Testimony
House Ways and Means Committee's
Trade Subcommittee
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Background

Mr. Chairman, thank you for allowing me to participate in this discussion today regarding U.S.-India Trade Relations: Opportunities and Challenges. As you can see from my bio, I am currently President of Allen F. Johnson & Associates, a trade consulting firm that helps companies, trade associations and international organizations promote global trade and investment. Prior to starting this firm, I served as the U.S. Chief Agricultural Negotiator at USTR from 2001 to 2005 and was involved in the bilateral, regional and global trade negotiations and trade enforcement actions. As Chief Agricultural Negotiator, I closed free trade agreements (FTAs) with 12 countries on five continents and made important advances in FTA negotiations that finished after I left office. I was also responsible for WTO accession negotiations and for resolving difficult bilateral issues and disputes, including issues related to new technologies, subsidies, and tariff and nontariff barriers. Performing these various duties provided me numerous opportunities to engage and work with various officials in the Indian government.

Overview

India is important for U.S. agriculture as a potential market and as an important member of the world trading system. Unfortunately, in both respects Indian policy is restricting U.S. agricultural exports. Moving forward, we can expect the United States to continue to press India bilaterally and multilaterally to reform its policies. Of particular interest will be how the U.S. negotiating agenda (with the EU, in the TPP, and likely with Japan) will put pressure on India to be more constructive in its policies.

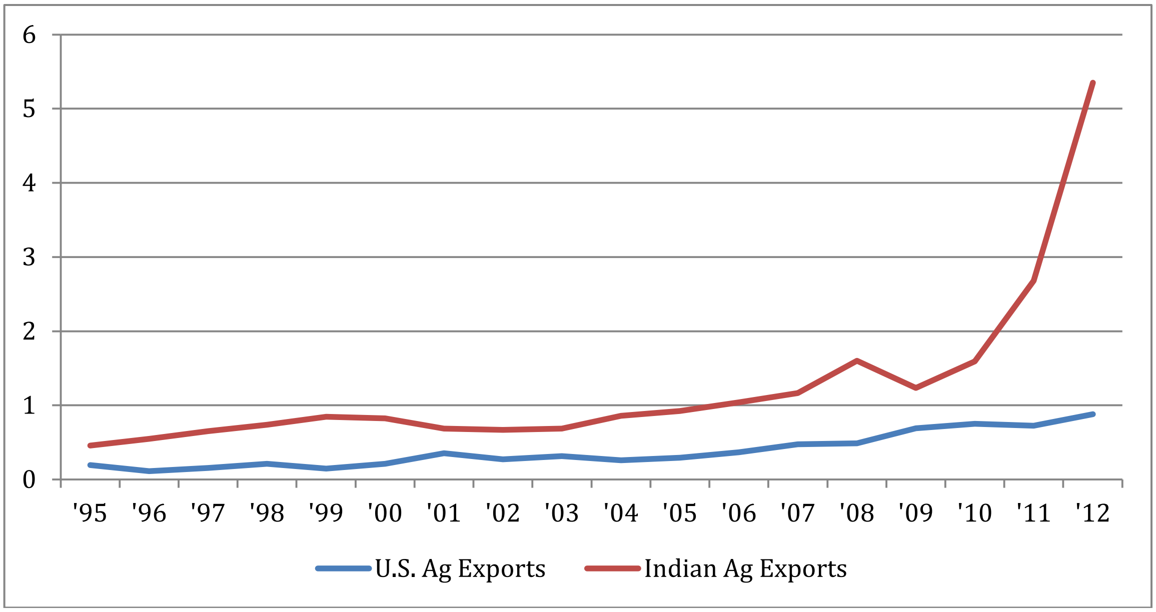
India as a Market

India is a promising market for U.S. agricultural products. U.S. producers have serious competitive advantages for a number of products and should be well placed to exploit opportunities in India, particularly as India has trouble meeting its demand through domestic production. Unfortunately, market barriers are restricting U.S. exports.

As a market, India is very attractive. With 1.2 billion people (the world's second largest country) and expanding income is creating more effective demand for food products. 60% of the population is under age 30, and 80 million Indians earn more than $4,700 a year, affording them disposable income to purchase more and higher quality food products. Growth in consumption has been strong for food products. For example, over the past five years bread and cereals consumption has increased 70%; milk, cheese, and eggs up 64%; meat up 57%, and oils and fats up 89%. The United States is a leading competitor for each of these products. If we can access this market, we will make sales. To do that we must get past the most important market access barriers for agriculture: tariffs and sanitary and phytosanitary measures.

Unfortunately, to date U.S. exports to India have been limited. U.S. agriculture exports to India in 2012 were almost $900 million (compared to $141 billion globally). While U.S. exports have more than tripled since 1995, U.S. exports lag India's export to the United States, which exceeded $5 billion in 2012 and increased ten-fold since 1995. Despite the economic fundamentals, which would suggest a strong U.S. surplus, the U.S. trade deficit in agriculture with India is growing.

U.S.-India Agricultural Trade. Billion Dollars



Customs data, from USDA/FAS/GATS (Agricultural Products)

The top U.S. export is almonds, followed by apples, soybean oil, and cotton. However, the value of these exports is marginal compare to global exports of these products.

U.S.-India Bilateral Trade.
Leading Agricultural Products, Million Dollars (2012)

	US Exports		India Exports
Almonds	314	Rubber	2,409
Apples	97	Cashews	279
Soybean oil	96	Essential oils	181
Cotton	73	Rice	139
Dried peas	59	Pepper	138
Essential oils	19	Spices	119
Dairy	18	Tea	63

Customs data, from USDA/FAS/GATS

Tariffs

India has some of the highest tariffs in the world. Its maximum allowed tariffs ("bound" in the WTO) generally range from 100 – 300% and average nearly 120%. Applied tariffs are lower, as India needs to import food to meet domestic demand, averaging around 35%. The "water" in the bound tariff allows applied tariffs to be adjusted as the government sees fit. This creates uncertainty for traders and still provides the Indian government with plenty of scope to fine tune protection of domestic producers and manage trade: For example, "in April 2008, in an effort to curb inflation, India reduced applied duties on crude edible oils and corn to zero, refined oils to 7.5 percent, and butter to 30 percent. However, in November 2008, India raised crude soy oil duties back to 20 percent and then reduced them again to zero in March 2009 (USTR, National Trade Estimate Report, 2012, page 182).

Tariffs on most U.S. export priorities can be as set at 100%, even if the day-to-day applied tariff may be less because India may not need that much protection and wants some imports to help keep food prices down. Even the top U.S. export, almonds, faces a tariff of 35 Rupees per kg for in shell product and 57 Rupees per kg for unshelled product. (This tariff is around 14% in *ad valorem* terms, based on Indian prices in 2012.) Despite this, the United States has been able to export $314 million of almonds in 2012 and India is now the third largest export market for U.S. almonds.

India's Tariffs on Key Agricultural Products

	WTO Binding	2012 Applied
Beef	100%	30%
Pork	100%	30%
Poultry	100%	30% - 100%
Dairy	40% - 150%	30% - 60%
Fruits & Vegetables	25% - 100%	15% - 30%
Wheat	100%	50%
Corn	70%	50%
Rice	80%	80%
Soybeans	100%	30%
Soybean Oil	45%	26%
Processed Products	50% - 150%	30%
Cotton	100%	0% - 10%

WTO Tariff Download Facility

Sanitary and Phytosanitary Barriers

Tariffs are not the only problem U.S. exports face in the Indian market. U.S. dairy, meat, and other products face unjustified SPS barriers in India. Even if U.S. exporters are able to surmount tariff barriers arbitrary export certificate requirements, restrictive maximum residue levels (MRL), unjustified animal disease concerns, and overly restrictive standards for quarantine pests have stymied U.S. exports.

The examples outlined below illustrate the type of SPS problems faced by U.S. exporters. A common thread to all of them is that products that are considered safe by regulators in the United States and markets all over the world are denied access to India on the basis of

- U.S. dairy exports have been effectively blocked from the Indian market since 2003 by unwarranted import requirements. These requirements include measures that the U.S. industry and government believe lack scientific justification and are unrelated to protection of human or animal health in India. In particular, India's requirement that exports are certified to never have had any animal tissue included in feed and to never have had been treated with BST/rBST make certifying U.S. exports to India impractical, scientifically unwarranted, and irrelevant for human health protection. To add insult to injury, India has a trade surplus with the United States in dairy – exporting nearly twice as much to us as we export to them despite the U.S. industries strong global competitiveness and India having structural deficits in the dairy sector. U.S. exports are led by protein concentrates and whey, as the milk powder market is restricted by Indian sanitary restrictions. Indian exports are led by natural milk products, butter, and cheese.

- U.S. pork exports are denied access the Indian market because of unjustified import residue requirements. India has decided to impose more restrictive MRL for various chemicals commonly used in animal husbandry than set by international standards, despite failing to have a scientific justification for the standards. In addition, India has unjustified requirements on feeding practices, inspection procedures, and, and other restrictive requirements. The U.S. industry and government believe these requirements lack scientific justification and provide no additional health protection.

- U.S. livestock, in particular poultry and pork, exports are denied access to India because of India's overly restrictive application of avian influenza standards. India's ban on imports after a low pathogen outbreak is inconsistent with OIE guidelines and does not follow normal international trade practices. The United States has initiated the WTO dispute settlement process to resolve this issue.

- India maintains zero-tolerance standards for certain plant quarantine pests, such as weed seeds and ergot, which block U.S. wheat and barley imports. These put U.S. export shipments at constant risk of a failed inspection, even if the findings are not a threat to Indian agriculture.

India in the Trading System

India has become a substantial player in global trade discussions. In particular, as a leading member of the G-20 and G-33 in the WTO Doha talks, India has taken a lead roll in defining the list of demands from the key developing country negotiating groups. This contribution has unfortunately been one of the main obstacles in concluding a market-opening trade agreement. India has been less active in bilateral negotiations, but it may need to reassess it actions as the United States, European Union, Japan and other countries accelerate their FTA activity.

World Trade Organization

India was a cofounder and coordinator of the WTO G-20 group of developing countries in the Doha negotiations. This group, which includes both export-oriented and import-protectionist countries, has taken aggressively protectionist positions for developing countries, even as they ask developed countries to make substantial reforms in agricultural trade and subsidy policies. India has taken a key role in developing these positions, which has neutralized the otherwise market-opening influence of countries such as Argentina, Brazil, and Chile which has lowered the level of ambition in the negotiations generally and for emerging markets in particular. Moreover, India is a leading member of the G-33, another group of developing countries that coordinate in the WTO to advocate relaxed positions for developing countries to maintain market barriers (such as safeguards) and domestic support policies (such as government stockpiling by purchasing domestic products off the market.) As with the G-20, G-33 activities have lowered ambition in the negotiations and have threatened to actually take the WTO backwards by allowing countries to increase tariffs above currently allowable levels and allowing countries to increase trade and production-distorting subsidies.

Other Free Trade Agreements

India has not had an aggressive FTA agenda to date. India has FTAs with its South Asian neighbors. It also has partial preferential trade agreements with Korea, Chile, Mercosur, and some Asian countries. Each of these agreements includes substantial exceptions for agricultural trade. For example, the agreement with Mercosur includes less than 20 tariff lines for agriculture and around 40 tariff lines in the Chile agreement, and instead of tariff elimination, the agreements provide tariff preferences of only 10% - 30% on each of these lines.

For U.S. exporters, the good news is that there are not many countries benefitting from tariff preferences over our goods, yet. India's preference for broad sectoral exceptions to tariff elimination suggest our exporters will not be disadvantaged by other countries, at least in the short term. The bad news is that India will likely be more amenable to negotiating very expedient partial trade agreements that allow India to strategically open some markets to the disadvantage of U.S. producers while protecting others.

Under current conditions there does not appear to be an impetus for the United States and India to initiate tariff negotiations or engage in a process of reciprocal market opening related to SPS and other technical barriers. However, with the United States now expanding its bilateral FTA negotiating agenda with talks in the TPP, the European Union, and possibly with Japan, India may feel more pressure to engage with the United States and with other major markets. If FTA negotiations allow for product exceptions, it will be more feasible for India to engage in negotiations. At the same time, with progress on FTAs isolating an India that is unable to negotiate meaningful cross-cutting market opening, India may decide to moderate its positions in the WTO negotiations, allowing progress to be achieved there that delivers market openings across all WTO members.