SACRED COW? CANADA'S RESPONSE TO THE BSE CRISIS: EVALUATING NORTH AMERICAN INTEGRATION, SCIENCE, AND QUESTIONS OF INTRUSIVENESS AND AUTONOMY

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I. INTRODUCTION

This study focuses on foreign and domestic pressures related to Canada's first indigenous case of Bovine Spongiform Encephalopathy (BSE) in May 2003. At the international level, the integration of the North American cattle and beef industry, export considerations in other markets, and the role of the World Trade Organization (WTO) and Office International des Epizooties or World Animal Health Organization (OIE), all had implications for Canada. Not surprisingly, the most significant challenge for Ottawa was the closure of the Canada-United States border, which suggests an ongoing need to improve the efficiency of existing trade dispute mechanisms. In other cases, however, the federal government was able to exercise partial or substantive autonomy on issues such as limiting Specified Risk Material (SRM's) from the human food chain; maintaining a discriminatory "zero tolerance" import policy; selectively adopting OIE guidelines; providing extensive BSE subsidy programs; adopting a distinctive SRM ban on animal feed; responding to the Ranchers-Cattlemen Action Legal Fund (R-CALF) challenge; and negotiating WTO Sanitary and Phytosanitary (SPS) and Tariff Rate Quota (TRQ) guidelines. Canada's domestic policy process, on the other hand, highlighted the dominance of specific bureaucratic departments, such as the Canadian Food Inspection Agency (CFIA), and Agriculture and Agri-Food Canada (AAFC). The impact of industry, however, was primarily limited to the Canadian Cattlemen's Association (CCA) and the Canadian Meat Council (CMC) in the pre and post BSE eras. Ultimately, these actors endorsed science-based initiatives, but these policies were directly attributable to economic considerations and the restoration of export markets. In the process, Canadian officials, especially within CFIA, also influenced the evolution of international norms and standards, albeit in conjunction with bureaucrats and industry representatives from the United States and Mexico.

II. EVALUATING THE CANADIAN RESPONSE TO BSE

Before reviewing Canada's BSE policy it is necessary to clarify the concepts of intrusiveness and autonomy. Intrusiveness, the independent variable, focuses on the impact of international developments on the domestic policy space of states. In the case of BSE and Canada, it is important to determine if external events imposed Canadian policies, or if Ottawa successfully resisted, or reciprocally endorsed these options. Autonomy, on the other hand, is best understood when compared to independence and sovereignty. Ac-

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cording to Kim Nossal, "independence" is the "ability to be free from the control of others." In contrast, sovereignty focuses on the "juridical recognition" of states to control territory and exercise authority over citizens. Autonomy, however, is the "ability" to achieve specific preferences. Although all political communities pursue these goals, none are able to exercise complete autonomy consistently. Therefore, autonomy is reduced by material limitations, "or by the demands, actions, and constraints of others."[1] For the purpose of this study the autonomy of specific actors, the dependent variable, will be evaluated on a continuum ranging between minimal, partial, and substantive. It is important to remember, however, that questions of autonomy are also applicable to domestic actors within the state. If government or sectoral interests are relegated to process considerations, such as consultations, as opposed to directly contributing to policy outcomes, this suggests a minimal level of impact.

Unfortunately, the literature on Canada and the BSE crisis does not fully engage these measures of analysis. Amanda Whitfield, for example, analyzed Canadian and American responses to the outbreak of BSE in Britain during the 1990s and concluded that Ottawa failed to prioritize this issue, due to pressure from domestic industry.[2] From a historical perspective, Ian MacLachlan also examined the integration of Canada's cattle-beef "value added chain" from the late nineteenth to the twenty-first century.[3] Other contributions focused on the positive and negative implications of an integrated North American cattle and beef industry. Linda Young and John Marsh concluded that North American integration limited options for Canadian policy makers.[4] Kate O'Neill reinforced this point by highlighting Canada's asymmetrical market dependence on the US in this sector.[5] Alexander Moens, on the other hand, persuasively argued that the United States Department of Agriculture (USDA) played a critical role in restoring cross-border trade and confronting protectionist pressures in Congress by stressing scientific approaches and rationales.[6] Geoffrey Hale has also suggested that market realities facilitated pragmatic cooperation between Canadian and American officials seeking harmonized North American science-based rules.[7] Finally, Robert Wolfe, who highlighted discussions between Canadian and American trade officials on this issue within the Appellate Body of the WTO, has emphasized transnational bureaucratic cooperation.[8]

III. INTERNATIONAL PRESSURES

International Markets: Mexico and Asia

External factors can be divided into global and regional trade considerations, the impact of the United States, and the role of specific international organizations. In terms of foreign trade, Canada exported $4.1 billion of beef annually prior to 2003 (15 per cent of the world market), which ranked it third overall, behind Australia (23 per cent) and the United States (16 per cent).[9] In fact, an average of 70 per cent of Canadian production in this sector was destined for foreign markets.[10] The Canada-United States Free Trade Agreement (FTA) and North American Free Trade Agreement (NAFTA) facilitated this outcome with the elimination of tariffs and quotas, as did the depressed Canadian dollar in the 1990s, geographic proximity, and increased demand from American consumers.[11] Mexico was Canada's second ranked export market prior to 2003 and Canadian exports to Asia expanded from $261 million in 1990 to $2.2 billion in 2002.[12] When Canada and the United States announced their first cases of BSE, Asian governments terminated all imports. Exporters in Australia and New Zealand took advantage of this ban and increased beef exports to Japan by 170 per cent and 88 per cent respectively from 2003 to 2004.[13]

Canada faced significant barriers in its attempts to regain lost Asian markets. Ottawa had to address emerging competition from Mexico, Australia and New Zealand, but also low consumer confidence in food safety. In Japan, for example, the United States and Canada were forced to respond to the implementation of a universal testing policy, where all animals slaughtered for human consumption were tested for BSE. In April 2004, Washington convinced Japan to establish a Technical Working Group to discuss this issue. In September the Japanese Cabinet Office's Food Safety Commission rejected universal testing. The following month, Japan and the United States agreed to re-open access for American exports derived from cattle 21 months of age, which re-instated the eligibility of 94 per cent of American beef products. In return, the United States initiated its own rulemaking procedures to allow the importation of Japanese specialty Wgyu and Kobe beef. Washington further agreed to remove Specified Risk Material (SRM) from animals of all ages destined for slaughter. In December 2005, Japan restored imports of certain Canadian beef products derived from cattle 20 months and younger.[14]

South Korea, on the other hand, was more reluctant to negotiate a resumption of trade with North America. In fact, despite an agreement between South Korea and the United States in September 2006, shipments continued to be banned on the basis of technical standards. In Canada's case, South Korea refused to engage in any discussions until all Canadian beef from May 2003 shipments, which was being stored in quarantine, was removed. This demand was not fulfilled until the summer of 2004 and negotiations did not begin until 2005. Talks were suspended following Canada's fourth case of BSE discovered in January 2006. Based on these developments it is unlikely that South Korea will resume negotiations with Canada until all SRMs are removed from animal feed. China and Hong Kong have also called for the implementation of an enhanced SRM ban on animal feed before entering into negotiations with Canada.[15]

IV. THE UNITED STATES

Canada has an asymmetrical trade relationship with the United States in this sector. Specifically, the United States receives approximately 90 per cent of Canada's beef exports, and 99.6 per cent of all live cattle.[16] This total, however, represents only 10 per cent of all US beef imports, with the majority of purchases coming from Mexican, Japanese and South Korean markets. Canadian exports of live cattle exceeded one million animals in 2002, but this also totaled only three per cent of American slaughter capacity.[17] Despite these numbers, it is important to note the regional significance of Canadian exports of live cattle in northern US states, such as Utah, Washington, Minnesota, Michigan, and New Jersey. As a result, costs associated with the closing of the Canada-US border were significant for both countries. American exports dropped by 80 per cent in 2004, resulting in an estimated loss of $5 billion (US) between 2004 and 2005.[18] The closure of Canadian export markets equaled approximately $6-7 billion between 2003 and 2005.[19]

The economic consequences associated with the disruption of this highly integrated sector contributed to a transparent and cooperative relationship between government officials in both Canada and the United States.[20] In fact, the US Department of Agriculture played a key role in coordinating joint tele-news conferences, technical briefings and other forms of public updates. Not surprisingly, bureaucrats on both sides of the border had a common goal of normalizing trade as quickly as possible. The first tangible outcome was in August 2003, when the USDA announced the partial opening of the American border to Canadian boneless beef from cattle under 30 months. This commitment was significant given that 80 per cent of total beef exports to the US in 2002 consisted of beef from cattle under 30 months.[21] Mexico made the same announcement only three days later.

These developments are important because they represented the first time Washington opened its borders to beef imports from a non-BSE free country. This also indicated a clear commitment by the USDA to endorse science-based principles on the basis of "risk management" as opposed to "prevention." Specifically, the USDA was willing to accept some risk for restoring bilateral trade. In addition, the USDA was also hoping other states would adopt similar import standards in case a confirmed BSE case was discovered in the United States.[22] This risk management philosophy was further evident when the USDA announced additional proposals in October 2003. Under these new regulations "minimal risk regions" would be designated for non-BSE countries that had appropriate regulatory safeguards in place. These included surveillance levels that exceeded international guidelines, a ruminant-to-ruminant feed ban, and extensive epidemiological investigations and risk assessments. From these countries, a specified list of cattle and beef imports would be accepted.[23] Although the process to apply for minimal risk status was open to any country, Canada had an advantage due to the programs that already existed prior to the discovery of the first case of BSE.[24] These measures were scheduled to come into force in March 2005, but the situation became complicated when Canada announced another suspect case of BSE in December 2004. Despite this, the US Animal and Plant Health Inspection Service (APHIS) continued to endorse Canada's application as a minimal risk region.[25]

Other governments, however, did not endorse the USDA's risk-management approach. When the United States declared its own suspect case of BSE in a Holstein cow in Washington State in December 2003, dozens of importers announced a suspension of American shipments.[26] Within months, however, an international panel of scientific experts, the International Review Subcommittee (IRS), confirmed that the infected cow was actually indigenous to Alberta, born in April 1997. In its report, the committee encouraged an SRM ban extended to both human and animal food chains.[27] The report also stressed that these cases could not be considered specific to each country, but instead reflected an integrated North American production system. Washington adopted an SRM ban on human consumption prior to the IRS report, but it was reluctant to extend these provisions to animal feed. In fact, it was not until July 2004 that the US Food and Drug Administration (FDA) finally supported an SRM ban for animal feed. Due to increased costs, numerous American industry groups opposed this rule. Ultimately it was changed to a less comprehensive ban, calling for the removal of only brain and spinal cord materials.[28] According to a Canadian industry leader, this decision was endorsed by members of Congress due to budgetary pressures associated with subsidizing industry for added disposal costs.[29]

The evolving US position created tension between Washington and various interests within this sector of the US economy. Ultimately, it was R-CALF, a protectionist industry lobby representing American producers that symbolized these differences. For the most part, R-CALF's opposition to the USDA's evolving risk management approach was based on five specific points. First, R-CALF noted that the USDA failed to provide a quantitative definition of "minimal risk" to support its conclusion of a limited BSE threat. R-CALF also challenged USDA methodology in its calculations of BSE prevalence in Canada.[30] In addition, R-CALF considered Canada's ruminant-to-ruminant feed ban insufficient due to its focus on oral ingestion and not other transmission routes, such as blood and saliva. The USDA's support for the SRM feed ban was also rejected on the basis that removing infectious material from the human food chain at the time of slaughter did not result in a full elimination of risk. Finally, R-CALF called for the universal testing of all imported Canadian cattle, which was rejected by the USDA based on cost and the high rate of "false negative" results.

In January 2005, only a week after the USDA published its Final Notice designating Canada as a Minimal Risk Region (MMR), R-CALF launched a judicial challenge of US policies. This followed an earlier "Memorandum on Points and Authorities in Support of Plaintiffs Application for a Temporary Restraining Order and Preliminary Injunction" filed by R-CALF in May 2004. In its submissions, R-CALF argued that re-opening the border violated the Administrative Procedure Act (APA), the Regulatory Flexibility Act

(RFA), and the National Environmental Policy Act (NEPA).[31] Moreover, R-CALF re-stated its concerns with the USDA's science-based practices and cited its rulemaking procedure to be "arbitrary and capricious." With this reasoning, R-CALF pushed for an injunction, which would effectively keep the American borders closed to Canadian cattle and beef. On March 2, 2005, Judge Richard Cebull of the United States District Court for Montana granted R-CALF's request, issuing a preliminary injunction until the court had tried the case.

On March 17, 2005 the United States Department of Justice acted on behalf of the USDA and approached the United States Court of Appeals for the Ninth Circuit to appeal Judge Cebull's decision. Amicus curiae briefs supporting the government's position were also filed by numerous industry interests, including the American Farm Bureau, the National Cattlemen's Beef Association (NCBA), 29 state cattle organizations, and the National Pork Producers Council. According to these groups, the USDA appeal to overturn the preliminary injunction should be granted because the District Court for Montana "rejected the agency's explanation for its decision, disregarded the scientific evidence and expert opinion on which that decision was based and repeatedly substituted its judgment for that of the agency." [32] Tyson Foods also filed an amicus brief that cited the financial burden associated with a loss of maximum slaughter capacity due to an absence of Canadian cattle imports. In the process of the R-CALF challenge the United States also confirmed its first indigenous case of BSE in June 2005.

While the Ninth Circuit Court of Appeals initially stayed Judge Cebull's order, it issued a full reversal of the injunction in July 2005. Almost immediately, Canadian live cattle began crossing the border for processing. R-CALF responded by filing a petition for a rehearing to the Ninth Circuit Court in September 2005. This was followed by submissions of amicus briefs by R-CALF supporters, including the states of Montana, Connecticut, South Dakota, North Dakota, New Mexico, West Virginia, the Organization for Competitive Markets, Center for Food Safety, Community Nutrition Institute, Consumer Federation of America, Institute for Agriculture and Trade Policy and Public Citizen. In October 2005, the Ninth Circuit Court rejected this request. Opting out of pursuing an appeal process with the Supreme Court, R-CALF focused on attempts to secure a permanent injunction. Under the same court that granted the preliminary injunction, Judge Cebull denied R-CALF's request and issued a summary judgment in favor of the USDA in April 2006. Unrelenting, R-CALF appealed the District Court's decision to the US Court of Appeals for the Ninth Circuit in June 2006. At the time of this writing, the Ninth Court has not ruled on this motion. The USDA published its recommendations to normalize trade to pre-BSE levels for public comment in January 2007. Commonly referred to as the Second Rule, it expanded the list of cattle and beef products eligible for import from Canada to include livestock and derived products from animals over 30 months.

V. INTERNATIONAL ORGANIZATIONS

International organizations also had an impact on Canada's response to the BSE crisis. The World Trade Organization, for example, negotiates Tariff Rate Quota obligations with individual members. In this, Canada voluntarily accepts at least 76,409 tons of tariff-free beef annually under its TRQ limits.[33] This figure does not include shipments from the United States, and Mexico, which eliminated all import restrictions on red meat and livestock under NAFTA. Competitive beef exporters in New Zealand and Australia, therefore, are the main beneficiaries of Canadian TRQs. All beef imported above this level is assessed a 26.5 per cent import duty but additional TRQ certificates can be issued by the Department of Foreign Affairs and International Trade Canada (DFAIT). Supplemental TRQ certificates, however, cannot be issued if a firm is able to purchase the equivalent product from within Canada. Canadian companies successful in securing supplemental TRQ certificates often make the argument that imported beef, with its low price and lean quality, is needed to maintain a competitive advantage with the United States. These TRQ provisions created additional pressures on Canada during the BSE crisis. Although government officials had voluntarily negotiated these limits with the WTO prior to the closure of the US border, the domestic beef and cattle industry was forced to compete with TRQ imports that entered the Canadian market tariff-free. Not surprisingly, there was significant pressure on Ottawa to suspend supplemental TRQ certificates during this period.

In addition to TRQs, the WTO also provides mechanisms to safeguard food, animal, and plant safety through its Sanitary and Phytosanitary (SPS) Agreement. Through this, the WTO attempts to ensure that health and safety standards are maintained without evolving into unnecessary protectionist trade measures. To do so, the WTO employs the expertise of the OIE Terrestrial and Animal Health Code (the Code) in matters of animal health, the Food and Agriculture Organization (FAO)/World Health Organization (WHO) Codex Alimetarius Commission in matters of food safety, and the FAO's Secretariat of International Plant Protection Convention for plant health. In 1998, the WTO formally negotiated an agreement with the OIE to provide an annual set of scientifically based guidelines for SPS safeguards related to trade in animals (and animal products), consistent with principles of non-discrimination.[34]

A number of BSE cases in Europe served as a catalyst for the Joint Technical Consultation (JTC) on BSE held in Paris in June 2001. Hosted by the WHO, FAO and OIE, and attended by the WTO and European Commission (EC), the consultation addressed the issues of public health and trade as it related to BSE. The recommendations of the Technical Consultation yielded conclusions in four areas: risk categorization, SRMs, disease surveillance, and trade. First, in the specific area of risk categorization, there was strong support for the OIE to shift away from its five-category system (free, provisionally free, minimal risk, moderate risk and high risk). Second, the Joint Technical Consultation also endorsed an SRM ban for both the human food chain and animal feed. Finally, the JTC supported the idea of "partial" surveillance consisting of "appropriate tests on target populations, conducted regularly and on a sufficiently significant number of animals."[35] This ensured the ability to detect new infectivity and gauge disease prevalence. Additionally, the Committee stressed the need to monitor and develop mechanisms to ensure member countries' compliance of internationally accepted standards in surveillance and feed bans.[36]

Despite these efforts, verified cases of BSE in Canada and Japan in 2001 and 2003 pointed to ongoing problems related to trade restrictions masked under the guise of technical standards.[37] Of specific concern was the practice of imposing immediate trade bans on countries reporting cases of BSE without conducting recommended risk assessments. Not surprisingly, NAFTA signatories and the Quad Group (United States, Canada, New Zealand and Australia) openly challenged these practices. In April 2004 the OIE ad hoc group proposed a new three-category system of risk categorization. Category 1 represented countries with negligible BSE risk and no mitigating measures. Category 2 included any states with controlled or negligible BSE risk with appropriate mitigating measures. Category 3 represented undetermined risk, reserved for countries that failed to comply with either Category 1 or 2 requirements. This new system, agreed to in May 2005 and adopted in the 74th General Session held May 2006, revised the OIE Terrestrial Animal Health Code. The 2005 OIE General Session also deemed boneless beef derived from cattle under 30 months to be safe for trade from a country of any risk category, conditional on risk mitigation measures in place.[38]

After a year of review, the OIE Scientific Commission for Animal Diseases delivered the lists of Category 1 and 2 countries in May 2007. Both Canada and the United States were classified under Category 2. What is clear with this guideline is the OIE's commitment to "risk management" science-based strategies as opposed to "preventative" approaches. These new standards are designed to maintain public health and safety, but not at the expense of trade from countries with controlled BSE situations. By offering a less trade stringent policy to governments that report BSE outbreaks, the OIE hopes to reduce the reluctance of states to report the disease. The economic motives for this approach are also clear, as was Canada's role as a NAFTA signatory and member of the Quad Group, in the drafting of these scientific proposals. Furthermore, it is also important to remember that although the OIE is an important international standard setting body, its guidelines are considered "soft law" and non-binding. Governments, despite potential limitations on state autonomy, also enter into WTO standards voluntarily.

Having said that, the BSE crisis did highlight specific problems associated with dispute settlement mechanisms in international trade regimes such as the WTO and NAFTA. The greatest challenge was the lack of recourse for Canada to seek immediate relief from exports bans in the United States, Mexico and Asia. Another impediment for Canada was the excessive duration and cost associated with formal trade disputes. Panel rules also prevent complainants from seeking reimbursement for legal fees or relief for economic damages suffered during the length of a dispute. Ultimately, in terms of the United States, Canada did not initiate a formal NAFTA or WTO dispute process due to cross-border bureaucratic cooperation, and the likelihood that a political solution would come well before a panel decision. There is also the fact that in the past five years Ottawa has limited formal WTO trade disputes to sectors vital to Canada's regional political economy. Three of these targeted the United States: softwood lumber, hard red spring wheat, and agricultural subsidies. Others included European Genetically Modified Organisms (GMO's), Belgian and Dutch bans on seal products, and Chinese practices related to auto parts, intellectual property, and subsidies. The failure to initiate a WTO challenge regarding ongoing restrictions in South Korea was in part due to market realities regarding the relatively low level of beef exports to Canada and Canada's success in obtaining new markets in the post-BSE era.

VI. DOMESTIC CONSIDERATIONS - THE FEDERAL GOVERNMENT

The Prime Minister, Cabinet, and Parliament

The impact of the political executive in responding to the BSE crisis was limited to rhetoric and authorizing financial assistance proposed by the bureaucracy. Prime Minister Paul Martin headed a Liberal minority government in June 2004, and upon his succession, resolved to publicly call on President George Bush to end the BSE crisis.[39] Martin's public comments accused Washington of dragging out the dispute, despite the unprecedented effort put forth by the USDA on the BSE file. When the R-CALF case was launched, the Leader of the Opposition, Stephen Harper, urged Conservative Members of Parliament to file for intervener status on the case.[40] This went against the advice of litigators and the USDA, who officially opposed legislative participation, a position that was upheld by US courts. In both cases, it appeared that Martin and Harper were either unaware of, or willing to politically sacrifice, the close working relationship between Canadian and US bureaucrats.

The role of Parliament was also limited to two legislative committees: the House of Commons Standing Committee on Agriculture and Agri-Food, and the Standing Senate Committee on Agriculture and Forestry. In November 2003, the Agriculture and Agri-Food committee tabled its first report, which appeared to confirm a general level of disconnect between the legislative and bureaucratic branches of government.[41] Specifically, the Standing Committee unanimously agreed to intensify efforts to open export markets, only to discover later that trade missions by federal officials were already underway. Two additional House of Commons reports were published in April 2004 and November 2005.[42] These documents focused on reduced cattle prices for producers and on elevated retail costs for finished beef products. The Standing Senate Committee on Agriculture and Forestry, on the other hand, also tabled two reports in April 2004 and May 2005.[43] The first focused on the need for government assistance due to a concentrated, domestic meat packing industry and an asymmetrical dependence on the American market. The second report evaluated the progress of the government's Reposition Strategy announced in September 2004, specifically in terms of increasing domestic slaughter capacity. While these reports were informative, there is no evidence to suggest they had a tangible influence on specific policy outcomes.

VII. THE BUREAUCRACY - CFIA

Within the federal government, the bureaucracy was the key domestic actor influencing Canada's BSE position. The file was shared between the Canadian Food Inspection Agency, Agriculture and Agri-Food Canada, Health Canada, and Foreign Affairs and International Trade Canada. While working relationships between the departments were generally collegial, tensions were inevitable, given conflicting bureaucratic mandates. Health Canada focused on public health issues. DFAIT concentrated on the international trade implications of BSE, especially in terms of supplemental TRQs. The CFIA was responsible for technical epidemiological investigations and risk mitigation measures. AAFC, on the other hand, focused on trade promotion and domestic BSE support programs.[44] CFIA and AAFC also shared institutional linkages pre-dating the BSE crisis. During the 1990s, AAFC was responsible for both industry regulation and trade promotion. Attempts to manage these conflicting objectives resulted in the aggregation of all food regulation under CFIA in 1997, although this office continued to report directly to the Minister of AAFC.[45]

The Canadian bureaucracy first focused on BSE in response to the outbreak of the disease in the United Kingdom. In 1990, Canada initiated a complete ban on British cattle imports, which included restrictions for all countries with one or more reported cases of BSE. When Canada discovered an imported case of BSE in Alberta in 1993 all remaining British cattle were deported or killed, which one senior CFIA official labeled an "overreaction."[46] In terms of domestic measures, the Food Production and Inspection (FPI) branch of the AAFC, the precursor to CFIA, instituted a National BSE Surveillance Program in 1992, which targeted high-risk cattle displaying clinical signs of BSE for passive testing. Through this mechanism, the CFIA began to monitor the prevalence of the disease in the Canadian herd, which at the time was considered to be nonexistent. Enhanced through the years, Canada's surveillance levels exceeded annual target levels set by the OIE, with the exception of 1995.[47] In 1997, Canada also initiated a ruminant-to-ruminant ban based on WHO recommendations. In 2001, the Canadian Cattle Identification Program was created to trace individual cows as they moved through the value-chain. Therefore, long before Canada experienced its own BSE case it adopted an approach that was consistent with science-based measures only when it suited domestic goals and interests. For international imports, Ottawa endorsed a "preventative" approach, banning all trade with states with one or more cases of BSE. Within Canada, however, the emphasis was on a "risk-management" which required fewer financial resources and less testing.

Immediately following the confirmation of Canada's first homegrown case of BSE, the CFIA launched an intensive epidemiological investigation. In June 2003 Canada welcomed an external team of international experts under the leadership of Dr. Ulrich Kihm (former Chief Veterinary Officer of Switzerland with extensive experience conducting BSE reviews across Europe). In their final assessment, the external reviewers applauded Canada for its "comprehensive scope, level of analysis and thoroughness of the investigation."[48] Among the recommendations were an SRM ban on human consumption and animal feed, increased education for industry, and an adoption of consistent science-based import and export policies.[49] Following this, substantial technical changes were made to three regulatory areas: feed regulation, import standards, and surveillance.

In July 2003, AAFC Minister Lyle Vanclief announced an SRM ban for the human food chain that removed and prohibited the sale, import and export of SRM for use in food for human consumption. This regulatory amendment came into effect less than a month later and surpassed American standards, until the discovery of a BSE case in Washington State forced the US to take similar action.[50] The CFIA also announced its intention of adopting an SRM ban on animal feed in July 2004. These regulatory changes were not implemented until July 2007 due to extensive consultations with stakeholders. Business concerns focused on the costs and logistics related to the disposal of an estimated two million tons of SRMs per week.[51] Other participants noted that Canada was proposing a "full-list" of bans, while the United States maintained a "short-list." In December 2004, the CFIA recommended formal amendments to feed regulations and a "full-list" of bans was accepted in June 2006, with implementation due in July 2007. To assist industry with this transition, the federal government dedicated $80 million in funding.[52]

The confirmation of two Canadian BSE cases in January 2005, however, raised additional questions regarding Canada's 1997 ruminant-to-ruminant feed ban. In subsequent months, reports by the USDA and CFIA concluded that Canada's feed ban was robust and compliant. According to the Canadian review, 95 per cent of inspected feed mills and 93 per cent of inspected rendering plants demonstrated full compliance.[53] Where plants were not found to be 100 per cent compliant, violations were usually minor, related to issues such as unfulfilled documentation. In July 2005 the CFIA introduced additional monetary penalties for violations of the 1997 ruminant-to-ruminant feed ban and the 2003 SRM ban on human food products. Other enforcement mechanisms included "warnings, seizures of products, suspensions or cancellation of permits and prosecutions."[54]

In terms of import policies, Canada continued to maintain, rather hypocritically, one of the most restrictive BSE import policies in the world. Specifically, Ottawa continued to limit imports of live cattle and beef products from states determined to be BSE-free. The federal government maintained this stringent policy until the first American BSE case, when the CFIA exempted the US and allowed shipments of American beef products deemed risk-free to public health. These products included boneless beef from cattle aged 30 months or less, live cattle destined for immediate slaughter, and dairy products, semen, embryos and protein-free tallow. At the same time, Canada took precautionary measures to safeguard domestic public health by implementing a series of import restrictions consistent with Canada's August 2003 decision to remove SRMs from products intended for human consumption.[55]

In 2005 the CFIA finally updated its import policies, realigning them with the scientific standards outlined by the OIE. Initially, these new regulations were offered exclusively to the United States. In January 2005, the CFIA announced that Canada would accept live cattle imports from the US that were born after 1998 and beef products derived from cattle of any age, under the condition that SRMs were removed. This standard was consistent with harmonized North American import standards announced by NAFTA partners the same day. In May 2005, the CFIA extended these import policies to Canada's remaining trade partners. The Canadian approach was based on a three-tiered system with countries categorized as negligible BSE-risk, negligible BSE-risk with commodity specific mitigation measures, and undetermined BSE risk. These guidelines consolidated Canadian standards with existing international measures, and harmonized this country's import and export policies.[56]

In addition to feed bans and import policies the CFIA also altered its surveillance targets in May 2003, in response to Dr. Kilm's recommendations. In October 2003, an expansion of the National BSE Surveillance Program was announced, increasing annual testing levels to 8000 animals in 2004 and to at least 30,000 in each following year. In January 2004, $92.1 million was committed to a five-year initiative to enhance the National BSE Surveillance Program in terms of animal identification, tracking and tracing. The CFIA also allocated $4.1 million in funding to compensate farmers for costs of testing and disposal. By October 2004, Canada had already met its surveillance target of 8,600 animals. In 2005 Canada exceeded its new target of 30,000 by testing 32,362 cows by June of that year.[57]

Finally, it is important to identify the significant role played by the Chief Veterinary Officer (CVO) of the CFIA in the development of North American and OIE norms and standards. Dr. Brian Evans, CVO of Canada, participated in a series of meetings resulting in the publication of *A Report of the North American Chief Veterinary Officers on the Harmonization of a BSE Strategy*.[58] A set of minimum technical standards was established in this framework, which was consistent with OIE guidelines. As the chief delegate to the OIE, Evans also pushed the OIE to further develop global BSE regulations based on science, focusing on the simplification of the risk categorization system. This was furthered through membership in the informal Quad Group, comprised of the CVOs of Canada, the United States, Australia and New Zealand.[59]

VIII. AAFC

AAFC was responsible for responding to the loss of export markets related to BSE, which at its lowest point cost the cattle and beef industry approximately $11 million a day.[60] Unfortunately, the Net Income Stabilization Account (NISA) and Canadian Farm Income Program (CFIP), which safeguarded against income loss due to unpredictable factors such as weather and disease, had expired in March 2003. The replacement Canadian Agricultural Income Stabilization (CAIS) program was not scheduled to come online until June 2005. Therefore, when the BSE crisis hit, there was literally no mechanism in place to provide government funding. In June 2003, however, the BSE Recovery Program was created to offer $460 million in 60/40 cost-shared assistance to producers that sold cattle to processing plants at depressed prices. At the other end of the value-chain, the BSE Recovery Program provided processors with incentives to maximize storage, thereby increasing slaughter capacity for domestic red meats. A $36 million extension to the BSE Recovery Program was announced in August 2003.[61]

In September 2003, the Canadian processing industry welcomed news that the American and Mexican governments would accept boneless beef aged under 30 months. This decision, however, further depreciated the value of older cattle. To limit the improper disposal of these animals, which now represented little profit, Ottawa announced the Cull Animal Program in late November 2003, committing $120 million as the base funding for a 60/40 cost-shared program.[62] This assistance provided compensation for every older animal that was sold for slaughter. In addition, the Transitional Industry Support Program was announced in March 2004 to alleviate costs related to the ongoing closure of the Canada-US border.[63] The AAFC also created the Canadian Livestock Reposition Strategy in September 2004.[64] Of this, $66.2 million was dedicated to increasing Canadian slaughter capacity. In addition, the federal government injected $384.6 million to assist and sustain Canadian industry. In March 2005, AAFC announced additional financial assistance to support the value-added objectives of the Reposition Strategy. $17.1 million was designated to the Ruminant Loan Loss Reserve Program, which brought the total to $54.6 million in federal funding.[65]

AAFC was also responsible for international trade promotion to compensate for the loss of markets following the outbreak of BSE. In fact, efforts to expand export destinations were in place before the Reposition Strategy. The majority of this activity focused on Asia, especially after partial trade was resumed with Mexico and the United States. These missions included senior members of AAFC, as well as industry leaders from the CCA, the Canada Beef Export Federation (CBEF), and the Canadian Meat Council.[66] Because consumer confidence was low, these efforts focused on science-centric rationales to legitimize the safety of Canadian products. To this end, Ottawa placed a former CVO of Canada and President of the OIE, Dr. Norm Willis, in Tokyo in February 2004 to provide a Canadian, science-based perspective on technical matters, especially regarding Canada's surveillance system. As an extension of its Reposition Strategy, AAFC also pursued a second round of trade missions to South Korea, Japan, China and Hong Kong in September 2004. As the Japanese were engaged in simultaneous negotiations with the Americans on a resumption of trade, the Canadian delegation was able to secure an informal agreement that Japan would extend any settlement to include Canada.[67] Subsequent Chinese and Hong Kong delegations to Canada also toured Canadian facilities to observe industry standards. Shortly after these visits, Canada regained market access for its livestock genetic products in China and boneless beef under 30 months in Hong Kong. As noted earlier, Japan re-opened partial market access to North American beef products under 20 months in December 2005.

AAFC initiatives and technical discussions also secured smaller scale non-traditional markets for Canadian beef and cattle. By May 2005, Canada agreed to ship live cattle to Tunisia and Lebanon, in addition to partially resuming trade with 14 other countries. In July 2005, Canada was also able to partially restore trade with New Zealand, which was crucial for opening other markets. As a BSE-free country accepting beef from an infected country, New Zealand signaled confidence in Canadian safeguards.[68] In addition, Cuba re-opened Canadian beef imports from animals of any age in December 2005. Although Cuba represented only a $2.2 million export market, and obvious questions could be raised regarding the scale of trade with states such as Tunisia and Lebanon, the main priority for the AAFC was to expand the number of countries willing to import Canadian beef.

IX. DFAIT

Canada's WTO TRQ obligations did little to restrict Ottawa's ability to protect its cattle and beef industry from external competition. By the end of July 2003, annual imports of beef from WTO trade partners tariff-free had already exceeded its TRQ by 30 per cent.[69] Since Canada's annual TRQ had already been surpassed, Foreign Affairs and International Trade had the authority to approve supplemental TRQ applications. In an attempt to manage its own dire domestic situation, however, the department tightened the criteria for Canadian firms to meet before acquiring supplemental TRQs. The result was a 65 per cent decrease in 2004 (from the year previous) of imports from non-NAFTA members. It also contributed to a 92 per cent decrease (from the year previous) of TRQ imports from the United States. In April 2004, Foreign Affairs and International Trade relaxed its restrictions on the application of supplemental TRQs, despite opposition by some small packers and the CCA lobby. In reality, however, a very limited number of supplemental TRQs were issued and only two thirds of these were used in 2004.[70] This tends to suggest that this area of the bureaucracy continued to protect domestic beef products from foreign competition even under the guise of increasingly liberalized trade.

X. SECTORAL CONSIDERATIONS

The Canadian cattle and beef industry consists of an entire value-chain of sub-sectors worth billions of dollars. It begins on farms where ranchers breed calves to sell to feedlot operators at 6-12 months of age. Feedlot operators prepare cattle for slaughter, selling young cattle aged 18-24 months to processors at approximately double their arrival weight. After slaughter, packers sell their product to retailers, food service distributors, wholesalers, or to other value-added processors. Dairy and breeding herds, typically comprised of cattle over 30 months of age, are eventually sold to processors for lower-end products such as ground beef and stewing beef. Not surprisingly, the different segments of this value-chain have a range of divergent interests. These stakeholders are represented through four primary industry associations, the CCA, CMC, CBEF, and the Beef Value Chain Round Table (BVCRT).

XI. CCA

The CCA represents the interests of producers, acting as an umbrella organization for provincial cattlemen's associations and the Canadian Beef Breeds Council. As one of the chief agricultural lobbies in Canada, the CCA has extensive government access. During the BSE crisis, the CCA pushed for emergency financial assistance, restrictions of supplemental TRQ certificates, and the re-opening of the American border to live cattle. The CCA, however, was critical of the BSE Recovery Program when it was announced, noting that assistance was contingent on slaughter, which created challenges for producers without plants in close proximity to their cattle. The overproduction resulting from this program also created an abundance of supply, which further depressed cattle prices. Similar concerns were raised over the Cull Animal Program. The 2004 Transitional Industry Support Program was, in part, due to CCA complaints. In fact, the CCA was able to ensure that eligibility for this assistance would not be tied to slaughter.

At the international level, the CCA lobbied Washington, spending approximately $400,000 annually on advocacy and litigation. CCA representatives also met regularly with officials from the USDA, FDA, the White House, and Congressional agricultural committees. In addition, the CCA formed alliances with American industry groups, such as the United States NCBA. These transnational allies were well placed in the American political system to advocate interests that paralleled those of Canadian industry. In June 2003, for example, the CCA organized a letter-writing campaign urging the US and Mexican governments to resume trade with Canada. When the R-CALF case was launched, the CCA also worked with the NCBA, the National Meat Association (NMA), and the American Meat Institute (AMI), on applications for intervener status.[71] Ultimately, it is difficult to evaluate the actual impact of these industry initiatives. As noted earlier, these efforts did not deter Judge Cebull from initially granting a preliminary injunction. Regardless, approximately 50 American interest groups filed a joint amicus brief to the Ninth Circuit Court of Appeals in April 2005. Amicus briefs provided by the CCA and the ABP were also accepted by the Montana Court.[72]

Finally, the CCA pursued changes to international guidelines as another means of re-opening export markets. Specifically, the CCA supported the OIE's decision to endorse trade with BSE countries adopting appropriate mitigation procedures. From the CCA's perspective, however, the OIE was not placing enough pressure on member states to accept these "risk management" guidelines.[73] Once again, the CCA relied on transnational alliances to pursue this issue, and gained the support of delegates from Australia, New Zealand, Mexico, the United States and Canada at the Five Nations Beef Conference. More formally, the CCA found itself embedded in the Quad consultation processes of the OIE. In the first Quad meeting following the Canadian index case industry groups, including the CCA, were asked to comment on policy and discussion documents. In discussing this process, CCA officials spoke confidently about their impact, specifically pointing to the 2005 OIE code related to weakening restriction on boneless beef under 30 months.[74]

XII. CMC

The CMC is the consolidated voice for federally inspected meat packers and processors. Its members include large processing companies such as Cargill, Lakeside, Tyson, XL Foods, Better Beef and Levinoff Meat Products. The membership of the CMC comprises the fourth largest manufacturing industry in Canada, with over $15 billion in annual sales. Slaughter and processing plants under CMC membership were considered "ground zero" during the BSE crisis. As a result, the federal government relied on information from the CMC in its attempt to respond to market closures. This included consultation on extremely precise SRM disposal issues, such as procedures for trimming carcasses and the size of drain openings, as well as feed ban regulations and universal testing.[75] In fact, there were regular discussions between senior industry leaders and officials from a wide range of departments, such as the CFIA, AAFC, and Health Canada. These occurred at least five times a week for two years until the crisis stabilized. For the most part, CMC support for science-based practices was based on economic motives. As one CMC official noted, industry endorsement, dating back to the 1997 ruminant-to-ruminant ban, was little more than a marketing strategy to brand Canadian beef as superior to European imports. Given the impact of the BSE epizootic in Europe the Canadian beef industry actually pushed government officials to "take the feed ban further than necessary." [76]

In the aftermath of the BSE crisis the removal of SRM from the human food chain also garnered support from industry.[77] This was despite the need for significant structural changes to the packing industry.[78] The SRM ban on animal feed, however, incurred far greater debate. While industry leaders reluctantly endorsed the policy in 2006, there was increasing concern the ban moved Canada away from harmonized regulations with the United States. Industry representatives also questioned the cost of a comprehensive feed ban.[79] Universal testing was also an issue involving the CMC. According to one CMC official, the CFIA was pressured to follow Japan's universal testing regulations, particularly from Western cattle producers, who believed this practice would improve market access.[80] The CCA, on the other hand, rejected this position on the basis of additional costs and production time.[81] What is interesting is that both positions, although clearly on opposite sides of the "preventative" and "risk management" debate, based their conclusions on profit, as opposed to science-based motives.

As with the CCA, the CMC also attempted to develop alliances with American industry groups. In particular, the CMC was able to form a strong partnership with the AMI, which represented American companies that also owned the largest meat packing plants in Canada.[82] This relationship was in place prior to the BSE crisis. But in its aftermath there were obvious economic interests motivating the AMI to promote the restoration of market access. As a result, the AMI assisted the CMC in gaining institutional access to the United States government.[83]

XIII. CBEF and the BVCRT

CBEF's primary goal is to expand Canadian export markets outside the United States. This includes hosting VIP missions of foreign industry executives and developing consultative linkages on technical standards. By April 2004, CBEF was working closely with AAFC in an attempt to restore trade with Asian markets by welcoming delegations from Japan, China, Hong Kong, Taiwan and Korea. During this time, CBEF was also invited to participate in several AAFC trade missions to Asia and Mexico. As an extension of these efforts, CBEF approved an increase in its internal market development budget from $5.8 million to $9.2 million in 2005. This funding was designed to target exports to Mexico, Japan, South Korea, Taiwan, Hong Kong and China. A long-term market development strategy would follow for the European Union and Russia.[84]

The BVCRT, on the other hand, represented all sub-sectors of the beef value-chain and advised both industry and government on disaster relief and general policy. In June 2004, this group responded to ongoing border closures by calling for increased slaughter capacity as a short-term solution for depressed cattle prices. While packing firms had already increased production by 16 per cent in 2004 from pre-BSE levels, the beef sector was still projected to run an excess of 320,000 head of cattle that year. A month later, the CMC noted that its members were on pace to expand slaughter capacity by 20 per cent (from pre-BSE levels) by November 2004 and 24 per cent by 2006. In August and September 2004, CCA representatives met frequently with AAFC officials to discuss the BVCRT framework. On September 10, the federal government announced the Canadian Livestock Reposition Strategy, which was consistent with CCA and BVCRT priorities.[85]

As the weeks passed without progress on opening the border, however, industry and government officials began moving toward a sustainable industry, independent from American pressures. In fact, by the end of 2004, many of the major packers openly supported AAFC's proposed "made-in Canada" solution. Adequate domestic capacity to process all Canadian produced cattle finally came online in July 2005, just as the American border re-opened to live cattle under 30 months.[86] It is important to note, however, that not all sectoral interests supported this strategy. In a study prepared for the CCA, CMC and their US counterparts the NCBA and AMI, it was argued that a significant increase in slaughter capacity would create overcapacity in the integrated meat packing industry. As a solution, the report suggested closing non-competitive firms. Although this study was intended to caution American decision-makers regarding the negative consequences of closed borders, it also warned BVCRT members on the dangers of focusing solely on the option of a sustainable Canadian beef and cattle industry. [87]

XIV. ECONOMIC INTEGRATION, AUTONOMY, AND CANADA'S COMMITMENT TO SCIENCE-BASED NORMS AND STANDARDS

The first objective of this study was to evaluate Canada's capacity to respond to intrusive international pressures during the BSE crisis. In terms of economic considerations, this intrusiveness was most evident with the closure of the Canada-US border. In this case, Washington imposed the decision on Canada, which had limited options to appeal the decision under existing NAFTA or WTO dispute resolution processes. The fact that Canada shared a highly integrated beef and cattle industry with the United States also restricted Canada's capacity to respond, especially with a complete "made in Canada" solution. Having said that, this integration was at least partially reciprocal, and the result of earlier autonomous policy decisions by industry and the federal government to lower tariffs and quotas in both the FTA and NAFTA. WTO TRQ requirements had some impact on Canadian BSE policy, but Ottawa continued to limit supplemental permits after its decision to "liberalize" access in the post-BSE era. These TRQ commitments were also voluntarily entered into during WTO negotiations, in which Canada both reciprocally accepted and resisted international pressures. Finally, other international markets did not have a significant impact on Canada's response to the BSE crisis, despite attention from both industry and government. Specifically, Japan and Mexico restored trade in Canadian beef shortly after the re-opening of the US border. Although some Asian markets remained closed, these were offset by the emergence of other non-traditional markets, such as Cuba and Tunisia.

Regulatory factors also point to a limited intrusion into domestic policy space. While it is true that Canada adopted the 1997 ruminant-to-ruminant feed ban to better integrate North American trade in this sector, continental market realities did not dictate Canadian regulatory standards. In fact, there were several examples, such as the SRM ban on animal feed, where Canada was able to adopt regulations different than the United States. Canada incurred no economic or political penalties, in terms of trade restrictions or formal legal challenges prior to the BSE outbreak. The OIE Code and WTO SPS guidelines were also marginally intrusive. Specifically, these commitments were non-binding, without an applicable enforcement mechanism, and were once again voluntarily entered into by the federal government. As a member of the Quad, Canada was also part of the bloc of states that guided the direction of these negotiations. In addition, Ottawa had a tendency to openly defy OIE and SPS guidelines when they contradicted Canadian economic priorities. The most blatant example was Canada's adoption of a "risk-management" approach for domestic cattle and Canadian beef exports, while maintaining a "zero tolerance" import policy. Therefore, in terms of regulatory measures, Canada consistently resisted intrusive international pressures. In some cases a reciprocal relationship existed, but no more so than in other highly integrated sectors of the North American economy. The exception to this was the closure of the Canada-US border.

These conclusions are further reinforced when examining questions related to Canadian autonomy. First, it is clear that Ottawa had a greater role in drafting Canada's response to the BSE crisis than industry. This was evident with tangible policy outcomes and specific financial assistance programs. It is also clear, however, that there was a hierarchy of domestic government interests associated with BSE. The political executive, namely cabinet ministers, played an important role in consultation with industry and decisions to fund various assistance programs, but these officials demonstrated a willingness to marginalize cross-border BSE cooperation for political gain. Other elected parliamentary representatives were less consequential. House of Commons and Senate committees given the responsibility of studying the BSE issue, for example, had no apparent impact on Canadian policy, and at times appeared uninformed about international and domestic developments.

The bureaucracy, on the other hand, did have a significant influence on policy outcomes, with AAFC dominating the Canadian decision-making process. This control existed before the discovery of the index case in Alberta due to AAFC's use of financial subsidies to ensure economic or regulatory compliance. The CFIA, on the other hand, typically fulfilled its role as the regulatory arm of government, and tended to exert influence only when its policy positions coincided with those of AAFC. Although it is difficult to rank industry groups hierarchically due to different mandates, it is clear from this discussion that the CCA and CMC represented the major stakeholders in this issue area. The bureaucracy, therefore, sought consultation with these groups more than other industry interests. As this discussion suggests, however, "process" involvement does not always equal a tangible impact on policy outcomes.

Ranking the relevance of domestic actors does not provide a complete understanding of Canada's response to the BSE crisis. As noted earlier, autonomy is the ability to achieve specific policy preferences. In terms of regulatory standards, Canada was able to maintain partial to substantive autonomy in exercising BSE risk mitigation measures. This is supported by Ottawa's capacity to ignore most scientific recommendations before the discovery of the index case and its decision to dramatically shift this position post-BSE. After May 2003, for example, Canada supported the need to limit SRM's from the human food chain, endorsed previously marginalized surveillance and import standards, and assumed a leadership role for more stringent science-based guidelines. Once again, however, there was a direct correlation between domestic regulatory policy and commercial self-interest. Specifically, the catalyst for Canada's decision to "embrace" science was the economic crisis of BSE. As one senior government official noted, CFIA consistently argued for science-based measures well before the outbreak of BSE. Ultimately, however, AAFC refrained from adopting these standards due to budget priorities and its unwillingness to impact industry negatively.[88]

Canada also demonstrated substantive autonomy in relation to the Reposition Strategy, trade promotion efforts, the adoption of OIE guidelines, Canada's response to the R-CALF legal challenge, and BSE subsidy programs. These policies admittedly were the result of an international market crisis that temporarily suspended approximately $4.1 billion worth of exports, but these policy outcomes were definitively Canadian. The scale of support was arguably higher, but Ottawa's practice of subsidizing this sector predated the BSE crisis. Another example was Canada's approach to the SRM ban on animal feed. As noted, Ottawa accepted a "full-list" of bans as opposed to the US "short-list" policy. In fact, AAFC ensured the acceptance of this enhanced animal feed ban by Canadian industry, endorsed by the CFIA, with additional domestic subsidies. Therefore, Canada's BSE policy, shaped mostly by AAFC, was reactive to but not driven by international pressures. Scientific recommendations, however, were a secondary priority until they became dependent on restoring Canada's trade relations.

In terms of industry, it is clear that several groups, such as the CCA and CMC, articulated independent positions based on economic self-interest in consultations with government. In fact, in some cases, such as the R-CALF legal challenge, Canadian industry associations were successful in building transnational alliances with business groups in the United States. Although the majority of Ottawa's BSE policies supported industry, such as the BSE Recovery Program, the Cull Animal Program, and the Transnational

Industry Support Program, it is not clear this was a direct response to pressures from these organizations. In fact, the federal government was clearly focused on re-establishing cross-border trade and would have pursued these initiatives regardless of industry lobbying. It must be remembered that "change" does not occur if actors endorse already existing policy priorities. In addition, there are other examples where government actions contradicted some segments of industry, most notably in the failure to release supplemental TRQ's for selected Canadian processors.

The last domestic factor to consider is Canada's commitment to science-based initiatives. Throughout this discussion questions were raised regarding Ottawa's willingness to accept public and animal health measures in the cattle and beef industry. For the most part, Canada has adopted a "risk-management" strategy in this policy area, with the exception of its historic approach to imports. In fact, following the discovery of BSE in Canada, Ottawa adopted feed bans consistent with scientific recommendations, albeit with some delay. Canada's risk-management approach is admittedly the result of financial concerns, especially in terms of integrating the Canada-US market and expanding export trade to other destinations, but there is now a harmonized North American BSE Strategy, consistent with OIE standards. While these initiatives are not "preventative" it is generally accepted by the CFIA and OIE that the scientific rationale for universal testing and other surveillance measures is not necessary to ensure the safety of Canadian beef.

Finally, Canada's autonomy is also demonstrated by its contribution to the development of international norms and standards. Ottawa, together with its NAFTA partners and members of the Quad Group, encouraged the OIE to simplify its risk categorization system. Canadian industry also addressed similar issues within the OIE framework by commenting on discussion papers and forming transnational alliances within the Quad Group. Industry delegates to the Five Nations Beef Conference (attended by members of the Quad Group and Mexico) also lobbied the OIE. Although it is not possible to directly attribute changes solely to Canadian efforts it is clear that the federal government and Canadian industry did have an impact within the OIE. It began with the establishment of an OIE ad hoc group to study this issue in April 2004. Canada and its allies also successfully promoted this agenda at the OIE General Session in May 2005, which adopted a simplified risk categorization system and an updated policy on boneless beef under 30 months. These OIE proposals were formally adopted in May 2006.

Canadian influence is also evident in efforts to reverse the closure of the US border following the discovery of BSE. In this case, the close working relationship between bureaucrats within CFIA, AAFC and their American counterparts contributed to the re-opening of US and Mexican markets for boneless beef under 30 months in September 2003. Although these developments were delayed until 2005 by the discovery of an American BSE case and the R-CALF legal challenge, it does not diminish the significant role played by Canadian bureaucrats in the settlement of this dispute. In addition, it is important to highlight similar efforts by Canadian industry to solve these problems. In fact, both the CCA and CMC formed alliances with influential American industry groups, which lobbied the US government for the normalization of trade in beef. Most of this cooperation was based on the dependence of specific US producers on Canadian live cattle imports. A prolonged closure of the Canada-US border meant a decline in profit margins for a number of American processing plants. Thus, it is not surprising that when the R-CALF case was launched, both Canadian and American industry groups intervened in the judicial process in favor of the USDA's position. The strong push to resolve the border issue also contributed to the evolution of a harmonized North American BSE strategy, based on OIE standards.

Canada's attempts to re-open markets in the aftermath of the BSE crisis also had implications for international norms and standards. By the end of 2005, Canada had restored total beef and veal exports to 458,377 tons (worth \$1.9 million) compared to 521,457 tons (valued at \$2.2 million) in 2002. As of May 2006, Canada had also regained access to five of its historic top ten beef export markets, with closures remaining in South Korea, China, Taiwan, Russia and Saudi Arabia. Two of the most important markets were Japan and New Zealand. The Japanese case was crucial because it reflected Japan's willingness, at the urging of Canada and its allies, to readdress its policy of universal BSE testing. Restoring trade with New Zealand, a BSE-free country, reinforced new OIE risk management standards, which further instilled confidence in Canadian safeguards.

In evaluating Canada's ability to shape international norms and standards, however, it is important to consider two obvious realities. First, the development of guidelines in this area of policy was tied directly to economic self-interest. Although the CFIA promoted science-based policies for over a decade, it took the BSE crisis, and previous efforts to promote North American integration, to place these issues at the forefront of the Canadian policy agenda. Although Canada was engaged in the negotiation of these issues prior to the outbreak of its indigenous BSE case, efforts by government officials were enhanced in 2003. Second, it would be a mistake to attribute these international developments to Canadian actions directly. The fact is that Ottawa did not pursue these initiatives independently, but through alliance building in the Quad, NAFTA, and OIE. Similar efforts to build transnational coalitions were also undertaken by Canadian industry. Obviously, Canada exerted influence within these cooperative frameworks, but its role as a facilitator for specific outcomes must be kept in perspective.

XV. CONCLUSION

Although international pressures played a role in Ottawa's response to the BSE crisis, they did not significantly limit Canadian autonomy, with the exception of the closure of the Canada-US border. Therefore, economic and political linkages with the United States had the greatest impact on domestic policy space, although other international organizations, such as the OIE and WTO, served as secondary influences. Despite this, Canada's capacity to exert partial or substantive autonomy was evident with federal BSE subsidy programs, Ottawa's response to the R-CALF legal challenge, and the government's regulation of the cattle industry, especially in terms of SRM bans on the human food chain and animal feed. Canada's restrictive import policy for other BSE states, its selective adoption of OIE guidelines, and its ability to protect domestic priorities during WTO SPS and TRQ negotiations reinforce this conclusion. In order to fully understand Canada's ability to respond to BSE, however, it is imperative to examine the impact of domestic actors. Within the bureaucracy, AAFC, and to a lesser degree the CFIA, dominated the policy process and ultimately served as a catalyst for Canadian objectives at the international level. Somewhat surprisingly, however, the role of industry was less significant, despite the extensive efforts of organizations such as the CCA and CMC. Ultimately, Canada has historically responded with BSE policies consistent with science-based rationales, although its commitment to these principles is often tied to economic considerations. In the process, however, Canada has also contributed to the emergence of international science-based norms and standards, usually in conjunction with officials from both Mexican and American governments.

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