

CRS Report for Congress

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Mad Cow Disease and U.S. Beef Trade

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Summary

The United States is seeking to normalize beef and cattle trade, which has been disrupted by discoveries of bovine spongiform encephalopathy (BSE, or mad cow disease) in four Canadian-born cattle. After one of them tested positive for BSE in December 2003 in Washington state, most countries banned U.S. beef and cattle products. Of the major markets, Canada and Mexico are now importing some U.S. beef. Efforts to reopen the others, notably Japan, have not yet borne fruit. Also, USDA's efforts to reopen the border to Canadian live cattle have been slowed by several legal challenges. In Congress, committees have held oversight hearings, and the Senate on March 3, 2005, passed a resolution (opposed by the President) that would disapprove a USDA rule to permit younger Canadian cattle imports. This report will be updated.¹

U.S. Beef Trade

The \$3.9 billion value of 2003 U.S. beef and veal exports was equivalent to approximately 10% of the farm value of U.S. cattle and calves. While domestic beef consumption grew by 14% over the decade beginning in 1992, beef exports grew by 85%. Before the 2003 discovery of BSE in a Washington state dairy cow, the United States shipped about 18% of the world beef and veal market, at 1.1 million metric tons (MMT). Australia was first with market share of nearly 20%, and Brazil also shipped 18%.²

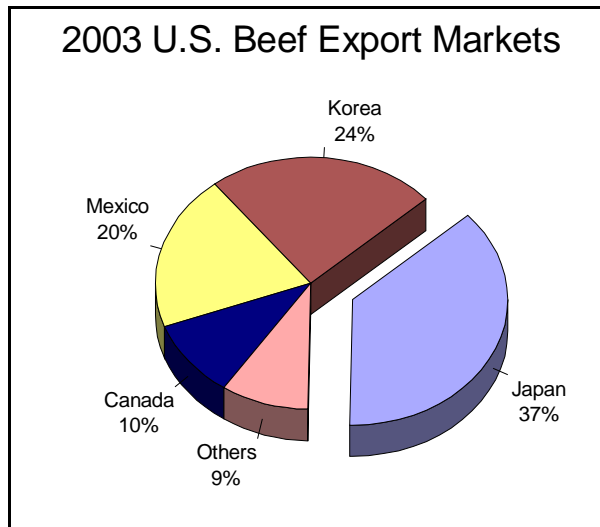
After the December 23, 2003, BSE announcement, most countries banned some or all imports of U.S. beef and cattle products. These included Japan, South Korea, Mexico, and Canada, which together accounted for approximately 90% of U.S. beef exports. In 2004, Brazil became the top beef/veal exporter, followed by Australia, India, and New

¹ See also CRS Issue Brief IB10127, *Mad Cow Disease: Agricultural Issues for Congress*.

² Data on export market shares are from USDA, Foreign Agricultural Service, *World Markets and Trade: Dairy, Poultry and Livestock*, various issues. Unless noted, other data are from the USDA Economic Research Service (ERS) website at [<http://www.ers.usda.gov/features/bse/index.htm>].

Zealand; U.S. market share fell to 3%. Canada and Mexico resumed some U.S. imports in 2004 (also see “Related Price and Trade Impacts, below”).³

Imports have represented about 13% of total beef consumption in the United States, the largest world beef importer. Much of it is leaner, from grass-fed animals in Australia and New Zealand; it is blended, for example, with higher-fat U.S. meat for hamburger. However, imports from Canada (and Mexico) had reflected an integrated North American market. Until May 2003, Canada had been the United States’ major source of beef and cattle imports. In 2002 Canada sent more than 1.5 million cattle to the United States, where large feeding and slaughter capacity readily absorbed them.⁴



Canada Situation

After the announcement of Canada’s first BSE-infected cow in Alberta, in May 2003, USDA published an interim final rule banning all Canadian ruminant and product imports. In August 2003, USDA partially lifted the ban by permitting (without publishing a rule) imports of boneless beef from animals 30 months or younger, among several other products. On November 4, 2003, USDA published a proposed rule to permit other Canadian ruminant imports, including younger live cattle. However, USDA already was expanding the types of Canadian beef permitted (also without formal rulemaking). In April 2004, in response to a lawsuit by Ranchers-Cattlemen Action Legal Fund USA (R-CALF), a federal judge blocked this expansion, citing concerns about food safety and failure to follow rulemaking. No further expansion in Canadian imports (beyond beef types announced August 2003) was permitted until the October 2003 rule was finalized.⁵

The final rule, in the January 4, 2005, *Federal Register*, was to permit, among other things, imports of live cattle under 30 months old. Specifically, the rule would create a new category of “minimal risk” BSE regions — including those in which BSE-infected animals have been diagnosed but where sufficient regulatory measures have been in place to ensure that the introduction of BSE into the United States is unlikely. The rule, which was to take effect March 7, 2005, further classifies Canada in this category, the first such region to qualify, based on what USDA declared was “a thorough risk analysis.”

³ For the latest list and specifics on country bans, see the APHIS trade ban status website at [http://www.aphis.usda.gov/lpa/issues/bse/trade/bse_trade_ban_status.html].

⁴ Center for Agricultural and Rural Development, *Iowa Ag Review*, summer 2003, at [http://www.card.iastate.edu/iowa_ag_review/summer_03/article4.aspx].

⁵ See CRS Report RL32627, *Bovine Spongiform Encephalopathy (“Mad Cow Disease”) and Canadian Beef Imports*.

However, a Montana federal judge on March 2, 2005, ordered a delay in the final rule until he can hold a trial on the merits of another R-CALF lawsuit, which charges that USDA made several procedural and substantive mistakes in the rulemaking. Observers believe the rule is now several weeks if not months away from implementation.

USDA had unveiled the final rule as Canada (in early January 2005) confirmed the third and fourth North America BSE cases, in an Alberta dairy cow born before a 1997 ban on feeding most ruminant materials back to ruminants was published, and in an Alberta beef cow born in March 1998 after the feed ban. Canadian officials said use of contaminated feed was the most likely cause in both cases. Canadian and U.S. government teams each launched a review of the Canadian feed ban, and by early March both reported that the ban was effective. Although USDA officials continued to say that the January 4 cattle rule remained on track, the lawsuit derailed it, at least temporarily.

A number of producers and others oppose the entry of Canadian beef and particularly live cattle. Many say they worry about the impact on U.S. farm prices if large numbers of Canadian cattle begin to cross the border. (USDA estimated in March 2005 that if the border is reopened to younger cattle, about 1.3 million Canadian animals may be imported throughout 2005, lower than previous estimates of 1.5 million-2 million head.) Some also argue that opening the border to what they believe are potentially risky Canadian animals could undermine efforts to regain the Japanese and other skittish foreign markets.

Others believe that impeding the rule will cause more, not less, incertitude in Japan. They believe moving forward is necessary for the United States to convince other countries that U.S. beef also is safe. Supporters argue that the USDA rule is sound, because (among other reasons) Canada has safeguards that are at least equivalent to those of the United States. They contend that the department's risk assessment has been scientific and thorough.

Canada historically exports around 60% of its beef production, and the United States has taken 80%-90% of such exports. Canada fed steer prices had declined substantially from the high US\$70s per cwt. before the May 2003 BSE announcement to the mid-US\$30s shortly afterward. Prices climbed through fall 2003, but generally were in the US\$50-\$60 per cwt. range during much of 2004. Canadian producers were losing between \$100 and \$200, and in some cases, \$300 per head, according to Cattle-Fax, a marketing information service associated with the industry.

Canadian cattle numbers increased after May 2003, because producers have not been permitted to export live animals to the United States and lacked adequate capacity to slaughter them, Cattle-Fax and USDA observed. However, Canada has since added 30,000 head per week to its total slaughter capacity, a 22% increase in 2004 alone, two meat industry officials told the House Agriculture Committee at a March 1, 2005, hearing. This increase is likely to be permanent and place U.S.-based packers at a competitive disadvantage, because they will not have access to the cattle that Canada will kill rather than export to their plants, meat industry and USDA officials have argued.

In Congress. Congress has 60 legislative days from publication of the rule to review it, as provided for in the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801-808). On March 3, 2005, after a morning of floor debate, the Senate approved a resolution (S.J.Res. 4) to disapprove the rule, by a vote of 52-46. A related

resolution (H.J.Res. 23) is pending in the House, but passage is considered more difficult there. A final measure would have to be signed by the President, who opposes it.

Other bills addressing the Canada rule include H.R. 187, to prohibit the rule “unless United States access to major markets for United States exports of cattle and beef products is equivalent or better than the access status accorded such exports as of January 1, 2003”; and H.R. 384/S. 108, to prohibit the Canada rule unless mandatory retail country-of-origin labeling (COOL) is implemented. The current statutorily set deadline for COOL for fresh meats is September 30, 2006 (see CRS Report 97-508, *Country-of-Origin Labeling for Foods*). S. 294 would prohibit imports (from a minimal risk region like Canada) of meat, meat byproducts, and meat food products from bovines over 30 months old unless the Secretary reports to Congress that the region “is in full compliance with a ruminant feed ban and other [BSE] safeguards.”

BSE in Europe and Japan

Europe has reported most of the approximately 187,000 BSE cases worldwide. The European BSE crisis could cost \$107 billion, half due to lost animal values and half to control measures, according to a 2003 study published by the European Association for Animal Production.⁶ The United States has long banned European ruminants and ruminant products out of BSE concerns, as have most other countries. Food safety is a leading political issue in Japan, which has reported approximately 15 BSE cases since September 2001. Beef sales have suffered from consumer worries about its safety, which contributed to a decline in U.S. beef and veal exports there, from a record high of about \$1.5 billion in 2000 to \$831 million in 2002. Exports had recovered to nearly \$1.2 billion in 2003, before Japan banned them. Since October 2001, the United States has banned all imports of Japanese beef. Japan exported an average of less than \$1 million annually of specialty Kobe or Wagyu beef to the United States through 2001.⁷

U.S.-Japan Negotiations

Japan, until 2003 the number-one foreign buyer of U.S. beef, was insisting that all cattle be tested for BSE, but is considering an exemption for animals under 21 months old at slaughter. As outlined in an October 23, 2004, joint announcement, the United States said it had agreed to establish, with Japanese concurrence, an interim marketing program — a modified version of its Beef Export Verification (BEV) Program — that would enable a resumption of some U.S. exports to Japan. BEV is to certify that only beef products from cattle of 20 months or younger are shipped. In addition, the United States agreed to an expanded definition of cattle parts that have a higher risk of harboring the BSE agent. These “specified risk materials” (SRMs) are to include — for cattle of *all ages* — the entire head except tongues and cheek meat; tonsils; spinal cords; distal ileum; and part of the vertebral column. This is broader than the current U.S. SRM

⁶ See USDA, ERS, *International Trade and Food Safety*, AER-828, Chapter 4, “International Trade of Meat/Poultry Products and Food Safety Issues,” Nov. 2003; and “Europe’s BSE Crisis Will Cost \$107 Billion,” *Cattle Buyers Weekly*, Oct. 6, 2003.

⁷ Annual and semiannual USDA agricultural attache reports on Japan’s livestock sector, available at [<http://www.fas.usda.gov/scriptsw/attacherep/default.asp>]. U.S. beef exports to Japan from USITC Dataweb, available at [<http://dataweb.usitc.gov/>].

definition, which applies mainly to cattle over 30 months old. The two countries are to evaluate this interim system by July 2005, based in part on a scientific evaluation by international health experts, and modify it if appropriate. The United States is to permit Japanese specialty beef into its market following relevant domestic rule-making.

According to some industry analysts, U.S. packers may have difficulty satisfying the new Japanese criteria, even though approximately 70% of the 35 million U.S. cattle killed yearly are believed by USDA to be 20 months of age or younger. Verifiable age records may only be available for anywhere from 10% to at most 25% of U.S. cattle, according to estimates. Age verification and the expanded SRM definition would create new costs (i.e., paperwork; plant modifications) for packers and their suppliers, analysts said.

Most observers do not expect that U.S. beef will be eligible for the Japanese market until well into 2005 at the earliest — notwithstanding the fact that high-level Bush Administration officials, including the President, periodically have raised the issue with their Japanese counterparts. Several high-ranking Japanese officials have warned that any rule changes will not be finalized until their government can explain them to consumers, their Food Safety Commission completes rulemaking, and U.S. and Japanese negotiators can agree on a number of trading details.

Earlier in 2004 USDA denied permission to Creekstone Farms, a smaller specialty beef packer (and possibly other smaller firms), to conduct BSE tests on all cattle to meet Japanese demands. Besides possibly confounding USDA and larger packers' arguments that testing every animal is unscientific and provides false reassurances of safety, such private testing could violate the Virus-Serum-Toxin Act (21 U.S.C. 151-159), USDA has said. Under this act, USDA must first license a private BSE test and its use. New rapid BSE test methods have been approved, but only for use in an expanded, 12-18 month USDA surveillance program begun in June 2004, to assess the extent, if any, of BSE in the U.S. herd.⁸ As of early March 2005, approximately 263,000 mostly higher-risk cattle had been tested, all negative for BSE. (In 2003, 20,000 cattle had been tested.)⁹

In Congress. The seemingly sluggish pace of the market-opening efforts has frustrated the beef industry and many Members of Congress, who believe that opening the Japanese market will convince other Asian nations, including Korea, to follow suit. Pending is H.Res. 137, which calls for economic sanctions against Japan if it does not permit U.S. beef. Also, 20 Senators on February 18, 2005, wrote directly to the Japanese ambassador, indicating that consideration of economic sanctions is possible.

Related U.S. Price and Trade Impacts¹⁰

Industry analysts believe that the BSE experience has been much less devastating economically in the United States than it has been in other countries. One reason is that

⁸ See CRS Report RL32414(pdf), *The Private Testing of Mad Cow Disease: Legal Issues*.

⁹ Testing and other new U.S. BSE safeguards are described in CRS Issue Brief IB10127, *Mad Cow Disease: Agricultural Issues for Congress*.

¹⁰ Sources for this section include USDA/ERS, *Livestock, Dairy, and Poultry Outlook*, various issues, the ERS website (see footnote 2), and ERS, *U.S. 2003 and 2004 Livestock and Poultry Trade Influenced by Animal Disease and Trade Restrictions* (LDPM-120-01), July 2004.

the United States, learning from Europe, was able to put BSE safeguards into place prior to its own (so far) single case. Also, the U.S. beef industry is much less dependent on export demand than the Canadians, cushioning the price effects.

In 2003, the U.S. ban on Canadian beef and cattle, coupled with already tight U.S. supplies and strong demand, had driven up U.S. beef and cattle prices substantially. After the December 2003 BSE case was announced, cattle prices fell. However, they had stabilized by early January 2004. Industry analysts reported that U.S. domestic demand (both retail and restaurant, including fast-food hamburger sales) appeared to be holding steady. That, combined with lower U.S. cattle inventories due in part to widespread drought in cattle country, kept cattle and beef prices high during 2004, helping to offset the effects of the BSE-related foreign bans.

USDA has reported that average U.S. fed steer (i.e., slaughter-ready cattle) prices were nearly \$85 per cwt. for all of 2004, compared with an earlier 2004 prediction of \$72-\$77; this is near the lower end of a USDA forecast, made just before the BSE case, of \$84-\$91 per cwt. The 2005 price forecast (as of early 2005) was \$80-\$85. Average fed steer prices were \$85 in 2003 and \$67 in 2002.

Nonetheless, foreign import bans mean the domestic market has had to absorb some 23 million more pounds of beef weekly or 1.2 billion pounds for the year due to lost exports, according to Cattle-Fax. Exports of by-products like collagen, sausage casings, brains, other organs, tongue, tails, and tendons (all adding value to each animal) also have been affected by the bans on U.S. beef products. USDA has estimated that U.S. beef and veal exports globally reached only 434 million pounds in 2004, or 17% of the 2003 level of 2.523 billion pounds, even with the partial reopening of Canada and Mexico. USDA predicted that unless more markets reopen, exports would reach only 640 million pounds in 2005. In Japan, other countries, notably Australia, have filled U.S. lost market share.

Cattle producers were losing about \$10 per cwt. or \$125 per head due to lost access to the Japanese, Korean, and other Asian markets, Cattle-Fax reported in 2004. The National Cattlemen's Beef Association (NCBA) recently placed losses at \$175 per head or \$4.7 billion total. Hardest hit are export items like short plate, valued at \$1.80 per lb. prior to the U.S. BSE case but at 55 cents in July 2004, for a loss of nearly \$36 per head, and tongue, once valued at \$4.25 per lb. but at 80 cents in July 2004, for a loss of more than \$12 per head, the U.S. Meat Export Federation has calculated.

Cattle sales represent approximately 20% of U.S. gross farm income. Four states — Texas, Nebraska, Kansas, and Colorado — annually account for more than half of U.S. beef cattle revenues and more than two-thirds of all cattle slaughter. Depressed export markets — combined with smaller live cattle supplies due to the ban on Canadian animals (which bid up cattle prices) have negatively impacted meat plants in such states. A number of meat companies have announced production cutbacks and layoffs.