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## United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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August 19, 2008

The Honorable Susan Schwab  
United States Trade Representative  
600 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20500

Dear Ambassador Schwab:

I am writing with regard to a letter sent to you by Senator Dianne Feinstein concerning the possible initiation of dispute settlement proceedings at the World Trade Organization (WTO) by Brazil over the U.S. tariff on ethanol. In her letter, Senator Feinstein requested that you analyze whether Brazil would "have a substantive case that the ethanol tariff, as extended by the 2008 Farm Bill, is in violation of international law."

As you know, the United States is expressly permitted under the rules of the WTO to impose this tariff. Per *Schedule XX – United States of America* annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994*, a tariff of 54 cents per gallon is bound in the U.S. schedule as a permitted "other duty or charge." Accordingly, it is clearly within the WTO rights of the United States to impose this tariff, and as such, the ethanol tariff is not at odds with the international legal obligations of the United States. Moreover, this tariff was accepted by consensus by members of the WTO – including Brazil – at the conclusion of the Uruguay Round trade negotiations.

Senator Feinstein also asks whether lowering the U.S. ethanol tariff would improve the ability of the United States to prevail in a possible WTO dispute with Brazil. This question, however, is rendered moot by virtue of the fact that the tariff is fully compliant with the WTO obligations of the United States.

Given that the U.S. ethanol tariff in its current form is explicitly permitted under WTO rules, I do not share Senator Feinstein's view that the possibility of a Brazilian challenge at the WTO should serve as an inducement for the United States to lower the tariff.

Further, I remain opposed on policy grounds to a reduction in the ethanol tariff. The United States relies heavily on foreign energy sources, and it is imperative that we reduce this dependency. But a lowering of the ethanol tariff would move us in the wrong direction. Such an action would threaten to make the United States yet more dependent on imported energy. In addition, a reduction in the tariff could result in the United States sending even more dollars abroad to purchase fuels, dollars that would otherwise flow to rural communities in the United States.

In any case, Brazil can already ship ethanol to the U.S. market without paying tariffs. Through a carve-out in the Caribbean Basin Initiative (CBI), Brazilian ethanol that is merely dehydrated in a Caribbean country can enter the United States duty-free up to 7 percent of the U.S. ethanol market. While this duty-free access has been available to Brazil since 1990, Brazil has not once filled this 7 percent cap. As Brazil is not taking full advantage of its ability to export ethanol duty-free to the U.S. market, I fail to see why the United States should make its tariff treatment of Brazilian ethanol yet more generous by lowering the tariff.

Sincerely,

A handwritten signature in dark ink, reading "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Charles E. Grassley  
Ranking Member