USA Rice FEDERATION

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Docket No. USTR-2015-0014
Office of the United States Trade Representative
Trade Policy Staff Committee
600 17th Street NW
Washington, DC 20208

Re: Comments Regarding the 2015 National Trade Estimate Report on Foreign Trade Barriers

The USA Rice Federation (USA Rice), located at 2101 Wilson Blvd., Suite 610, Arlington, VA 22201, is the global advocate for all segments of the U.S. rice industry with a mission to promote and protect the interests of producers, millers, merchants and allied businesses. USA Rice members are active in all major rice-producing states: Arkansas, California, Florida, Louisiana, Mississippi, Missouri and Texas. The USA Rice Farmers, USA Rice Council, USA Rice Merchants' Association and the USA Rice Millers' Association are members of the USA Rice Federation.

USA Rice submits the following in response to the Federal Register notice of August 19, 2015, requesting comments to compile the National Trade Estimate Report. This statement covers all rice listed under chapter 1006 of the Harmonized Tariff System.

EUROPEAN UNION
Import Policies

The EU has traditionally been a major export destination for U.S. rice, particularly long grain varieties from the mid-South. However, U.S. access is sharply constrained by EU import policies designed to protect the brown rice milling industry in northern Europe; to provide specific tariff concessions on rice to certain countries; and to provide duty free access to least developed countries. These policy priorities leave U.S. access restricted to brown rice because of prohibitive import duties on milled rice. Additionally, the United States does benefit from a small tariff rate quota of fully milled rice granted as a concession due to EU expansion in 1995.

Below are tables showing U.S. rice exports to the EU-27 by quantity and value for the period 2005-2014 and EU import duties by tariff line.

U.S. Rice Exports to the EU

CY	Value ($Million)	Quantity (MT)
2005	87	306,344
2006	67	207,194
2007	44	98,006
2008	68	103,296
2009	65	82,715
2010	47	71,405
2011	59	87,849
2012	47	62,027
2013	41	54,863
2014	41	48,841

Source: Dept. of Commerce, U.S. Census Bureau, Foreign Trade Statistics

EU: WTO Bound Rates and Applied Duties on Rice

Product	**HTS**	**Bound Rate**	**Applied Rate 1/**
Paddy Rice	1006.1	€211 MT	€211 MT
Brown Rice	1006.2	€65 MT	€30-€65 MT*
Milled Rice	1006.3	€175 MT	€145-€175 MT
Broken Rice	1006.4	€128 MT	€65 MT

1/ Zero duty on rice from least developed countries (under Everything But Arms concession).
* Exports of brown Basmati rice from India and Pakistan have zero duty treatment.

<u>EU Rice Import Policies.</u> EU rice import policy is complicated, with border protection varying significantly across rice products and between imports regulated by multilateral agreements and those covered by preferential tariff schemes. The EU has multiple import regimes for rice consisting of tariff rate quotas (TRQ), variable applied duties, and country-specific concessions. The current regimes as a whole severely distort the import market, raise serious questions about compliance with the EU's obligations to the World Trade Organization (WTO), and are detrimental to U.S. export interests.

Below is a summary of the EU's rice import regimes as understood by USA Rice. Highlighted headers indicate applicability to U.S. rice and/or U.S. benefit.

<u>White rice regime.</u> The white rice (fully milled) import duty is bound at €175/mt, but the applied duty is determined twice within a marketing year (Sept-Aug) – on September 1 and March 1 – based on imports in the preceding 12 and 6 month reference period, respectively. Based on the level of imports in the reference period relative to a predetermined reference level, the applied rate is either €175/mt or €145/mt. The current duty is €175.

Brown rice regime. Brown rice exporters, including the United States, are subject to a complex variable levy system that provides for one of three applied duties -- €30, €42.5, or €60/mt – depending on brown rice imports in a preceding 6- or 12-month period. Duties are reset every six months, and the current duty is €30/mt. The current import regime for brown rice dates to 2005, and USA Rice believes this regime should be replaced by a straight duty of zero.

Broken rice regime. The bound EU duty on broken rice is €128/mt, but the applied, or current rate, is €65/mt. The EU also has five country-specific TRQs (including one for the United States) and a TRQ for all origins. Under these TRQs, the duty is 30.77% less than the applied duty. The U.S. TRQ equals 9,000 mt.

Basmati Rice regime. Specified varieties of basmati rice –in brown form – from India and Pakistan enter the EU at zero duty. There is no quantity cap to this concession.

Everything But Arms Concession. All agricultural products, including rice, enter duty-free from a list of least developed countries. There is no quantity restriction on this concession. EBA-eligible rice producing countries, particularly Cambodia and Myanmar, have established markets in the EU.

TRQ for EU Enlargement--Sweden, Finland and Austria (1995). Following negotiations with the United States, Australia, and Thailand, the EU established two global calendar-year TRQs: one for 63,000 metric tons of milled rice and another for 20,000 tons of brown rice. The U.S. share of the milled rice TRQ, is 38,721 tons at a zero duty. The U.S. share of brown rice TRQ, is 7,642 tons at a duty of €88/mt. The brown rice concession is currently effectively worthless because the bound, or maximum, EU duty on brown rice is €65/mt.

TRQ for Enlargement—to EU-27. Five country-specific TRQs and two TRQs for all origins were established for milled rice for a total of 81,049 mt with a zero in-quota duty. The U.S. share is 2,388 mt.

ACP Countries with Economic Partnership Agreements (EPA). EPAs between the EU and Africa, Caribbean, and Pacific (ACP) countries provide for duty-free-and quota-free access to the EU market for all types of rice originating in ACP countries.

TRQs for Egypt. As part of an Association Agreement, the EU provides a zero-duty TRQ for 23,155 mt of brown rice on an annual basis. Egypt also receives a milled-rice TRQ of 81,149 mt and a TRQ for broken rice of 92,742 mt, both at zero duty.

TRQ for Bangladesh. A brown-rice equivalent TRQ of 4,000 mt, excluding paddy rice, at within quota duties of at least 50% less than applied duties based on type and form of rice imported.

Peru Quota. A zero duty tariff rate quota of 40,800 mt in 2015, increasing annually by 3,400 mt.

Central American Quota. A tariff rate quota of 20,000 mt annually of long grain milled or long grain brown rice in 2015, increasing annually by 1,000 mt.

TRQ for all WTO members. There is an annual brown rice TRQ for 1,634 mt with an in-quota duty of 15%.

EU Rice TRQ's by Type of Rice and Origin (metric tons)

Origin	Paddy	Husked	Milled	Broken	All Rice
Egypt		23,185	81,149	92,742	
Thailand			26,968	52,000	
United States		7,642	41,109	9,000	
Peru					40,800
Central American Countries					22,000
Australia			1,019	16,000	
Guyana				11,000	
Bangladesh					1/ 4,000
India			1,769		
Pakistan			1,595		
All Countries	7	1,634	25,516	32,788	
All Countries except Thailand, US, Pakistan, India			3,453		
All Countries except Thailand, US, Australia, Guyana				12,000	
All Countries except Thailand, US, Australia			1,805		
Total	7	32,461	184,383	225,530	66,800

Note: Quantities are on a product-weight basis except as noted. Most TRQs enter duty free, but some enter at a reduced-duty level. 1/Brown rice equivalent.
Sources: Federation of European Rice Millers, *Official Journal* of the European Union, and *The EU Rice Regulatory Regime,* European Commission, Directorate General for Agricultural and Rural Development, February 2015.

USA Rice calculates that in 2013, 68 percent of EU rice imports were duty free under current tariff rate quotas and the above concessions (see below). More than 70% of husked (brown) rice and broken rice was imported duty free and more than 60% of semi-milled/milled rice was imported duty free.

EU Duty Free & All Rice Imports in 2013 (metric tons)

Type of Rice	TRQ Utilized	Basmati Rice	EBA Countries	ACP Countries	Total Duty Free Imports	All Imports	% Duty Free of All Imports
Paddy	7			130	137	2,444	5.6
Husked	165	398,069	1,125	39,945	439,304	593,935	74.0
Milled or Semi-Milled	107,039		219,727	2,757	329,523	541,506	60.9
Broken	136,760		50,348	34,517	221,625	309,645	71.6
Total (Units)	**243,971**	**398,069**	**271,200**	**77,349**	**990,589**	**1,447,530**	**68.4**
Total (milled equivalent)	**243,936**	**318,455**	**270,975**	**69,321**	**902,687**	**1,328,010**	**68.0**

Notes: Conversion factors to milled basis are 70% for paddy rice and 80% for brown rice.
Sources: Informa Economics, Global Trade Atlas and "Rice market situation," DG AGRI C.4, Advisory Committee/Rice, 07/03/2014

<u>The Margin of Preference.</u> The present EU white, brown, and broken rice duty regimes replaced an EU trade concession called the margin of preference (MOP) in 2005. Under WTO rules, the EU was required

to put in place a duty regime no less favorable to imports when it withdrew the MOP. Because of uncertainty over U.S. market access, the United States reserved its WTO rights to challenge the new brown rice regime if access was found to be less than what would have existed under the MOP.

USA Rice calculates that the duty on U.S. brown rice would be zero today if the MOP were still in place. Because of this finding and because of the EU's WTO obligation and overall dissatisfaction in the EU and U.S. trade with the complexity of the current system, the United States exercised its WTO rights and requested that the regime be renegotiated. The European Commission has agreed in principle, but it has been unable to get a negotiating mandate from the EU member states.

The Commission's most recent reported position is that a solution must 1) represent an applied duty that is either a percentage of the bound rate (€65/ton) or an absolute reduction from the bound rate that leaves the applied duty at or above €40/ton; 2) any long term solution on brown rice must be part of a Doha Round agreement; and 3) in the interim, the Commission will not allow the applied duty to reset to €65/ton. None of these points reflects the EU's obligations.

It is clear that the Doha Round of negotiations will not be the vehicle for improving U.S. market access or for rationalizing the EU's import regime. It now falls to the Trans-Atlantic Trade and Investment Partnership (T-TIP) as the mechanism to negotiate fully liberalized rice trade between the United States and the EU.

Biotechnology Regulation

The EU's regulatory approval structure for plant products containing genetically modified (GM) traits is the most significant non-tariff barrier to regaining historic levels of U.S. rice exports.

Following the unintended contamination of the commercial supply of U.S. long grain rice in August 2006 with the Liberty Link 601 and 62 GM traits, U.S. rice exports to the EU plummeted. Despite the successful effort of the U.S. rice industry to remove the LL traits from the commercial supply, trade has not returned and the lack of a functioning EU biotechnology regulatory approval process is responsible. The EU maintains a zero-tolerance regulatory policy towards the presence of unapproved GM traits in food and feed, and EU importers are unwilling to take the legal risk of large-scale imports of U.S. long grain rice, notwithstanding the effective elimination of LL traits.

The LL62 trait has the dubious distinction of being the longest-standing GM trait in the EU biotechnology approval pipeline. The trait has received a positive assessment from the European Food Safety Authority but final approval is languishing because of lack of political will by the European Commission and the Member States. While approval of LL62 would not remove the complete market access barrier, it is a necessary step.

USA Rice urges the U.S. government to use the T-TIP to negotiate a functioning, science-based EU regulatory regime for biotechnology in general, and to press for adoption of an EU low-level presence policy (LLP) for foods that would include specifically the LL601 trait. Such an LLP would remove the regulatory road block from reestablishing a market presence for U.S. long grain rice in the EU.

Estimate of increase in exports: $25-$50 million

JAPAN
Import Policies
Anticompetitive Practices

Japan is the second largest export market for U.S. rice, and market access in Japan is critical to the continued economic health of all segments of the U.S. rice industry. However, current market access in Japan is not optimal.

Sales in 2014 were valued at $240 million, representing 288,507 MT. The table below shows U.S. exports of rice to Japan since 2006.

U.S. Rice Exports to Japan

CY	Value (Million)	Quantity (MT)
2006	$168	329,955
2007	$168	303,130
2008	$167	274,338
2009	$422	400,453
2010	$232	317,235
2011	$303	374,835
2012	$232	341,566
2013	$204	294,685
2014	$240	288,507

Source: Dept. of Commerce, U.S. Census Bureau, Foreign Trade Statistics.

The United States supplies on average just under 50 percent of Japan's total rice imports, which is consistent with the U.S. rice industry's expectations, but imports from the U.S. represent only about 4 percent of Japanese rice consumption.

Japan purchases Japonica-style rice varieties from the United States, consistent with domestic market demand. To date, Japan has sourced all imports of U.S. rice from California, and sales to Japan account for just under one-quarter of annual production in California (measured on a milled rice basis).

Market access for rice identified as U.S. origin in Japan is limited by the import policies and anticompetitive practices of the Japan Food Department, the sole importer, and an agency of the Ministry of Agriculture, Fisheries and Forestry (MAFF). U.S. rice is most often destined for government stocks, designated for food processing use or livestock feed, or re-exported as food aid. Thus, virtually all imports of U.S. rice are prevented from entering the high-value retail market, and U.S. exporters are, as a result, unable to develop year-round marketing plans and consumer relationships.

A portion of Japan's rice commitment is imported under the Simultaneous-Buy-Sell (SBS) program. The U.S. rice industry believes the SBS system was designed to allow access for exporters to final consumers in Japan in order to engage in consumer market development. The SBS system, which provides a substantial mark-up to MAFF, has not allowed U.S. exporters to develop markets in Japan for high-quality short and medium grain U.S. rice. The mark-up, or tariff, for the eight SBS tenders held in the 2014/2015 Japan Fiscal Year (JFY) ranged from approximately $365/mt to $387/mt for whole kernel rice from all origins. The mark-up applied to U.S. rice ranged between just $365/mt and $368/mt

The 2014/2015 SBS tenders were also unsuccessful, largely because of the mark-up levels which made imported rice non-competitive. Of the 274,510 mt of whole kernel rice tendered for, awards were made for only 7,290 mt. In each of the seven SBS tenders, the amount of rice offered by exporters exceeded the amount of rice awarded except for one tender where the amount offered matched the amount awarded. This poor performance has continued into the current 2014/15 JFY.

Only a few types of companies (Japanese trading companies and rice mills) are permitted to access rice through SBS and the operation of the mark-up system lacks transparency. The lost value to U.S. exporters is the inability to reach Japanese consumers and develop a market for rice identified as U.S. origin. Such market access is critical to sustaining demand for U.S. rice.

The U.S. rice industry sought improvements in both the quantity and quality of U.S. rice access in Japan as a result of the Trans Pacific Partnership negotiations (TPP). While the TPP negotiations are complete as of this submission, the official text has not yet been released so a full assessment of the impact on rice market access is not possible.

Estimate of increase in exports: $25 million to $50 million

TAIWAN
Import Policies

Under Taiwan's World Trade Organization (WTO) obligations, the U.S. rice industry enjoys a 64,634 metric ton (brown basis) country specific quota (CSQ). Since minimum access rice imports began in 2007, Taiwan has failed each year except in 2011-2013 to import the annual CSQ from the United States (and in many years, from the three other WTO members which have CSQs). These shortfalls have not been made up and Taiwan has been and remains in violation of its obligations to the WTO.

Taiwan uses a non-transparent price ceiling mechanism which effectively allows import authorities to reject competitive tender offers and force bidders into a price negotiation. According to Taiwan's Council on Agriculture (COA), the price ceiling is a function of the export cost of rice, ocean freight, port arrival costs, and the domestic price of rice in Taiwan. If a country-specific government tender fails after three consecutive announcements, the tender becomes a "global' tender and rice from all origins can compete. This has allowed rice from other origins to supplant U.S. rice, or to allow Taiwan to skirt completely its rice import obligations (as was the case in 2007-2010 and 2014).

Despite technical assistance offered by the U.S. rice industry, Taiwan continues to use a price ceiling which can override multiple competitive bids from U.S. suppliers. Use of the price ceiling mechanism is responsible for the shortfalls listed below. Despite pressure from the U.S. rice industry and the U.S. government, Taiwan continues to ignore the shortfalls.

CSQ - USA Tender Results			(MT, brown basis)		
		CSQ Amount	**Awarded Quota**	**USA Shortfall**	**Other WTO Shortfall**
2007		64,634	29,795	34,839	Australia
2008		64,634	18,000	46,634	
2009		64,634	63,474	1,150	Australia
2010		64,634	57,000	7,634	
2011		64,634	64,634	0	
2012		64,634	64,634	0	
2013		64,634	64,634	0	Aust/Egypt
2014		64,634	46,100	18,534	Aust/Egypt

Estimate of increase in exports: $25-$50 million

KOREA
Import Policies

On January 1, 2015, Korea unilaterally implemented a tariff-based import regime for rice with a tariff of 513 percent on imports of rice above a set calendar year quota of 408,700 mt. Korea's move to tariffication replaced a system of rigid import quotas under a WTO-imposed Minimum Market Access agreement (MMA). Korea also eliminated the previous country specific quotas (including a CSQ for the United States) and a set aside of thirty percent of imported rice for use as table rice.

While the decision to move to a tariff-based system is Korea's to make, USA Rice opposes the very high level of the out of quota duty as inconsistent with WTO guidelines, elimination of CSQs, and elimination of the table rice provision. Following a series of bilateral discussions about an acceptable import regime going forward, the United States joined several other WTO members in formally objecting to Korea's tariffication and related tariff schedule. The objections remain, and the WTO has not officially accepted Korea's rice tariff schedule.

Estimate of increase in exports: $25 million to $50 million

THAILAND
Domestic Support & Export Subsidies

Thailand has utilized several price support programs for its domestic rice industry. The size and value of these programs raise serious questions as to Thailand's compliance with its WTO commitments as regards the aggregate measure of support and export subsidies.

Prior to the military coup in 2014, the government of Thailand operated the Rice Paddy Pledging Scheme, under which the government procured rice from producers at a price support level far above world market rates. Following the coup, the Thai military suspended the Paddy Pledging Scheme, replacing it with the Rice Farmer Assistance Program, consisting of subsidized credit to farmers and input subsidies, and a new paddy-pledging type program targeted at fragrant and glutinous rice.

As a result of the pre-2014 Paddy Pledging Scheme, the Thai government accumulated large stockpiles of rice, put at 17.5 million mt as of September 30, 2014, by the Thai Ministry of Finance. One of the new Thai military government's central economic goals is to sell off rice stocks by 2016 through exports, and stocks in early October 2015 were reported at approximately 13 million mt by USDA. The Thai Ministry of Finance reported an official government stock level of 17.5 million mt as of September 30, 2014.

<u>Paddy Pledging Scheme</u>

The Paddy Pledging Scheme permitted farmers, via sales to rice mills, to sell their rice to the Thai government at a guaranteed support price. In 2013/14, the average price support during the main growing period (October – February) was 14,400 baht per MT, or $450 mt.

As of July 27, 2014, the Thai government had purchased about 11.7 million MT of rice under the main crop Paddy Pledging Program for 2013/14. Thai government expenditures for crop purchases totaled 192 billion baht ($5.9 billion). Thai government expenditures under the Paddy Pledging schemes during the period 2011/12 to 2013/14 totaled $27.7 billion.

There is no doubt that the Paddy Pledging Scheme created distortions in the Thai rice market, creating incentives for rice production. The Paddy Pledging Scheme was also very likely a violation of Thailand's WTO obligations. Thailand committed at the conclusion of the WTO Uruguay Round that it would not exceed 19.0 billion baht in trade distorting ("Amber Box") subsidies. Based on a study conducted for USA Rice, and employing WTO methodologies contained in the WTO Agreement on Agriculture, Thailand's subsidies under the Paddy Pledging Scheme far exceeded the 19.0 billion baht limit.

<u>Export Policies</u>

Following a suspension of sales from stocks, the Thai military government has resumed auctioning of Thai rice out of intervention stocks, with the stipulation that auctioned rice be exported. FAS/Bangkok reports that rice exports increased to a record 11 million mt in 2014 due to heavily subsidized sales of government stocks. Exports in marketing year 2015/2016 are expected to continue at high levels as the government continues to dispose of surplus rice stocks. The Thai government exported 1.3 million MT of rice out of government stocks in January through March 2015.

Thailand's exports of rice f stocks have been highly trade distorting. In our view, these sales are likely being made through the use of export subsidies, as that term is defined in the WTO. The WTO Agreement on Agriculture provides an illustrative list of export subsidies, one of which is exports that are "financed by virtue of government action."

There is no doubt that Thai exports of rice from stocks accrued under the Paddy Pledging Scheme result in a loss of revenue for the Thai government, which accrued the rice at a high support price, then sold it at a significantly lower price. Thailand bound its export subsidy limit for rice at zero in the WTO Uruguay Round, and is therefore is very likely violating its WTO obligations.

Estimate of increase in exports: *Thailand is a substantial net exporter of rice, and remedies of possible WTO violations will not result in appreciable exports of U.S. rice to Thailand. However, as traditionally the number one world rice exporter, government support by Thailand increases exportable supplies and thereby depresses global rice prices, causing damage to U.S. rice exports.*

VIETNAM

Domestic Support

The Vietnamese government operates a price support program for rice, with the support price set at 5 million Vietnamese Dong per metric ton ($236 MT), paddy basis. The Vietnam Food Association (VFA) is responsible for managing the price support program, making use of two state trading entities, VinaFood1 and VinaFood2, as well as over one hundred affiliated private millers/exporters that are members of the VFA. All rice purchased by VFA members under the price support program must be exported.

Under WTO rules, Vietnam's price support program for rice is very likely an Amber Box subsidy, with the calculated value of the subsidy to be included in Vietnam's aggregate measure of support (AMS) calculation. Vietnam has an AMS spending limit of 3.691 trillion Vietnamese Dong, roughly equal to $188 million. If Vietnam exceeds this level of AMS subsidies, it is in violation of its WTO agricultural subsidy commitments.

USA Rice used two different methodologies to calculate the AMS generated by Vietnam's price support program, one taking into account full Vietnamese rice production, the other using rice procured under the price support program (2 million MT, milled basis). Using either methodology, the AMS for Vietnam's price support program is well in excess of VND 3.6 trillion, or $188 million. Vietnam's price support program for rice therefore likely results in a violation of the country's WTO subsidy obligations.

When Vietnam acceded to the WTO, it undertook a commitment not to provide export subsidies to agricultural products, including rice. The Vietnamese government operates at least one program aimed at facilitating rice exports under the price support program - the provision of interest-free three month loans to VFA members who purchase rice at the price support level, and then are obliged to export it. USA Rice believes that this policy measure may be considered an export subsidy under WTO rules, and if so, that it would result in a violation of Vietnam's agricultural export subsidy commitments.

The U.S. rice industry strongly urges the U.S. government to investigate the WTO compliance of Vietnam's rice support programs.

Estimate of increase in exports: Vietnam is a substantial net exporter of rice, and remedies of possible WTO violations will not result in appreciable exports of U.S. rice to Vietnam. However, government support by Vietnam increases exportable supplies and thereby depresses global rice prices, causing damage to U.S. rice exports.

COLOMBIA

Import Policies

The Colombia—United States Trade Promotion Agreement (TPA) went into effect in May 2012. Under the TPA, a gradually increasing amount of U.S. rice is allowed into the country duty free via annual tariff rate quotas (TRQ). Out of quota duties are 80% through the year 2017 before declining to zero by 2030. In 2015, a total of 90, 152 MT of milled rice will be shipped duty free from the U.S. to Colombia. There are currently auctions three times per year to tender under the tariff-rate quota. In 2014, 86,270 MT were exported to Colombia under the TRQ.

While the U.S. TRQs have filled each year, Colombian producers have been successful in limiting the entry of U.S. rice largely to the first half of each calendar year. The effect is to deny U.S. exporters and their Colombian partners the opportunity to market rice 365 days a year to Colombia's consumers. This restriction runs counter to the expectations of the U.S. industry as well as the intentions of U.S. officials negotiating the TPA. USA Rice urges the administration to continue engagement with Colombian officials to obtain full-year access for U.S. rice in Colombia. This is particularly important because the TRQ increases in size each year by 4.5 percent.

Colombia also restricts imports of U.S. rough rice to certain mills in the Barranquilla region because of the detection of *tilletia horrida* in shipments. In December 2013, the Colombia Agricultural Institute (ICA) claims to have found *t. horrida* in domestic mills and production areas. ICA is conducting a survey to assess the extent of contamination within rice production areas. The results of this study have been delayed for many months; originally due in October 2014, the survey is now estimated to be released in early 2016. This study is long overdue, and Colombian authorities continue to refuse to consider lifting import restraints on U.S. milled rice pending the study's completion.

Estimate of increase in exports: No specific increase in U.S. exports is expected from the successful resolution of the barriers listed above. Rather, the U.S. rice industry will benefit more broadly by removing scientifically unjustified restrictions on imports of U.S. paddy rice and the opportunity to develop marketing plans to Colombia's consumers that are based on the ability to ship and have access to Colombia each day of the year.