx

[2] Hendrickson, M. and W. Heffernan, "Concentration of Agricultural Markets." Columbia, University of Missouri, 2007.

[3] Compiled from Cargill's 2008 annual report and its Web site: http://www.cargill.com.

[4] Compiled from ADM's 2008 annual report and its Web site: http:// www.adm.com

[5] WORC, "Banner Packer Ownership of Livestock: Myths and Facts," 2007, http://www.worc.org/userfiles/file/Packer%20Ban%20Myths%20&%20Facts%2010-07.pdf.

[6] Blackmore, E. and J. Keeley, "Understanding the Social Impacts of Large-Scale Animal Protein Production," Oxfam Novib/IIED Preliminary Scoping Report, 2009.

[7] D. Keeney, "Reducing Nutrients in the Mississippi and the Gulf of Mexico," Institute for Agriculture and Trade Policy, 2006.

[8] Instituto Nacional de Estadistica y Geografía (INEGI) Encuesta Nacional de Ocupación y Empleo trimestral. Indicadores estratégicos. Cited in "Reforming NAFTA's Agricultural Provisions," by Tim Wise, The Future of North American Trade Policy: Lessons from NAFTA, Pardee House, November 2009.

[9] National Farmers Union Canada, "The Farm Crisis and the Cattle Sector: Toward a New Analysis and New Solutions," 2008, http://www.nfu.ca/briefs/2008/LivestockreportFINAL.pdf.

[10] See comments from letter submitted to DOJ/USDA from Campaign for Contract Agriculture Reform in December 2009.