STATEMENT OF JOHN RICE, RICE FRUIT COMPANY

On behalf of

THE U.S. APPLE ASSOCIATION

Before the

SENATE FINANCE COMMITTEE

SEPTEMBER 23, 2003

Good morning, Mr. Chairman and distinguished members of the Committee. My name is John Rice. I am a seventh generation apple grower from Gettysburg, Pennsylvania. My three brothers and I own and operate about 900 acres of orchards in beautiful Adams County, Pennsylvania. Together we manage a packing company which markets fresh apples for more than fifty family farms in south central Pennsylvania, and more than twenty family farms in Maryland, Virginia, West Virginia, and New York. I appreciate this opportunity to testify before the Committee concerning the trade barriers for U.S. apple exports to Mexico.

I have been assisted in my testimony by the U.S. Apple Association (USApple) of which I am the immediate past chairman. USApple is the national trade association which represents all segments of the U.S. apple industry. Our members include 40 state and regional apple associations representing growers from around the country, as well as more than 400 individual companies such as ours. USApple's mission is to provide the means for our industry to join in appropriate collective efforts to profitably produce and market American apples and apple products. Total U.S. apple farm-gate revenue, according to the U.S. Department of Agriculture (USDA), was more than $1.6 billion in 2002.

My statement today also includes input from the Northwest Fruit Exporters (NFE), an organization which represents the international trade interests of apple marketers and exporters in Washington, Oregon and Idaho. NFE has been in the forefront of opening the Mexican market from an early stage, since their members have shipped the vast majority of U.S. apples to Mexico under Mexico's restrictive phytosanitary import protocol.

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Just last year, Michigan and Virginia finally received certification compliance with Mexico's protocol, after years of effort. Unfortunately, neither state has been able to export apples to Mexico in any significant volume due to the recently-imposed trade restrictions. With financial support from their state departments of agriculture and USDA, Michigan and Virginia growers and exporters worked hard to comply with Mexico's rigid requirements, only to see their market opportunities blocked by new duties.

Some apple-producing states have been effectively shut out of the Mexican apple market because Mexico does not recognize the validity of phytosanitary inspections by USDA-APHIS inspectors, but requires the on-site approval of Mexican inspectors at U.S. industry expense. Producing states like Pennsylvania, the fourth largest apple-producing state in the country, cannot recoup the hundreds of thousands of dollars required to hire, transport, and house the Mexican inspectors. Michigan and Virginia have been able to access funds from their own state departments of agriculture to try to break into this market, but to date it has been to no avail.

An open Mexican market without restrictive trade barriers is important to all apple-producing states and the entire U.S. apple industry. Apples that would have gone to Mexico in a free-trade environment are now staying in this country, causing market surpluses and low prices for all U.S. apple growers. For this reason, all of my growers in Pennsylvania and growers in all other apple-producing states that do not currently ship to Mexico support removal of the trade barriers erected by Mexico against U.S. apple exports.

The Mexican market, which was opened to U.S. apples just before adoption of the North American Free Trade Agreement (NAFTA), quickly became the U.S. apple industry's largest export market for fresh apples. Prior to Mexico's arbitrary imposition of 46.5 percent import tariffs on Red and Golden Delicious apples in August 2002, Mexico accounted for 27 percent of all U.S. apple exports, some 8 million boxes, worth almost $100 million annually. U.S. apples have represented 80 to 85 percent of total Mexican apple imports, with Red and Golden Delicious accounting for approximately 90 percent of all apples imported from the U.S.

Mexico's treatment of U.S. apple imports is part of an unfortunate trend in Mexican agricultural trade policy towards erecting new protectionist trade barriers. A variety of trade restrictions on a number of important U.S. agricultural products, including U.S. apples, is threatening the U.S. – Mexican bilateral relationship. This is highly unfortunate, especially since Mexico's own exports of fresh fruits and vegetables to the U.S. have increased from $1.2 billion to $2.3 billion annually, since NAFTA was implemented.

I come before you today to ask for aggressive support and collaboration between Congress and the Administration on a concerted strategy to reduce Mexico's import barriers to U.S. apple exports. Your active, direct engagement with the government of Mexico can help create an environment to bring this vital trading partner to the negotiating table to address Mexico's trade-distorting import duty and reach a settlement agreement. This engagement should take into account the broad context of issues important to our overall bilateral relationship. The U.S. government and U.S. apple industry are willing to negotiate, and have indicated this to Mexican government officials on numerous occasions. However, good faith negotiations require a willingness for honest engagement from both sides.

U.S. apple growers and exporters know Mexican consumers like and want to purchase our apples. They have proved it whenever they have had the opportunity. They especially prefer the Red and Golden Delicious apples. The U.S. apple industry has invested millions of dollars in consumer outreach efforts to successfully build a growing market for U.S. apples in Mexico. Some of this money was provided on a matching basis by USDA's successful Market Access Program (MAP). But even though U.S. apples and U.S. investment have helped to build this demand, we now see that foreign competitors, notably Canada, Chile and New Zealand, are currently realizing market opportunities at our expense. Mexican consumers are still eating apples, but an increasing number are coming from countries which do not have discriminatory duties placed on their exports.

Mexico primarily utilizes two forms of trade barriers against U.S. apple exports: import duties and quarantine restrictions.

Import Duties

Mexico's import duty of 46.58 percent on Red and Golden Delicious apples was imposed last year as a result of an anti-dumping case brought by the Mexico against the U.S. industry in 1997. In September of that year, Mexico announced that it was beginning an anti-dumping investigation into the importation of US apples, and began levying a preliminary duty of 101.1 percent. Immediately prior to a final dumping determination, in March 1998, the U.S. apple industry and the Mexican government entered into a suspension agreement that "suspended" the preliminary anti-dumping duty with an annually adjusted reference price, or minimum sales price. Mexico conducted annual audits to ensure compliance with this pricing agreement.

In November 2000, the Mexican apple industry appealed the reference price system in Mexican court. In February 2002, the Mexican government, even though it had conducted an audit only months before and had not detected any problems, summoned the NFE's representatives to Mexico City to discuss alleged violations. NFE addressed Mexico's concerns and offered to return to Mexico City to negotiate new terms to the suspension agreement. In July 2002, the Mexican government announced it had investigated the reference price system, and decided to continue it. The next month, in August 2002, Mexico revoked the suspension agreement and imposed an anti-dumping duty of 46.58 percent on Red and Golden Delicious varieties.

No provision was made to exempt shippers from states, such as Michigan or Virginia, which had no previous access to the Mexican market and therefore no export history upon which to base an anti-dumping duty. Instead, all U.S. Red and Golden Delicious apples faced a prohibitive 66.58 percent import duty, due to the additional 20 percent NAFTA duty in place at that time.

The timing of the Mexican imposition of the 46.58 percent import duty was notable, since it was widely known that NAFTA's tariff rate quota and duty were to be lifted on January 1, 2003. Also interesting to note is that in Mexico's main apple-producing state, Chihuahua, almost 70 percent of all orchards are planted with Golden Delicious apples and 30 percent with Red Delicious, according to the USDA.

Since August 2002, the U.S. apple industry, in particular NFE, has attempted to convince the Mexican government to find a mutually-acceptable solution. Several letters from Congress and governors of a number of apple-producing states were sent to Mexico's U.S. Ambassador. Meetings were held with staff for USTR Ambassador Zoellick and USDA Secretary Veneman, and a series of discussions occurred with representatives of the Mexican government.

The U.S. apple industry's goal is to suspend the onerous and unfair import duty, and negotiate a settlement agreement that allows reasonable market access and ensures compliance with the terms of the agreement for the 2003 crop season. This means a mutually-acceptable agreement must be reached within the next few weeks for Mexican consumers to have access to this year's U.S. apple crop.

There are a number of important, technical issues that the U.S. apple industry is concerned about regarding the manner in which Mexico implemented its anti-dumping determination. These may be important to review if an acceptable settlement cannot be reached in the near future. The period of investigation, the relationship between the injury determination and the evidence presented, and the manner in which the price undertaking was suspended are just three of the issues that merit scrutiny.

Quarantine Restrictions

When Mexico opened its market to apples from the U.S., it imposed extremely detailed quarantine regulations that drove up costs and discouraged imports. At the time in 1991, and subsequently, USDA and the U.S. apple industry argued the restrictions were without scientific merit and should be removed. Since 1991, Washington, Oregon and Idaho have exported over 50 million boxes of apples to Mexico, and not a single, live quarantine pest has ever been detected in all those years and in all those shipments. This fact alone should bolster the argument that Mexico's restrictions are inconsistent with the quarantine threat. Nonetheless, last month Mexico submitted numerous changes it wants made to the regulations. These changes, which have no scientific merit, would make existing regulations even stricter and add to the cost of exporting U.S. apples. It is an unfortunate and unnecessary step backward.

Rather than negotiating new regulations, the U.S. and Mexico should be negotiating the elimination of the existing regulations. At a minimum, Mexico should be asked to justify why additional regulatory changes are now necessary.

In conclusion, the U.S. apple industry is eager to export its apples to our customers in Mexico. We are proud of our ability to produce excellent apples, and seek an opportunity to sell them fairly and openly in the Mexican market. The entire U.S. apple industry wants to be a constructive trading partner with Mexico. The U.S. apple industry wants to regain market access for our Red and Golden Delicious apples. Virginia, Michigan, New York, Pennsylvania, and the other apple-producing states want a meaningful opportunity to export some of their production as well. Without the Mexican export market, even a small U.S. crop can become a very difficult crop to sell.

The U.S. apple industry supported passage of the North American Free Trade Agreement. NAFTA helped to make Mexico a major apple export market. It increased economic growth in

Mexico and helped to expand a growing Mexican middle class with purchasing power to buy our products. Certainly there has been benefit to both of our economies. However, in order for the U.S. and Mexico to be good trading partners, we need to be able to resolve differences through frank and constructive discussions. We must have confidence that any trade regulations imposed are consistent with the spirit and intent of NAFTA, and based on sound, scientific assessments of actual risk.

Thank you for the opportunity to explain these important issues facing U.S. apple growers with regard to trade barriers with Mexico. I would be glad to answer any questions you may have.