

Statement
Of
Blue Diamond Growers
Before the
Committee on Ways and Means
Subcommittee on Trade
Hearing on U.S.-India Trade Relations:
Opportunities and Challenges
March 13, 2013

This statement is submitted on behalf of Blue Diamond Growers. Blue Diamond Growers is a 3,000 member, non-profit farmer-owned marketing cooperative headquartered in Sacramento, California. We employ 900 people in Sacramento; 400 in Salida; and we will employ up to 100 in Turlock by May 2013 for a total of 1400 people in California. The California almond industry, overall, provides about 50,000 jobs in California. New jobs and additional revenue will be returned to almond growing communities as California production and value-added products continue to grow. Over 80 percent of the world's supply of almonds is grown in California. Almonds are the state's largest food export, and the largest specialty crop export in America.

Blue Diamond Growers obtains its supply of almonds from its member/owners, and sells them to retail chains and food processing, confectionery and food service companies in nearly 100 nations around the world. Presently, the 2-billion pound almond crop is valued at \$6 billion, and almond production continues to expand in order to supply the world.

Blue Diamond Growers believed that the market in India would be a very large market, if access could be obtained. Blue Diamond began to export almonds to India in the 1960s and the effort to open the market in India began in a dedicated manner in the mid-1970s. It was a team effort with USDA, USTR and Blue Diamond. At that time, India permitted only small quantities of almonds to be imported for medical purposes.

Our first exports were very limited because there were many barriers. It seems appropriate to the effort that has gone into obtaining market access in India. Because of this effort, almonds are the number one U.S. agricultural export to India. Sales have increased 145 percent in India over the last 10 years. In 2012, India was the 3rd largest export market for California almonds after China and Spain.

One of the reasons the market grew in India is because almonds enjoy a revered reputation in Indian culture. Almonds play an integral part in Indian religious ceremonies, weddings, festivals, and day-to-day life. Many Indian families give their children almonds every morning before school, because they firmly believe almonds are good for the brain and will help their children do better academically. Now, the younger, more western Indian consumers, not only have their own strong beliefs regarding the special benefits of almonds passed down by their parents, but many of almonds' health benefits are now backed up with modern, scientific studies. According to the latest research conducted by the industry, 95% of respondents claim to have consumed almonds in the previous month, and 66% claimed to be consuming almonds year round.

Blue Diamond has been the pioneer in bringing American almonds to India by: promoting them; creating a mass market through print & media advertising; and starting a variety of promotional programs throughout India.

In the mid 1970's, market research showed that there were a large quantity of almonds present in the market in India. Virtually all these almonds were smuggled into India. This problem has returned, but it will be addressed later in this statement. It was this smuggling that became the basis of the argument to gain market access. India, which needed foreign earnings, learned that if almonds could enter their country with a duty, they would receive additional revenue. These efforts did begin to open the market, and India received additional revenue.

At the same time that India allowed U.S. almonds to be imported at a tariff rate of 120%, India allowed almonds to enter from Afghanistan and Iran at preferential rates. The next year, almonds were put on open, general licensing with the minimum value of import licenses set at rupees 50,000. India then increased the margin of preference on Afghan almond imports.

The next year, it reduced the preference for Afghan almonds.

In 1981, almonds were placed by India on restrictive licensing. In 1983, India removed the discriminatory customs valuation practices against U.S. almonds. At the same time, it raised the tariff on U.S. almonds to 185%. The Indian Parliament granted

authority to increase the almond tariff to 200%, but this was never done. Blue Diamond Growers found that there was strong demand in India for almonds, even when the duty rates were extremely high.

In 1984, India moved from the ad valorem duty to a specific duty of rupees 56 per kilogram on shelled almonds and rupees 28 per kilogram on soft-shell almonds. This was a big help to our exports.

In 1985, the minimum value of import licenses was reduced to rupees 5,000.

With this humble start, Blue Diamond Growers continued to work with its government to open the market in India. The next step occurred in the late 1980s. In 1988, an agreement was reached between India and the United States that allowed major progress to be made. The Indian government agreed to allow global import of almonds for a three-year period, ending March 31, 1991 at the level of \$20 million annually.

India also agreed, at the same time, to increase the minimum value of import licenses to at least 20,000 rupees. The Indian licensing system was such that a market in import licenses was created. Traders purchased import licenses, even though they had no interest in the almond trade itself. Almond import licenses became a valuable commodity in and of themselves. This limited the trade.

India also agreed that if its balance of payments allowed, it would agree to place imports of almonds on the open, general licensing schedule beginning April 1, 1991 and to leave them this way for a three-year period. This agreement was reflected in an exchange of letters dated May 31, 1988 between U.S. Ambassador Clayton Yeutter and Ambassador P.K. Kaul for India.

The next significant event occurred in the early 1990s. India and the United States agreed in 1992 to adjust the tariffs on in-shell almonds to rupees 55 per kilogram and on shelled almonds to rupees 100 per kilo. At the same time, India also re-affirmed its intention to bind these tariffs at this new level under article 28 of GATT.

In 1994, India, without notice, announced its intention to increase the duty on in-shell almonds to the level of rupees 60, which violated the existing agreement and binding. At the same time, it announced its intention to reduce the duty on shelled almonds to rupees 80, thereby changing the margin between inshell and shelled. This action immediately hurt U.S. almond exports to India. The margin between shelled and inshell is critical and must be maintained.

In response to this, USTR began to consider the initiation of a section 302(b) investigation. Intense negotiations began to resolve this problem. For the second time in the history of U.S.-India almond trade, exports of almonds reached the highest levels in both governments. Eventually, President Clinton and the Indian Prime Minister agreed to restore the margin between shelled and unshelled. At the same time, India agreed to reduce the duty on almonds to rupees 44/kg for inshell and rupees 80/kg for shelled almonds.

In 1997, India stated that importers could either pay the specific duty on almonds, which was increased, or an ad valorem rate. India provided an option to permit imports at 40% ad valorem plus a 2% surcharge. This was very adverse to U.S. almond exports. After intense negotiations, India removed the ad valorem rate, but did not restore the original agreed upon specific duty rate for almond imports. The rate remains at the increased level of rupees 55 for inshell and rupees 100 for shelled. It is critical that these specific duties be retained and not converted to ad valorem duties.

The next significant issue was the imposition of phytosanitary measures in 2004. India mandated that almonds be fumigated with methyl bromide. This was done without scientific justification or WTO notification. The introduction and immediate implementation of new phytosanitary standards threatened almond imports into India during the main festival season, which is the peak import and consumption period.

Almonds shipped to India have always been treated with phosphine, which is effective. India is the largest manufacturer of phosphine in the world.

After significant negotiations, India agreed to allow the United States to continue to use phosphine, provided testing was done on the efficaciousness of phosphine on Indian meal moth, Mediterranean flower moth, and tobacco moth. Scientific literature reports that India is a host for two of these moths and none are found in the United States. Nevertheless, a protocol was established and tests were conducted establishing the effectiveness of phosphine. Almonds were allowed to continue to be exported to India, fumigated with phosphine.

Throughout much of this period, India has imposed a special additional duty on almond imports of 4%. This illegal, special additional duty is imposed on inshell almonds, even though it results in a combined duty rate in excess of the specific agreement between the U.S. and India. Additionally, it causes the duty being collected on inshell almonds to exceed the bound rate. Blue Diamond Growers has worked with its

government to establish the illegality of this duty, which is not charged on domestic almonds.

The investment in the retail trade by the largest business houses in India has led to a certain organization of the almond importers. They are able to look into and identify the needs of the consumers either directly, or through the new retail formats. The number of importers servicing the new retail formats might be considered low. However, this makes sense, because on a macro level, organized retail accounts for not more than 15% of the total Indian retail industry.

With larger almond crops in California, the Indian market for inshell almonds is absolutely vital to the success of the California almond industry. The Indian market has shown strong growth, especially over the last 8 years. This market now imports almost \$300 million dollars of almonds a year from California. This market still has the capacity to grow over this benchmark substantially in the coming years. This is because the current duty structure is acceptable to our Indian customers.

As has been shown, India is and will continue to be a very important export market for California almonds.

The table below clearly demonstrates the continued growth in exports to India. This growth has occurred due to the strong demand in India. The growth has occurred due to the persistent work of the U.S. Government and Blue Diamond Growers over a long period of time. This progress was recorded above.

The following table¹ shows the growing export of inshell almonds to India for the past five years:

Inshell:	<u>Year</u>	<u>Value (in 1000 dollars)</u>
	2008	140,849
	2009	138,770
	2010	196,119
	2011	256,281
	2012	278,890

¹ Data Source: United States Department of Agriculture, Foreign Agriculture Service, Foreign Trade Statistics

The following table² shows the export of shelled almonds to India for the past five years:

Shelled:	<u>Year</u>	<u>Value (in 1000 dollars)</u>
	2008	35,328
	2009	35,648
	2010	31,868
	2011	30,111
	2012	34,076

It should be noted that U.S. government statistics rarely agree with industry statistics. Official U.S. government statistics show far more shelled almonds being exported than actually occurs. Most of what is shown as shelled almonds is actually inshell almonds.

As referenced above, the current and very serious problem of smuggling almonds into India is undermining our persistent efforts to grow a strong market in India.

The current smuggling route starts with California almonds shipped to Dubai and then Pakistan via overland through Iran and under invoiced at 1/6th the real cost at entry into Pakistan. This usually happens in Quetta, Pakistan. The almonds are then repacked from the original cartons into bags to hide the origin of the almonds. From this point, they are shipped to Kashmir and then into India. The free trade agreement between Kashmir and Pakistan in 2008 makes such smuggling attractive. It goes without saying, that this channel is distorting the trade channels for almonds into India. Consequently, our good customers in India are at a competitive disadvantage when competing for business in their markets.

It is estimated approximately 10 million pounds of almonds are smuggled through this route each year and this channel is expected to increase significantly in the future. While 10 million pounds may not seem to be a very large amount, the timing of the smuggling activity during harvest and key shipment periods have a negative effect on the trade. The dollar amount for this trade is over \$27 million, and is lost business for California almonds shipped directly to India. These prices are also used to bring down

² Data Source: United States Department of Agriculture, Foreign Agriculture Service, Foreign Trade Statistics

the world almond market prices. It is rumored this trade is being financed by people with terrorist connections in Pakistan and Kashmir. This activity also takes away shelling jobs from the Indian workers, who are employed to shell almonds. The Indian press has reported that 20,000 Indians are employed in this manner.

The Indian Government stepped in last year to stop this smuggling and was successful. Unfortunately, it has now returned. It is hoped that the Indian government will once again act to stop this smuggling. The smuggling causes a loss of revenue for the Indian Government and a loss of jobs for its citizens. It also hurts sales of U.S. almonds to India.

Any assistance this Committee can provide to encourage India to stop this smuggling would be most appreciated. If India cannot stop the smuggling, one solution is to reduce the import duty for inshell California almonds into India from Rs 65/kilo to Rs 10 /kilo. This duty reduction should only be applicable to the inshell duty for almonds. This will eliminate the duty advantage enjoyed by the smuggled trade.

The good state of Indo-US relations today allows for greater cooperation, and thus an amicable atmosphere to work and resolve issues. For Blue Diamond, this has been achieved by our persistent interaction with the Indian Government, either directly or through Indian importers. Blue Diamond Growers' experience is that by working closely with our government, exports to India will continue to grow. It requires patience, perseverance, and dedication. Blue Diamond Growers thanks all those that have worked so hard to open this market for its farmer members. Special thanks go to the dedicated individuals in USDA and USTR. Blue Diamond Growers also thanks the government of India for its cooperation in making almonds available to the consumers in India.

Blue Diamond Growers especially thanks this Committee for holding this important hearing on a very important and growing export market. It is appreciated that this Committee is willing to receive this statement.

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