VALUE ADDED PRODUCTION
SELLING A READY-TO-EAT MEAL IN EUROPE
March 16, 2005

The following article is general in nature and not intended to be relied on for specific problems. For specific problems, the reader is advised to contact an attorney or the author, Lynne R. Ostfeld, P.C., 300 N. State St., Suite 5405, Chicago, IL 60654; fax: (312) 645-1515; e-mail: ***ostfeld@ostfeldlaw.com***

More and more members of the Illinois agricultural community are seeking to expand their business by moving into the value-added agricultural market. Their aim is to use and sell Illinois products, which they can grow, but in a form which will bring a higher price than they can get on the raw product.

This memorandum is the result of a project in an international agri-business law class at the John Marshall Law School (Chicago) to look at the possibility of promoting Illinois products in a ready to eat meal to be sold in the European Union. A visit to the SIAL (Salon International d'Agro-Alimentaire) in Paris, France, in 2004 showed that many non-American companies are capitalizing on an image of America to sell their products, whether it be popcorn in containers with a fanciful Uncle Sam logo or barbecue pork wrapped in packaging with an Old West design. Why not real Americans selling real American produce?

This memorandum is written for the producer/seller while trying to accommodate his or her attorney through inclusion of extensive references and citations at the back of the memorandum.

The product which is the subject of this memorandum is a micro-wavable ready-to-eat meal consisting of pork ribs, an ear of buttered corn, and candied yams. The target market is the European Union. As you will soon note, selling this particular meal in the European Union will require significant outlays of capital, both human and financial. An extensive amount of compliance is required, as well as close and constant work with the Food and Inspection Service of the United States Department of Agriculture.

I. European Union Description

There are currently 25 countries, referred to as "member states" of the European Union (EU). Attached hereto as **Exhibit A** is a complete list of the EU member states. In addition, four more countries have applied to join, and are widely referred to as the "Applicant Countries." Two of these countries, Bulgaria and Romania, are scheduled to join on January 1, 2007. When these two nations come on board in 2007, the EU will have a population of nearly half a billion. That's not a market to ignore! Turkey and Croatia have also applied to join the European Union, but are having a number of

problems with their applications, for political and other reasons.

Finally, several other European countries, though not EU members, may come under EU rules for certain food-related trade purposes. They are listed on **Exhibit B** with a brief explanation.

Much of the European legislation regarding food and the import/export of food and food products is issued under a legal form called a “directive.” When issuing a directive, the European commission tells the member states (the European Union countries) what needs to be done, but allows each country to work within its own legal system to achieve the legal aim or aims set forth. Therefore, when discussing the European labeling requirements issued under directives, you can be certain that the legal requirements will be the same throughout the entire union. At the same time, you will have to check the specific labeling and import regulations of each member state in order to verify the exact administrative procedures, and the names of particular agencies involved in each country.

The United States Department of Agriculture has a special office dedicated exclusively to exporting to the European Union: The Foreign Agricultural Service U.S. Mission to the European Union (FAS). One of the many detailed and valuable resources the FAS website offers is a site dedicated exclusively to reports on Food and Agricultural Import Regulations and Standards, called “FAIRS Reports.” Each FAIRS Report provides “a detailed overview of labeling and import requirements for food and agricultural products, food legislation and standards” on a per-country basis.

Although all European countries have had to implement legislation or regulations that comply with the labeling standards as well as the meat certification rules discussed herein, some may have a temporary waiver of or certain exemptions from particular rules. Once a product enters the European market, it continues to travel throughout the rest of the EU countries without incurring further duties. In this sense, the EU is a “single market.” Nonetheless, inspection fees, registration fees, and time required to evaluate information on products used in the course of food production, for example, vary significantly amongst the various EU member states.

The FAS Mission to the EU also provides an “Exporter’s Guide” for each EU country at its website. These excellent business guides describe “national economic situations, market structures and trends, key players involved in export expansion, exporter tips and best high-value prospects.” It may surprise you to learn that Greece is a country highly dependent upon agricultural imports. It spent $127.5 million in 2003 on agricultural imports. Moreover, like the rest of Europe, its population is increasingly busier and more educated. Greeks have and are expected to continue having more disposable income and less time for home-prepared meals.

Don’t make any assumptions based on “regions!” Whereas Sweden and Finland present strong opportunities for international and ethnic cuisines, and show a distinct interest in regional dishes of the United States, Denmark shows no such interest. In Denmark, for example, 25% of products sold in supermarkets are imported. Nonetheless, US market share of these imports is only 3%. At present, Danes look to the United States mainly for shelf-stable canned or dried food products.

Finally, each Exporter’s Guide, also called an FAS Attaché Report, includes a useful chart of the “pros and cons” of the food market in the country under discussion. Please note that consumers in the eighteen countries checked by these authors were all resistant to GMO-based products. This is so even in Britain, which in nearly all other ways mirrors consumer trends of the U.S., and also has a strong and growing market in international flavors and convenience foods.The European Food Commissioner has blamed the European media for contributing to an anti-scientific attitude that one might call “GMO hysteria.” Other parties argue that the Commission and the powers of the Common Agricultural Policy are to blame, and that they have a strong protectionist interest in this GMO angst. Whatever your political opinion, you need to consider this widespread apprehension while you make marketing plans and business decisions.<

II. Labeling and Traceability Overview

General labeling requirements include a “quantitative ingredients declaration” as well as a statement of the weight of the packaged meal set forth in metric units (grams/ kilograms).

Specific labeling requirements apply to all ingredients containing genetically modified organisms.This will apply to your ears of corn, more likely than not. Fortunately, you will not have to indicate whether the hogs were given genetically-modified feed.Please note that your GMO products must first be EU authorized and approved before you can contemplate exporting them to the European Union.The labeling requirements then apply to the *authorized* GMO products.

Mandatory traceability is required of all ingredients in the food chain of items sold to consumers. European law defines *traceability* as “the ability to trace and follow a food, feed, food-producing animal or substance intended to be, or expected to be incorporated into a food or feed, through all stages of production, processing and distribution.”This means that you will have to keep detailed records of every transaction, as explained below. Copious, systemic record keeping is required for *all* products, not just pork and GM products.

The mandatory traceability law enters into force on January 1, 2005 and applies to foods manufactured within the EU as well as to imported food.This requirement is an outgrowth of the mandatory recall provisions of the General Food Law of the European

Union.You need to keep in mind that the European Union has invoked factors other than science and food safety in promulgating these laws. Unless and until the United States, Canada and Argentina are able to successfully challenge these rules before the WTO, you need to pay close attention to the letter of the law. Do not rely on logic derived from scientific truths – it will not help you, and could work to your detriment.

A. *Product Labeling: General Provisions*

You will be required to state the name under which the product is sold. You will have to list your product's ingredients in descending order of weight.Ingredients include "any substance, including additives, used in the manufacture or preparation of a foodstuff and still present in the finished product, even if in altered form."Two kinds of additives are exempt from the listing requirement: additives contained in the meal only because they were contained in one or more of the component ingredients, provided that they serve no technological function in the finished product; and additives used as processing aids.Whereas the actual ingredients in the butter on the corn should not have to be listed, you will have to list the component ingredients of the barbeque sauce and the candied yams on the product label. GMO-related information is explained in the next section.

You will be required to state the actual metric weight, (expressed in grams or kilograms) of the pork ribs contained in the dinner. If you emphasize any other ingredients, either in a picture on the label (e.g. the candied yams) or with words (e.g. "with real butter"), you will also have to state the actual quantity or weight of these *emphasized* ingredients contained in each package.

In addition to stating the quantity of the main ingredient as well as any emphasized ingredients, you must also state the net metric weight of the entire packaged meal.

You have to state the date of minimum durability of the product as well.You must use prescribed wording to do so. "*Best before*" plus an indication of the day, month and year must appear on the label. If the product has a shelf life of fewer than three months, it is enough to state the day and month, without indicating the year.Any necessary storage conditions [such as the need to keep frozen] must also be indicated on the label.

Be careful with the words you choose to promote your product, whether on the label, or eventually, through advertising. Promoting your items as "all American" or "regional American" presents no legal problems and would seemingly have marketing appeal in certain countries as mentioned above. You want to stay away from any wording that can be construed as a "health" claim, however.

In France, for example, the threshold question for any product (domestic or foreign) is to determine whether it meets the legal definition of “foodstuff” or “medicine.”Construct your marketing and advertising claims carefully to avoid having your product categorized as medicine and possibly being prosecuted for “illegal practice of pharmacy.”Even if your marketing claims allow you into the “foodstuff” category, your next test will be whether your meal is intended for “particular” or “ordinary” use. Products for “particular nutritional uses” are put through a series of tests that you neither want nor need.For this reason, without asserting any expertise in the field of marketing or advertising, we simply advise you to stay away from any “health” oriented wording or expressions in your labeling or advertising promotions.

Finally, there are language requirements. You must list your ingredients “in a language easily understood by the consumer.”In Belgium, for example, language issues are very sensitive. You should include a list of ingredients in both Dutch and French if exporting there. In addition, many manufacturers also include a German translation in deference to a small, German-speaking region of the country.By including all three of these languages on your label you will also be able to market to the Netherlands, Luxembourg, France, Germany and Austria. Because many European Union countries have more than one official language, often along side other “unofficial” languages such as German in Belgium, it is best to work with your importer to determine which languages will have to appear on the label according to your target countries.

B. *Specific Labeling Requirements*

You will have to add a label to each package stating: “This product contains genetically modified organisms.” There is no way around this due to the corn.The tomatoes in the barbeque sauce, as well as soy sauce, if an ingredient, might also give rise to this labeling requirement, although you need not include any more than one label with this GMO blanket statement. The only exception to this requirement is where the entire product contains no more than 0.9% genetically modified ingredients and the GMO presence is adventitious or technically unavoidable. In practice, even if using GMO-free corn, you may have to add a label stating that your sweet corn is GMO-free, and that occasionally trace elements show up. There is no way around this if there is any possibility that the corn tests as being GMO.

In addition to the general GMO advisory or warning placed on the package, you will also have to indicate, on a per-ingredient basis, in the ingredient section of the package, any specific ingredients containing GMOs. The words “*genetically modified*” or “*produced from genetically modified + name of ingredient”* must appear, in parentheses, immediately following each of the relevant ingredients. Thus far, only three types of GMO corn intended for human consumption have been approved in the European Union: Syngentis Bt 11 sweet corn; Monsanto’s Roundup Ready Corn NK603; and Biotech Maize 1507, “jointly developed by Pioneer Hi-Bred International,

Inc., (a DuPont subsidiary), and by Mycogen Seeds, (a Dow AgroSciences subsidiary). As of this writing, Biotech Maize 1507 has been approved by the GMO Scientific Panel of the European Food Safety Authority (EFSA), but has not yet received the requisite legislative approval of the European Commission. Therefore, be sure to check the status of Biotech Maize 1507 before including it in your product. In summary, these are the only three brands you can use in your product unless you grow or purchase corn that is GMO-free.

You will need to use the exact labeling language provided by the Commission in its approval document. In the case of Syngentis, the labeling language required under European law is "*genetically modified sweet maize*."The official Commission decision [similar to a private letter ruling] has not been issued for Monsanto as of this writing. When it is, it will contain the exact labeling words required for the Monsanto corn. Maize 1507, which was approved on March 4, 2005, will also have to go through the legislative approval procedure that will prescribe the labeling language for this particular corn.

Finally, you have the option of indicating the GMO quality of or modification to any ingredient in a footnote, rather than in parentheses, but the footnote must be of the same font size as the label itself.

C. *Traceability Requirements*

Businesses must be able to identify their immediate supplier as well as their subsequent recipient. You need to have systems and procedures in place for this identification trail, referred to as traceability.You are required to establish and maintain traceability systems and procedures for all transactions, not just for transactions related to GMO ingredients.

For each transaction involving products consisting of or containing GMOs, you will need to receive [if purchasing], or provide [if selling] a written document which (i) states that the product contains or consists of GMOs; and (ii) provides the unique identifying code assigned by the EU Commission to that particular GMO.You must retain this information for five years. European law is silent as to the time for keeping records of non-GMO transactions. Your best bet is to stick with five years on those as well. Monsanto or Syngentis, and eventually Pioneer/Mycogen will provide you with the identifying code for their corn. If any other products, such as the tomatoes, contain GMOs that have not been approved by the EU Commission, you will not be able to use them.

The EU laws on traceability are uniform throughout the European Union.Unlike the import/export laws, there are no country-level exemptions or waivers. Although the EU's legal requirements are limited to those set forth in the preceding paragraph, you

may encounter more detailed business obligations regarding your traceability systems and procedures. EU importers are pressuring exporters to apply bar code systems that are identical to or compatible with the EAN 128 (European Article Numbering) commonly used in the EU for traceability purposes. Investing in such a system is a business decision, however.

Finally, you should know that applying for GMO approval and/or unique identifying codes are costly and complicated procedures.

III. License and Certification

Agricultural Products Exporters do not normally need an export license. Food products of animal origin can only enter the EU if they come from an approved establishment in the country of origin, however. Therefore, you will need to become an approved establishment before you will be allowed to sell your meal in the EU.

A. *Pork*

The Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture has developed a Program for Certifying Pork Intended for Export to the European Union (PFEU).

You will be working closely with the FSIS because it must certify to the EU that it has effective control on *all phases* of pork production, from growing the animals, to slaughtering them as well as cutting and storing them.An overriding rule for all pork exported to the European Union is that the hogs must never have been treated with hormonal growth products. Do not use ractopamine (Paylean ™) in your swine feed, or you will not be able to export your pork to the European Union.

“Any pork intended for export to the European Union must be produced under a *documented* control system that will provide assurances that ractopamine has not been fed to the animal.” The FSIS must obtain, maintain and provide written assurances to the EU regulators regarding all levels of production control: in feed mills; prior to finishing; in finishing operations; and in slaughter establishments. You will have to have your control programs approved by FSIS *prior to feeding your hogs* if you hope to produce, slaughter and ship them to the EU.The FSIS will work with you regarding all details, but you need to keep in mind that absolutely *everything* you do, all records of feed purchased and administered, must be put into writing. You will need to get used to requesting and producing sworn affidavits because they are required from each production segment in the chain, all of whom must attest to the non-hormone treatment of animals identified on the affidavit.

If you are planning to slaughter the hogs yourself, you will need to notify the FSIS in writing and get their EU production approval before proceeding. “All hogs must be slaughtered in a federally inspected slaughter establishment *approved for export to the EU*.” Extensive written documentation is required at every stage and from all individuals with responsibilities in the slaughter process. There is an extra legal obligation, or procedure necessary if you plan to slaughter your hogs yourself. “In addition to the audited documented system requirements (set forth above) all slaughter establishments approved for export of meat and/or offals to the EU are required to participate in the EU Additional Residue Testing Program.”This program involves sample collecting and analysis to check for the presence of residues.The EU mandates it, and the FSIS administers it.Industry pays to have the monitoring samples tested in independent laboratories that participate in the Agricultural Marketing Service’s European Meat Export Laboratory Program.

Because this export product is intended to make some “extra” money, and does not constitute your entire business, you may not want to deprive all your hogs of FDA approved swine feed. You are allowed to separate out a certain EU-destined group. As long as you comply with the FSIS procedures “for maintaining identity of and segregating hogs, as well as the controls necessary to prevent the administration of restricted compounds (ractopamine) to each group of animals,” you can do so. You will need to keep copious records, including a written, pre-approved plan of the frequencies for monitoring and verifying your controls, as well as preventative and corrective measures in response to any deviations. You must allow both FSIS inspectors and outside auditors to approve your operations and inspect your procedures at any time.

Moreover, if you have employees, you will need to provide an educational program, documented in writing, that teaches them among other things, animal identification procedures, segregation procedures, and ineligible compounds. This training component is required of any individual or group involved with any stage of pork production for the EU. You will need to keep records demonstrating that your suppliers not only know that you have an employee educational program in place, but that they are also familiar with the content of that program. You will also have to keep records of all persons trained and the scope of the training received.

In addition, if you intend to slaughter the hogs yourselves, you will be required to create and maintain an employee training manual as part of a larger written program manual, all of which must meet the exact requirements mandated by the EU and administered by the FSIS. If all these slaughter house rules sound like more than you bargained for, see **Exhibit D** to this memorandum for information regarding EU approved slaughterhouses.

B. *Side Dishes and Sauces*

Corn and yams are the proposed vegetable dishes. Tomatoes are the third vegetable item for consideration as an ingredient in the barbeque sauce for the ribs. The critical issue for the vegetables has been GMO content. Due to “the breakdown in the EU’s approval process for products made from modern biotechnology,” the USDA’s Foreign Agricultural Service U.S. Mission to the European Union reports that “food processors and exporters are either reformulating or seeking non-biotech sources.”

As this letter goes to press, the EFSA’s GMO Scientific Panel has announced its findings that Biotech Maize 1507, “jointly developed by Pioneer Hi-Bred International, Inc., (a DuPont subsidiary), and by Mycogen Seeds, (a Dow AgroSciences subsidiary)” has been approved for import into the European Union. In its report dated March 4, 2005, entitled *Opinion of the GMO Panel on an Application (reference EFSA-GMO-NL-2004-02) for the Placing on the Market of Insect-Tolerant, Genetically Modified Maize 1507, for Food Use, under Regulation (EC) No 1829/2003 from Pioneer Hi-Bred International/Mycogen Seeds,* the Panel found that “1507 maize will not have an averse effect on human and animal health or the environment in the context of its proposed use.” Furthermore, the Panel stated: “No data has emerged to indicate that maize line 1507 is any less safe than its non-GM comparators.”

This finding is excellent news for Illinois corn growers in the mid- and long-terms. For the present, to sell in the EU, you will need to offer Europeans vegetables without GMO or other biotech components. Austria, France, Germany, Italy, Greece and Luxembourg have all banned the marketing of biotechnology even though the EU’s Scientific Commission has not found any justification for the bans. Moreover, as of March 15, 2005, the European Commission has done nothing to overturn the bans. As of the same date, all corn exports to Spain, Italy and Portugal, the most significant EU importers of corn, have stopped.Undoubtedly, pursuant to the March 4, 2005 finding of the EFSA Scientific Panel, these laws will be revised and the public will change its perception of GMO corn. In the short-term, however, non-GMO corn is most likely your best bet. Check the FAIRS reports referenced in Section I of this memorandum to determine consumer acceptance of GMO corn as more and more brands are approved.

Whereas tomatoes are readily available in Illinois, you may have to seek yams in California, Florida, or other states with tropical climate. Should you need to import yams, try to buy them first from Puerto Rico. This is because Puerto Rico is within the “U.S. Customs Territory,” meaning there is no duty on Puerto Rico’s agricultural products. Other U.S. territories, such as Guam, may benefit from reduced duties, but only Puerto Rican yams will come in absolutely duty free.

The butter for your corn and candied yams will have to be purchased from an EU approved importer, which should not prove difficult. In the EU, butter is categorized under and falls within the regulations concerning “Milk and Milk Products.” There are 17 approved Importers of Milk and Milk Based Products in the State of Illinois as of this

writing. You will find a list of them attached to this memorandum as **Exhibit C**.

Sugar, of course, is an ingredient in both the barbecue sauce and the candied yams. Importing sugar is legally complicated and affected by political changes on an annual basis. Rather than importing, if you are not able to find sufficient sugar sources in Illinois at the start of this business, you might consider either buying sugar from other US sugar-producing states, such as Louisiana, or purchasing a prepared barbeque sauce from an EU-approved producer in Illinois until you are able to obtain sufficient in-state sugar sources. See also **Exhibit C**.

IV. Packaging

If you find you need to import non-agricultural materials such as packaging, you will need to consider tariff rates to bring the packing goods in. Other considerations include the country of origin of the packaging. If it is an Islamic state, you will need to know whether you can use that packaging material for pork. The Saudis, for example, are trying to slowly diversify by selling styrofoam containers, which are made of petroleum products.

Saudi Arabia is a theocratic state whose legal system is based on Islamic law.The Qur'an is much more than a moral code or a set of norms governing dietary rules, however. The Qur'an is also their source of law governing usury, taxes, property, inheritance, and commercial transactions. Moslems are forbidden not only from consuming pork but also from engaging in the trade of pork.Exporting Styrofoam packaging for the purpose of placing pork inside it would constitute engaging in the trade of pork under the Saudi legal system and violate Shari'a law.

We are not aware, at this time, whether other Arab and Islamic countries who do not practice Shari'a as their civil law would enter into a contract for the sale of Styrofoam or other packaging to be used in the trade of pork. You and your attorney should know, however, that it is a question for consideration. This is particularly important as the United States expands its free trade agreement regime with Islamic states and kingdoms. On October 24, 2000, the U.S. signed a Free Trade Agreement with Jordan, its first with an Arab state.On June 15, 2004, we entered into a Free Trade Agreement with Morocco, which, like Jordan, is both an Arab and Islamic state. The primary purpose of a free trade agreement, of course, is to reduce or eliminate duties on goods traded between the parties, thereby reducing your costs.

V. Protecting Your Brand Name

"A trademark is a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of goods [your

company] from those of all others." "In short, a trademark is a brand name." It tells the consumer who you are and how to remember your product.

A trademark, or brand name, may consist of a word or group of words, whether taken from the language or created for that purpose. Words that are taken from the language cannot be registered as trademarks if they specifically refer to the function of the product or whenever they are considered to be the generic description of the product. A trademark may also consist of a logo, a slogan, a combination of colors, among others. Trademarks may not be deceptive or misleading as to the nature or the product sold under the mark, its characteristics or properties. Because your customers will know your product by its name, and by any logo or package design you create, it is critical that you protect them. This goes far beyond any concept of "advertising." Instead, it is the goodwill of the European consumer toward your product, symbolized by its name and its identifying marks, which you must protect.

Your trademark is also an asset, that is, a valuable piece of property owned by and recorded on the books of your company. Like patents and copyrights, trademarks form part of a company's "intellectual" property, and are booked under its intangible assets. As property, they require protection. Intellectual Property issues, and particularly those related to trademarks, therefore, must be considered when deciding upon a brand name for your product.

In order to obtain protection for your brand name, you will need to register your trademark here in the United States, with the United States Patent and Trademark Office ("PTO") as well as in the countries in which you wish to market your product. The U.S. trademark registration procedure alone is lengthy, detailed, and not at all a speedy process. The cost of filing is $325 "per class of goods."Your "class of goods" will be the package containing the meal. If you decide to also use your logo and/or brand name on t-shirts or other promotional materials, for example, that constitutes another class of goods requiring another $325 filing. As to the turnaround time for a trademark registration, the PTO prohibits applicants from even attempting to check the status of their filing for "at least 45 days after submission … to allow sufficient time for [their] database to be updated."It is likely that you will not know for a minimum of six months whether your logo or brand name is registered to you.

We would strongly advise that before deciding on a trademark for your product, you conduct a search to determine the availability of the mark or marks you have chosen, both in the local market as well as in the markets in which you wish to sell your products. As an initial cost-saving step, consult the website of the PTO at http://www.uspto.gov. The site is highly user-friendly. You can walk through the Trademark Electronic Search System to determine the availability of marks you are considering. If you believe that one or more are available, hire an intellectual property agent to conduct a complete search and prepare a comprehensive report. The agent's search

report should include all marks that are identical to the ones you are considering as well as any other trademarks that are considered to be confusingly similar. The report should also include the agent's professional opinion as to the viability of registering the trademarks under consideration. It is important that your mark have a distinctive character that will differentiate it from all other products, not only because of marketing strategies, but also to avoid incurring any unnecessary costs to defend an application that faces opposition from another trademark owner or an objection from the Trademark Office.

As mentioned above, you will need to obtain trademark protection both in the United States and in the European countries in which you wish to market your product. Once you have decided on a trademark for your product, you should consider the system under which you will register your mark. There are, basically, three systems to consider:

1. an individual trademark filing before each of the countries in which you intend to market the product;
2. a trademark filing before the PTO for a national registration, combined with a Community Trademark (CTM) application; and
3. a trademark filing before the US PTO for an International Registration based on the Madrid System.

Several factors should be considered when choosing the registration system.

If you wish to file for a national registration in the United States, you will have to combine that application with a CTM application, which will enable you to use your marked product in the European countries designated in the CTM application.

The other option – and perhaps the most time and cost effective one – is to file an application before the US PTO through the Madrid System where you will be able to designate as many other countries as you wish in the same application. In this case, the US application will be considered the "basic application" and all other applications will depend on this one for their validity. Among the advantages of choosing this system is the fact that only one application will be filed in one language and only one fee will be paid. A mark may be the subject of an international application through the Madrid System if it has already been registered in its home country – or any other country with which the holder has a necessary connection. In case the Madrid Protocol exclusively governs the application – meaning that all designated countries are contracting parties to the Protocol – an international application may be filed based on the home country application. In case you decide to create a new trademark for your product – and not one that you are already using for goods in the same class –, you will be able to file an "intent to use" application in the US PTO and file for an international application under the Madrid Protocol based on that application.

We are enclosing herewith a schedule of fees for the **CTM applications** as well as one for international applications under the **Madrid System**. A schedule of fees for applications in the US PTO is found at <http://www.uspto.gov/web/offices/ac/qs/ope/.>

Best of luck!

EXHIBITS

Exhibit A
Countries Comprising the European Union

Austria
Belgium
Cyprus
Britain
(the) Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Latvia
Lithuania
Luxembourg
Malta
(the) Netherlands
Poland
Portugal
(the) Slovak Republic
Slovenia
Spain
Sweden

Exhibit B

European Countries With Special Trading Relationships
With the European Union Which Could Have Impact on Food Exports

Iceland
Liechtenstein
Norway

These particular countries are parties to the Agreement on the European Economic Area (EEA) with the European Union countries.

When an export document or a European export law is entitled “EEA Relevant” or makes reference to the “EEA,” the above listed countries are also impacted.

Note that Switzerland is *not* a party to the European Union, nor is it a party to the EEA Agreement.Moreover, Switzerland is not a party to any bilateral agricultural trade treaties with the United States at this time.

Exhibit C

Illinois Companies Approved by the EU
As Importers of “Milk and Milk-Based Products”

Company	Location
Beatrice Cheese Company	Lena
Berner Cheese Corporation	Dakota
Conway Import Co.	Franklin Park
Cousins Foods/Ore Ida	Chicago
Dean Foods, Amboy Specialty Division/Pillsbury Company	Dixon
Elgin Dairy Foods	Chicago
Eli’s Cheesecake	Chicago
Georgia Nut	Skokie
Guernsey Bell	Chicago
Kraft Foods, Inc.	Champaign
Met-Rx International, Ltd.	West Chicago
M & M Mars	Burr Ridge
Mont Blanc Gourmet Hot Cocoa	Franklin Park
Optimum Nutrition, Inc.	Aurora

R.J. Van Drunen Farms & American Outdoor Products	Momence
Rodney Oatman	Aurora

Note: We are not certain which of these establishments sell butter, nor do we endorse any of them. We list them here simply because they constitute the sole possible suppliers of butter to the EU from the State of Illinois as of this writing.

Exhibit D

EU Approved Slaughter, Cutting and Cold Storage Establishments

Slaughter/Cutting

Unfortunately, there are no Illinois companies currently approved under the PFEU Program. There is only one firm in the Midwest that qualifies:

Swift and Co. / Division of Conagra (dba Monfort, Inc.)
Highway 60 Northeast
Worthington, MN 56187

Swift is also authorized to perform the EC-mandated examination for the detection of trichinae.

Cutting

The Bruss Company
3548 N. Kostner
Chicago, IL 60641

Cold Storage

The following two Illinois companies are approved to store only meat that has been packaged in an EU approved slaughtering or cutting establishment:

Ashland Cold Storage
1556 W. 43rd Ave.
Chicago, IL 60609

Total Logistic Control
975 S. Caron Road
Rochelle, IL 60168

Note: Total Logistic Control is also authorized to perform the EU-mandated freezing treatment.

Schedule of Fees prescribed by the Common Regulations under the Madrid Agreement and the Madrid Protocol

1. International applications governed exclusively by the Agreement	***Swiss francs***
The following fees shall be payable and shall cover 10 years:	
1.1 Basic fee (Article 8(2)(a) of the Agreement)	
1.1.1 where no reproduction of the mark is in color	653
1.1.2 where any reproduction of the mark is in color	903
1.2 Supplementary fee for each class of goods and services beyond three classes (Article 8(2)(b) of the Agreement)	73
1.3 Complementary fee for the designation of each designated Contracting State (Article 8(2)(c) of the Agreement)	73
2. International applications governed exclusively by the Protocol	
The following fees shall be payable and shall cover 10 years:	
2.1 Basic fee (Article 8(2)(i) of the Protocol)	
2.1.1 where no reproduction of the mark is in color	653
2.1.2 where any reproduction of the mark is in color	903

2.2 Supplementary fee for each class of goods and services beyond three classes (Article 8(2)(ii) of the Protocol), except if only Contracting Parties in respect of which individual fees (see 2.4, below) are payable are designated (see Article 8(7)(a)(i) of the Protocol)	73
2.3 Complementary fee for the designation of each designated Contracting Party (Article 8(2)(iii) of the Protocol), except if the designated Contracting Party is a Contracting Party in respect of which an individual fee is payable (see 2.4, below) (see Article 8(7)(a)(ii) of the Protocol)	73
2.4 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee (rather than a complementary fee) is payable (see Article 8(7)(a) of the Protocol): the amount of the individual fee is fixed by each Contracting Party concerned	
3. International applications governed by both the Agreement and the Protocol	
The following fees shall be payable and shall cover 10 years:	
3.1 Basic fee	
3.1.1 where no reproduction of the mark is in color	653
3.1.2 where any reproduction of the mark is in color	903
3.2 Supplementary fee for each class of goods and services beyond three classes	73
3.3 Complementary fee for the designation of each designated Contracting Party in respect of which no individual fee is payable	73

3.4 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee is payable (see Article 8 (7)(a) of the Protocol), except where the designated State is a State bound (also) by the Agreement and the Office of origin is the Office of a State bound (also) by the Agreement (in respect of such a State, a complementary fee is payable): the amount of the individual fee is fixed by each Contracting Party concerned	
4. Irregularities with respect to the classification of goods and services	
The following fees shall be payable (Rule 12(1)(b)):	
4.1 Where the goods and services are not grouped in classes	77 plus 4 per term in excess of 20
4.2 Where the classification, as appearing in the application, of one or more terms is incorrect	20 plus 4 per incorrectly classified term
provided that, where the total amount due under this item in respect of an international application is less than 150 Swiss francs, no fees shall be payable	
5. Designation subsequent to international registration	
The following fees shall be payable and shall cover the period between the effective date of the designation and the expiry of the then current term of the international registration:	
5.1 Basic fee	300

5.2 Complementary fee for each designated Contracting Party indicated in the same request where an individual fee is not payable in respect of such designated Contracting Party (the fee covers the remainder of 10 years)	73
5.3 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee (rather than a complementary fee) is payable (see Article 8(7)(a) of the Protocol): the amount of the individual fee is fixed by each Contracting Party concerned	
6. Renewal	
The following fees shall be payable and shall cover 10 years:	
6.1 Basic fee	653
6.2 Supplementary fee, except if the renewal is made only for designated Contracting Parties in respect of which individual fees are payable	73
6.3 Complementary fee for each designated Contracting Party in respect of which an individual fee is not payable	73
6.4 Individual fee for the designation of each designated Contracting Party in respect of which an individual fee (rather than a complementary fee) is payable (see Article 8(7)(a) of the Protocol): the amount of the individual fee is fixed by each Contracting Party concerned	

6.5 Surcharge for the use of the period of grace	50% of the amount of the fee payable under item 6.1
7. Change	
7.1 Total transfer of an international registration	177
7.2 Partial transfer (for some of the goods and services or for some of the Contracting Parties) of an international registration	177
7.3 Limitation requested by the holder subsequent to international registration, provided that, if the limitation affects more than one Contracting Party, it is the same for all	177
7.4 Change of name and/or address of the holder of one or more international registrations for which recordal of the same change is requested in the same request	150
7.5 Recording of a license in respect of an international registration or amendment of the recording of a license	177
8. Information concerning international registrations	
8.1 Establishing a certified extract from the International Register consisting of an analysis of the situation of an international registration (detailed certified extract),	
up to three pages	155
for each page after the third	10

8.2 Establishing a certified extract from the International Register consisting of a copy of all publications, and of all notifications of refusal, made with respect to an international registration (simple certified extract),	
up to three pages	77
for each page after the third	2
8.3 A single attestation or information in writing	
for a single international registration	77
for each additional international registration if the same information is requested in the same request	10
8.4 Reprint or photocopy of the publication of an international registration, per page	5
9. Special services	
The International Bureau is authorized to collect a fee, whose amount it shall itself fix, for operations to be performed urgently and for services not covered by this Schedule of Fees.	

Fees provided for in the Regulation and Regulation (EC) No 2868/95

The fees to be paid to the Office under Article 1 (a) shall be as follows:

1.	Basic fee for the application for an individual mark (Article 26 (2); Rule 4 (a))	975 EUR
2.	Fee for each class of goods and services exceeding three for an individual mark (Article 26 (2); Rule 4 (b))	200 EUR
3.	Basic fee for the application for a collective mark (Articles 26 (2) and 64 (3); Rules 4 (a) and 42)	1675 EUR

4.	Fee for each class of goods and services exceeding three for a collective mark (Article 26 (2) and 64 (3); Rules 4 (b) and 42)	400 EUR
5.	Opposition fee (Article 42 (3); Rule 18 (1))	350 EUR
6.	Fee for the alteration of the representation of a trade mark (point 1 of Article 140 (2) and Article 44 (2); Rule 13 (2))	200 EUR
7.	Basic fee for the registration of an individual mark (Article 45; Rule 23 (1) (a))	1100 EUR
8.	Fee for each class of goods and services exceeding three for an individual mark (Article 45; Rule 23 (1) (b))	200 EUR
9.	Basic fee for the registration of a collective mark (Articles 45 and 64 (3); Rules 23 (1) (a) and 42)	2200 EUR
10.	Fee for each class of goods and services exceeding three for a collective mark (Articles 45 and 64 (3), Rules 23 (1) (b) and 42)	400 EUR
11.	Additional fee for the late payment of the registration fee (point 2 of Article 140 (2), Rule 23 (3))	25 % of the belated registration fee, subject to a maximum of 750 EUR
12	Basic fee for the renewal for an individual mark (Article 47 (1), Rule 30 (2) (a))	2500 EUR
13.	Fee for each class of goods and services exceeding three for an individual mark (Article 47 (1), Rule 30 (2) (b))	500 EUR

14.	Basic fee for the renewal for a collective mark (Articles 47 (1) and 64 (3), Rules 30 (2) (a) and 42)	5000 EUR
15	Fee for each class of goods and services exceeding three for a collective mark (Articles 47 (1) and 64 (3), Rules 30 (2) (b) and 42)	1000 EUR
16.	Additional fee for the late payment of the renewal fee or the late submission of the request for renewal (Article 47 (3), Rule 30 (2) (c))	25% of the belated renewal fee, subject to a maximum of 1500 EUR
17.	Fee for the application for revocation or for a declaration of invalidity (Article 55 (2), Rule 39 (2))	700 EUR
18.	Appeal fee (Article 59, Rule 49 (1))	800 EUR
19.	Fee for *restitutio in integrum* (Article 78 (3))	200 EUR
20.	Fee for the conversion of a mark into a national trade mark application (Article 109 (1), Rule 45 (2))	200 EUR
21.	Fee for the recording of the whole or partial transfer of an application for a Community trade mark (Article 24 and point 4 of Article 140 (2); Rule 31 (4) and (8))	200 EUR per entry, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1000 EUR
22.	Fee for the registration of the whole or partial transfer of a registered Community trade mark (point 4 of Article 140 (2); Rule 31 (4))	200 EUR per registration, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1000 EUR

23.	23. Fee for the registration of a licence or another right in respect of a registered Community trade mark (point 5 of Article 140 (2), Rule 33 (1)) or an application for a Community trade mark (point 6 of Article 140 (2), Rule 33 (4): a. grant of a licence b. transfer of a licence c. creation of a right in rem d. transfer of a right in rem e. levy of execution	200 EUR per registration, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1000 EUR
24.	Fee for the cancellation of the registration of a licence or other right (point 7 of Article 140 (2), Rule 35 (3))	200 EUR per cancellation, but, where multiple requests are submitted in the same application or at the same time, not to exceed a total of 1000 EUR
25.	Fee for the alteration of a registered Community trade mark (point 8 of Article 140 (2), Rule 25 (2))	200 EUR
26.	Fee for the issue of a copy of the application for a Community trade mark (point 12 of Article 140 (2), Rule 89 (5)), a copy of the certificate of registration (point 3 of Article 140 (2), Rule 24 (2), or an extract from the register (point 9 of Article 140 (2), Rule 84 (6))	
	a) uncertified copy or extract	10 EUR
	b) certified copy or extract	30 EUR
27.	Fee for the inspection of the files (point 10 of Article 140 (2) No 10, Rule 89 (1))	30 EUR

28.	Fee for the issue of copies of file documents (point 11 of Article 140 (2) no 11, Rule 89 (5))	
	a) uncertified copy	10 EUR
	b) certified copy	30 EUR
	plus per page, exceeding 10	1 EUR
29.	Fee for the communication of information in a file (point 13 of Article 140 (2), Rule 90)	10 EUR
	plus per page, exceeding 10	1 EUR
30.	Fee for the review of the determination of the procedural costs to be refunded (point 14 of Article 140 (2), Rule 94 (4))	100 EUR