The Complexities of International Trade

By Ken Melban
Vice President of Industry Affairs

At the time of this writing, the U.S. avocado market is facing instability and – in some instances – devaluation. An inventory of 70 million pounds coupled with a higher percentage of larger fruit has led to below normal pricing. California growers, hoping to enter a more favorable post-Super Bowl market with the strength of the California brand, were understandably disappointed with prices. This disappointment has led to frustration among the industry, causing some to ask, "Why doesn't the California Avocado Commission stop, or at least reduce, the import of avocados into the U.S. market?" And, "Why doesn't the Commission gain trade access to more markets?"

While those may seem like straight-forward propositions, in reality they are not. Both propositions have major limitations and are complicated by a number of factors. After hearing from a few industry members it seemed prudent to provide an overview of U.S. trade policy, an explanation of the process to gain trade access to new countries, and the complexities involved.

U.S. Trade Policy

The United States has a long history of being pro-free-trade. This history transcends political parties — both Republican and Democratic administrations have adopted major free trade policies. There is a reason for that, particularly when it comes to agriculture. Consider a state that grows program crops: corn, cotton, soybeans, wheat or feed grains. In total, these crops probably cover three-fourths of the United States. It has almost guaranteed the congressional members from those states support free trade because those commodities are heavily export dependent. Now, consider the pressure on the U.S. Department of Agriculture (USDA) to open export markets for those major U.S. commodities. How can the USDA best open these export markets? By promoting free trade abroad and opening the U.S. market to foreign goods. In this pro-free-trade environment, there are three main issues that can *legally* keep an avocado-producing country from shipping to the United States: the threat of introducing unsafe food or invasive pests and anti-dumping laws.

Food Safety Concerns

The Food and Drug Administration (FDA) is responsible for ensuring the safety of all produce sold in this country. Accordingly, the FDA does random testing of produce for bacterial contamination. If a shipment of fresh produce tested positive for bacterial contamination (e.g. *E. coli* or *Listeria monocytogenes*), the FDA would detain that shipment. Depending on the outcome of the FDA investigation, the shipment would be destroyed or reconditioned. While significant market disruption could occur from an incident of product with bacterial contamination, it would not necessarily halt trade of that product. If multiple instances occurred and/or FDA found a systemic problem, then FDA could issue an import alert concerning the company or a country-wide alert.

Understanding Sanitary and Phytosanitary Measures

In 1995, the World Trade Organization established the Agreement on the Application of Sanitary and Phytosanitary Measures (the "SPS Agreement"). The SPS Agreement was designed to ensure that food is safe for consumers, and to prevent the spread of pests or diseases among animals and plants. Each participating country (developed and developing) has the authority to establish phytosanitary requirements and *only each respective foreign government can give the phytosanitary clearance*. Although SPS requirements are "based" on science, arguably there are instances where countries use them as an excuse to protect domestic producers or as an unfair trade barrier. This is the political side of global trade.

The USDA's Animal and Plant Health Inspection Service (APHIS) is the lead agency responsible for ensuring that all imported agricultural products shipped to the United States from abroad are free of pests and agricultural diseases. Additionally, APHIS works with interested domestic producers to gain trade access abroad.

Before the United States enters into a trade agreement with another country, a thorough Import Risk Analysis (IRA) must be completed. For produce, the IRA is primarily a pest risk assessment. The IRA is a process in which both countries identify pests that are present in the export county but not in the importing country, and together must agree that these pests may pose a risk to the importing country. Once the IRA is completed, agreement on quarantine protocols and SPS requirements between countries must be reached to mitigate the possible introduction of identified invasive pests. Upon finalizing an agreement, trade of the product can begin per the requirements of the protocol. This process can take years.

Anti-Dumping Laws

Beyond SPS measures, once a nation has access to a market, another avenue to bar imports is the anti-dumping laws. "Flooding the market," by itself, has no remedy. Supplying a market at an artificially low price – i.e., at a price below the cost of production or the price of that commodity in the home market – is "dumping." No avocado-producing country has yet to "dump" fruit in the U.S. market (even though it may feel like that).

U.S. antidumping law provisions are intended to prevent price discrimination between national markets or below-cost pricing in the United States. Antidumping claims in this country involve separate investigations by the Department of Commerce and the U.S. International Trade Commission (ITC).

The Commerce Department is responsible for deciding if dumping has occurred, and if so, to determine the dumping margin (typically the amount by which the foreign market price exceeds the price it is being sold for in the U.S. market). It's the function of the ITC to determine whether a U.S. industry has suffered substantial damage or is threatened with material injury by reason of the dumped imports.

If both the Department of Commerce and the ITC confirm dumping and resulting damages, an anti-dumping order is issued and anti-dumping duties are imposed on the imported goods. The duty will equal the dumping margin, which again, is typically the amount by which the foreign market price exceeds the cost in the U.S. market.

Commission's Record on Addressing Phytosanitary Concerns

In 1914, the importation of fresh avocados from Mexico was prohibited because U.S. plant health officials identified avocado seed weevils in Mexican orchards as pests of quarantine significance. In the early 1970s, Mexico requested approval to export avocados from the state of Michoacán, and, later in 1975, from the state of Sinaloa. APHIS rejected both of these requests based on phytosanitary concerns.

In the early 1990s, three different work plans were submitted to APHIS by Mexico for avocados grown in Michoacán to be imported to the United States. Immediately the Commission became heavily involved in the IRA process, and worked to ensure APHIS properly identified all potential invasive pests. In July 1993, APHIS approved the entry of Mexican avocados into Alaska under certain conditions.

On January 1, 1994, the North American Free Trade Agreement (NAFTA) was ratified among Canada, Mexico and the United States. Then, in just over six months, on July 5, 1994, the Mexican government formally requested that APHIS further amend its import regulations to allow importations of Hass avocados into the northeastern United States. The Commission continued to challenge USDA's "scientific conclusions" for the pest risk assessment, causing significant delays.

Ultimately, in 1997, Mexico was granted access for the importation of Hass avocados from the Mexican state of Michoacán into 19 northeastern states and the District of Columbia from November through February, provided they meet certain safeguards specified by APHIS. Although Mexican avocados had gained access to parts of this country, if it weren't for the efforts of the Commission access would have been granted for the entire United States.

Finally, in 2007, Michoacán was given access to all 50 states, a full 10 years later than requested. Now, it appears all of Mexico will likely gain access by the end of 2016 or in 2017 — again, another full decade after Mexico's original request. Because of the Commission's efforts to safeguard the California industry from invasive pests, it took USDA 20 years to figure out a legally defensible way to address the Commission's concerns. The Commission understands utilization of SPS measures to appropriately delay access, but is also aware of the pro-free trade climate of the U.S.

Commission's Trade Access Efforts

China. In 2005 the Commission, working through APHIS, submitted a trade application for avocados to China. The application was sent to China's General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ). As part of the IRA, the Commission provided APHIS with detailed and timely information that was then provided to AQSIQ. Unfortunately, because of the politics between the United States and China, progress has been slow. Although the import of California avocados is not a major concern to China because China does not commercially produce avocados, significant delays have resulted. China has displayed a *quid pro quo* approach. In 2013, APHIS was told that China would not move on any of the U.S. market access requests until the Chinese see progress on their requests for access to the U.S. market for apples, citrus, and/or grapes.

Fortunately, recent progress has been made on some of these key commodities for China and it appears AQSIQ will make a technical visit to the California avocado industry this spring. Obviously, China does not represent the "norm" in gaining market access, but even in the best case it takes a few years to gain trade access to another nation.

Japan. California avocados have market access to Japan but have a three percent tariff imposed. The Commission worked with the Foreign Agricultural Service to ensure that under the recently signed Trans-Pacific Partnership (TPP), Japan's three percent tariff on California avocados will be immediately eliminated upon ratification by the participating countries.

New Zealand. The Commission also is working on an application for trade access to New Zealand. There is concern regarding sun blotch and it appears that California groves would have to be certified free of sun blotch for fruit to be exported. We will continue to work through the application approval process and identify what sanitary requirements would be required.

New Market Opportunities

During January a story ran about the sky-rocketing price of avocados in Australia, with avocados selling for AU$5.99 each or two for AU$10. Some California growers hear that and ask, "Why aren't we shipping to Australia?" While that immediate interest is understandable, it must be tempered with a dose of reality. First, the Australian market conditions reported in the story were a great aberration from the norm. The story went on to say, "Melbourne Market wholesaler Greg Scopelleti, whose family owns an avocado farm in the Sunraysia region of Victoria, says prices are at a 20-year high. He said the price of a box of up to 23 avocados had been as much as AU$120. At their cheapest, when avocados are plentiful, they can be as little as AU$20 a box, a regular price is AU$30 to AU$40. 'It hasn't happened like this for 20 years,' Scopelleti said."

The Commission has limited resources, and, as with any organization, we must consider where the best return on investment will occur. If the Commission were to pursue market access for Australia, it would require significant Commission resources. Once secured, what will the price be for avocados in Australia? If it's in the AU$30 to AU$40 price range, which is normal, transportation costs make that a break-even proposition at best.

It's also important to consider that export market opportunities typically last a few weeks or months. Japan is a good example. They usually buy California avocados from March to June. The U.S. market, however, generally provides comparatively good returns all season.

Recently APHIS contacted the Commission indicating it has received requests for U.S. avocado from India and Thailand. We have no information concerning who is making these requests. The requests could possibly be from in-country importers who see potential for avocado sales where none exist today. In these instances, the Commission will explore the opportunity with handlers to determine if they are interested in those markets and whether they have importers in that country. If we pursue new markets, it is critical the industry is prepared to supply those markets. In addition, in many of these new markets (e.g. China, India) a tremendous amount of market development activities will be necessary to increase consumer awareness of the product and its versatility. All these considerations must be factored into the decision.

The Hass Avocado Board (HAB) is a great example of the need for having funds available to build consumer awareness. The Commission drafted federal legislation to create HAB soon after Mexico was granted access to the United States because we knew a tremendous increase in volume was going to occur. This year alone more than $40 million will be collected from imported avocados and spent on market development in the United States. That spending has resulted in an average of 10 percent annual growth in U.S. consumption for the past decade. What would that growth look like without HAB? We can't know for sure, but it would most likely be significantly lower – perhaps two percent at best.

One Final Note

For as many growers who say the Commission should pursue new offshore markets, there are an equal number of growers who believe all California avocados should be sold right here. At the Commission, we believe our core market is in California and the neighboring states. Our close proximity to those markets and the fact that no other country can tout they are "local" or grown in the United States strengthens our resolve to build local demand.

In addition, another benefit in selling close to home is the lower shipping cost. Considering that California has the highest production costs among avocado producing countries, reduced shipping costs can help. But, we also have to consider years when we have a surplus crop. In those years, it may be beneficial to have other markets available for the peak periods during our season.

Hopefully, by the time this magazine publishes prices for California fruit will be more favorable. One thing is for certain, your Commission staff will continue to fight to get you the best markets the world has to offer.