



Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

APRIL 9, 1997

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1. U.S. International Trade Commission Holds Beef 332 Hearing

On March 20, 1997 the United States International Trade Commission (ITC) conducted a hearing in Washington, D.C. in connection with its cattle and beef investigation (332-371). The purpose of the investigation, which was announced on October 31, 1996, is to conduct a study and prepare a report on (1) the impact of the North American Free Trade Agreement (NAFTA) and the Uruguay Round Agreements on United States imports and exports of live cattle for slaughter and fresh, chilled and frozen beef; and (2) steps that have been taken by the United States, since the enactment of the NAFTA, to prevent the transshipment of live cattle and fresh, chilled and frozen beef through Mexico and Canada for importation into the United States.

Witnesses appearing at the March 20 hearing included the New Zealand Meat Producers

Marketing Board, Mexican Association of Feed Yards, Arizona Cattle Feeders Association, American Meat Importers Association and Canadian Cattlemen's Association (CCA). In his testimony before the ITC Commissioners, CCA president Larry Andrews noted the similarities between the U.S. and Canadian cattle industries and highlighted the fact that over 50 percent of the Canadian cattle slaughter is now done by two U.S.-owned plants located in Alberta. There was mention of the fact that Canada had eliminated the WGTA and NTSP for beef since the last similar 332 study. Canada and the U.S. are also both considering implementing user fees for meat inspection services and both countries' high-quality beef export opportunities were enhanced through the Uruguay Round GATT Agreement.

The ITC is to submit its report to the House Committee on Ways and Means and Senate Committee on Finance by July 7, 1997.

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2. WTO Panel on EU Beef Hormone Ban Continues

The dispute settlement process under the World Trade Organization (WTO) with respect to Canada's challenge of the EU ban on meat and cattle produced with growth hormones continues. Canada and the EU both submitted written submissions to the panel in late 1996. Canada's submission included answers to a number of questions posed by the panel and by the EU on issues such as risk and the level of protection from risk. The panel then held oral hearings on January 7, 1997, followed by the filing of supplementary written submissions from both sides. A second panel hearing was held in mid-February. As is permitted under the new WTO rules for sanitary and phytosanitary (SPS) issues, this hearing included a meeting with a panel of scientific experts. The panel's preliminary confidential report is expected to be issued to the disputing countries in mid/late April, followed by the final report in late May.

The U.S. has a similar challenge underway. That panel had been at a more advanced stage than Canada's but has now been slowed down. Canadian and the U.S. representatives met with the scientific experts at the same time. The panel's reports on the two cases will be issued separately but likely at about the same time. These panels are the first tests of the WTO's SPS provisions.

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3. U.S. Studying Canadian and U.S. Potato Industries

On January 29, 1997, at the request of the Office of the U.S. Trade Representative (USTR), the U.S. International Trade Commission (ITC) launched a Section 332 investigation on the competitive conditions affecting the U.S. and Canadian potato industries. The ITC's report will focus on factors affecting bilateral trade in fresh tablestock potatoes, seed potatoes, raw potatoes for processing, and frozen processed potatoes. The investigation, which is to cover the years 1992 to 1996, will include production and/processing volumes and trends, U.S. imports from Canada, consumption trends, government aid programs in Canada, prices in both countries, effect of exchange rates and terms of sale factors on Canadian prices, and the cost of production.

A public hearing will be held on April 30, 1997 in Washington D.C. and written submissions will be accepted until May 15, 1997. The ITC's final report is due at the USTR by July 15, 1997. Investigations done under Section 332 of the Tariff Act of 1930 are fact-finding in nature. Although they do not automatically lead to trade action, there is always concern that such studies will highlight issues that U.S. industry may be tempted to use as a basis for launching trade action such as countervailing or antidumping investigations. A similar study is also underway on the North American beef and cattle industries.

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4. U.S. and EU Fail to Reach Veterinary Equivalency Agreement

On April 1, 1997, U.S. Agriculture Secretary Dan Glickman announced that the U.S. and European Union (EU) had been unable to reach a veterinary equivalency agreement by the April 1 deadline set by the EU for foreign country compliance with its meat and poultry slaughter plant inspection requirements. As a result, about \$100 million in U.S. meat exports to the EU will be impacted. In response, citing the forfeiture of any export opportunities created as a result of EU market access commitments agreed to in the Uruguay Round, the U.S. announced that it was immediately implementing a meat inspection system that would block \$300 million of EU exports to the U.S. The two sides will continue in the coming months to try to come to an agreement.

In contrast to the U.S., on March 6 Canada reached an agreement in principle with the EU on bilateral veterinary equivalence. The agreement, although not yet ratified, should facilitate roughly \$550 million in annual EU animal and fish product exports to Canada and \$250 million in exports to the EU.

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5. NAFTA Commission Meets in Washington D.C.

On March 20, 1997 the NAFTA Trade Ministers held a Commission meeting in Washington, D.C. Of particular interest to the Canada agri-food industry, one of the issues discussed at the meeting was the U.S. Re-Export Program for Sugar-Containing Products (SCP's) exported to Canada. This issue is centred around the U.S.'s continued use of this program in apparent violation of the duty drawback provisions contained in Article 303 of the NAFTA.

The Canadian agri-food industry has been divided on whether the U.S. should be forced to terminate the program. Sugar beet growers, sugar refiners and several Canadian-owned SCP manufacturers feel strongly that Canada should use the NAFTA's dispute settlement provisions to force the U.S. to terminate the program. On the other hand, several Canadian subsidiaries of U.S.-based multinational SCP manufacturers argue that termination of the Re-Export program would disrupt their production location strategies, with negative consequences for investments made on both sides of the border. These conflicting positions were presented to Canadian Agriculture and Agri-Food Minister, Ralph Goodale, at a meeting on February 11, 1997.

Canada may request the establishment of a Panel on April 21 (30 days from the date of the Commission meeting), if the issue is not resolved by then. Prior to the Commission meeting, consultations had been held with the United States on November 20, 1996, without being able to resolve this dispute.

Among other items, the Trade Ministers also agreed on a list of items for accelerated tariff elimination. These accelerated tariff eliminations will be implemented on July 1, 1997. Processed artichokes are among the items included on the acceleration lists of the U.S. and Mexico and tahini is on the acceleration list of all 3 countries.

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6. USTR Releases 1997 Inventory of Foreign Trade Barriers

On March 31, 1997, the Office of the United States Trade Representative released its 1997 National Trade Estimate Report on Foreign Trade Barriers. The 1997 inventory of foreign trade barriers lists the policies and practices of some 50 countries which the U.S. feels are blocking its exports, whether or not the practices are consistent with international trading rules. Countries such as Japan, China and the European Union are cited for their extensive array of barriers to U.S. agricultural exports. However, Canada is not exempt from the U.S. list. In agriculture, Canada is accused of harbouring unfair import barriers for beer, wine and spirits, supply-managed products, barley and fresh fruits and vegetables. In addition, the report notes that the U.S. is trying to have concerns with state-trading enterprises, such as the Canadian Wheat Board, dealt with by the WTO Committee on Agriculture. By law, the Office of the USTR is required to report annually to the President, the Senate Finance Committee and certain committees of the House of Representatives on significant foreign trade barriers.

[See the March 31, 1997, [USTR National Trade Estimate Report](#) on Foreign Trade Barriers]

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7. "Two-Tier" Milk Pricing

According to the February 21, 1997, issue of *Agra Europe*, the EU Directorate General for Agriculture (DGVI) recently commissioned Professor Frieder Roessler of Georgetown University Law School in Washington D.C. to examine the operation of the existing "two-tier" milk pricing system applied in Canada, as well as separate proposals for such a system from ONILAIT, the French milk producers organization and the Danish Dairy Board.

Professor Roessler's report stated that a system of two-tier milk pricing would "permit WTO members to frustrate one of the basic objectives of the WTO Agreement on Agriculture" and could well be challenged in Geneva. In addition, Professor Roessler apparently found that two-tier milk pricing systems "create incentives to export quantities exceeding the levels set out in the relevant export subsidy reduction commitments for milk products" and "accord advantages to milk processors that can be regarded as export subsidies subject to Article 9 of the Agreement on

Agriculture".

As far back as mid-1995, the National Milk Producers Federation in the U.S. (Inside U.S. Trade, August 25, 1995) was suggesting that the Canadian and Australian milk price pooling systems implemented since the conclusion of the Uruguay Round Agreement on Agriculture, may be in violation of the WTO. This criticism of the Australian and Canadian milk pricing systems came about after the U.S. government had discouraged the U.S. dairy industry from setting up a similar pricing system of their own.

In its official response to the NAFTA Supply Management Panel's final ruling on December 2, 1996, USDA and USTR indicated they were reviewing Canada's dairy pricing system with a view to possibly challenging the Canadian scheme in the WTO. The renewed attention focused on Canada's dairy pricing system may reflect frustration with the NAFTA Panel ruling for not giving the U.S. dairy industry the negotiating leverage it had hoped for to use to obtain accelerated access to the Canadian dairy market. Most recently, Canada's milk pricing system was discussed at a meeting of the WTO Committee on Agriculture on March 13 and 14, 1997.

[See the [OMAFRA summary of the December 2, 1996 NAFTA panel report](#) on Canada's tariffs on supply-managed products]

[See the [Australian Dairy Farmers' Federation](#) for information on marketing arrangements implemented there on July 1, 1995]

[See the actual text of the [WTO Uruguay Round Agreement on Agriculture](#) on the International Trade Law Monitor website]

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8. Japan Invokes Safeguards on Pork Imports

Japan has recently invoked two separate safeguard measures on imports of pork and swine. The first measure was taken under the special safeguard (SSG) provisions of the GATT 1994 Agreement on Agriculture. The provisions allow countries to invoke an SSG on tariff lines which have been tariffied (non-tariff barriers converted to normal tariffs) if either the volume of imports exceeds a trigger level or the import price falls below a trigger price. Japan invoked the volume-based SSG for the period January 1-March 31, 1997, raising the tariff on pork from 4.8% to 6.4%.

According to Canadian federal officials, of more concern to Canada and other exporters, is the safeguard invoked under measures announced by Japan near the conclusion of the Uruguay Round for the operation of its import regime for some agriculture and fisheries products, including pork. These measures were agreed to by GATT members at that time. For pork, Japan's regime includes the establishment of a "gate price" or, in other words, a minimum import price, for each category of pork. This price is to progressively reduce over the six year GATT 1994 implementation period. If the volume of imports, calculated quarterly and cumulatively, exceeds a trigger level (119% of the three-year average), the gate price can be "snapped-back" to the gate price at the beginning of the implementation period, and that price stays in place until the end of Japan's pork year (March 31). If the cumulative average is still greater than 119% at the end of

the year, the gate price remains at the higher level for another three months. In effect, with the increased imports that Japan has experienced, the gate price is in place for three-quarters of the year.

In late January 1997, the EU requested consultations, the first step in the WTO dispute settlement process, with Japan. Canada will participate as a third party in the dispute. Canadian federal officials hope that the issue can be resolved through consultations. As the WTO members approved Japan's regime, it may be difficult to challenge that the country is not being consistent with its international obligations. Nonetheless, no country predicted the impact that the measure would have on exports to Japan. For example, there is a big rush to export pork to Japan during the one three-month period when the gate price is not in effect.

The greatest impact is on lower-priced frozen pork. The EU (Denmark) is the main supplier of this category of product. Canada is affected less because of the increasing trend to export more fresh, chilled pork which has a price above the gate price.

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9. CITT Finds Material Injury from Fresh Chinese Garlic

On March 21, 1997, the Canadian International Trade Tribunal (CITT) ruled that the dumping in Canada of fresh garlic originating in or exported from the People's Republic of China has caused material injury to the domestic industry. This finding will only apply to fresh garlic imported into Canada from China between July 1 and December 31 of each calendar year.

In its preliminary determination of November 21, 1996, the Department of National Revenue had found that Chinese garlic was being dumped into Canada at prices 70 percent below their fair market value. This assessment was confirmed by Revenue Canada's final determination of the margin of dumping on February 19, 1997. Dumping occurs when goods are sold to importers in Canada at prices that are less than their selling price in the exporter's domestic market, or at unprofitable prices. The anti-dumping investigation was initiated on August 23, 1996, in response to a complaint from the Garlic Growers' Association of Ontario.

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10. Australia and Canada Trade Announcements on Beef and Salmon Access

On February 14, 1997, Australia's Minister for Trade, Tim Fischer issued a press release protesting Canada's apparent decision to reduce Australia's beef and veal import quota in the 1997 calendar year from 42,000 tonnes to 35,000 tonnes.

Then on March 5, 1997, Canada's International Trade Minister Art Eggleton and Fisheries and Oceans Minister Fred Mifflin announced that they would ask the WTO for a dispute settlement panel on Australia's imports of uncooked salmon. In 1975, Australia introduced a new quarantine measure that prohibited the import of uncooked salmon products, effectively requiring that

imported salmon be either heat treated or canned. The Canadian position is that the ban cannot be supported on scientific grounds and that it is inconsistent with Australia's obligations under the WTO.

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11. Anti-Dumping Petition Against UHT Milk from Québec Withdrawn

On March 17, 1997 Industria Lechera de Puerto Rico, Inc. (INDULAC) filed a Petition for the Imposition of Antidumping Duties against UHT Milk Imported from Canada before the International Trade Administration (ITA) of the U.S. Department of Commerce. In the petition, INDULAC had alleged that UHT milk imported from Québec, Canada was being, or was likely to be, sold in the United States at less than fair value (LTFV) within the meaning of Section 731 of the Tariff Act. INDULAC also alleged that the U.S. domestic UHT milk industry was being materially injured by these imports.

On March 28, INDULAC withdrew the petition after the ITA had determined that the initial petition had deficiencies and omissions and lacked clarification.

Historically, Québec milk dominated the Puerto Rican UHT milk market. However, that changed in 1992 when Puerto Rico adopted the Pasteurized Milk Ordinance (PMO) standards, effectively shutting Québec milk out of its market. Subsequent to this development, Canada requested the establishment of a dispute settlement panel under Chapter 18 of the Canada-U.S. Free Trade Agreement (FTA).

In June 1993, the FTA Panel recommended that a study be conducted to determine whether UHT milk was produced in Québec under conditions having the same effect as those in Puerto Rico. The Panel also recommended that UHT milk from Québec be readmitted into Puerto Rico should the study find that the respective UHT milk production systems provide a similar level of public safety.

The study, which was completed by Canadian and U.S. government officials in October 1995, concluded that the two systems were indeed equivalent in terms of safety and quality. On this basis, UHT milk from Québec was allowed to re-enter the Puerto Rico market. Ultra High Temperature (UHT) milk is a commercially sterile product which can be stored at room temperature for periods exceeding three months.

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12. New Hearing in Pasta Dispute

On January 31, 1997, the Federal Court of Appeal ordered the Canadian International Trade Tribunal (CITT) to reconsider its determination with respect to imports of unfairly traded Italian pasta. The Court determined that the CITT made errors in law when arriving at its July 1996 decision and that it underestimated the impact of the imports on the domestic market. The CITT

decision saw the removal of the preliminary anti-dumping and countervailing duties that had been imposed by Revenue Canada earlier in the year. The CITT has 120 days to reconsider the issue. In the meantime, Revenue Canada has re-imposed the provisional duties.

The CITT now expects to receive a brief from the Canadian Pasta Manufacturers by April 15. A reply brief will be due from pasta importers on April 25, to be followed by an oral hearing on May 5.

On May 13, 1996, the Canadian International Trade Tribunal (CITT) had released its determination that imports of subsidized and dumped Italian pasta were not injuring, and do not threaten to injure, the Canadian industry. The CITT's ruling was appealed by the Canadian Pasta Manufacturers' Association.

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13. Canada and U.S. Cooperate on Greenhouse Certification and Meat Inspection

On January 8, 1997, Agriculture and Agri-Food Canada and the United States Department of Agriculture signed a Memorandum of Understanding to establish a greenhouse certification program. This program should allow low-risk, greenhouse-grown plants to move more freely between the two countries.

Then on February 20, 1997, U.S. Secretary of Agriculture Dan Glickman announced new procedures for the inspection of red meat carcasses from Canada. Under the new re-inspection procedures, Canadian inspectors randomly select carcasses for every shipment, have them loaded at the back of the truck, then seal the truck. At the U.S. port-of-entry, a USDA Food and Inspection Service import inspector will re-inspect the samples selected by Canadian inspectors on shipments that are selected for re-inspection through a statistically based computer system.

Under the Canada-U.S. Free Trade Agreement, USDA and AAFC formed working groups that continually meet to correlate re-inspection of each other's products to ensure that procedures will be handled in a similar manner.

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1. DOC Ruling Means no Cash Deposits to be Collected on Swine Exports to U.S. for First Time Since 1985/86

The U.S. Department of Commerce (DOC) recently released its final determination for its tenth administrative review of the countervailing duty (CVD) on Canadian live swine. This review covered the period from April 1, 1994 to March 31, 1995. The DOC determined that the CVD rate for 1994/95 should be \$0.0098 per kilogram (0.44 cents per pound). However, recognizing that some of the countervailable programs had been terminated (e.g. National Transition Scheme for Hogs), the DOC set the cash deposit rate at \$0.0013 per kg. As this rate is considered *de minimus*, cash deposits will not be collected at all.

This determination by the DOC marks the first time since the CVD was implemented (for the 1985/86 period) that cash deposits will not be collected at the border. This final ruling adjusts the deposit rate, resulting from the ninth review, which had been 1.06 cents/kg.

On October 7, 1996, in its preliminary ruling for the tenth administrative review, the DOC had set CVD rates at \$0.0026 per kg. The significant reduction from this preliminary rate is due to errors in the DOC's initial calculation of government support to the live swine industry. The eleventh administrative review (for the period from April 1, 1995 to March 31, 1996) is now underway.

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2. International Trade Commission Holds Potato Investigation Hearings

On April 30, as part of its Section 332 investigation on potatoes, the United States International Trade Commission (ITC) held a full day of hearings to try to get a better understanding of issues affecting the North American potato industry. The purpose of the investigation, ***Fresh and Processed Potatoes: Competitive Factors Affecting the U.S. and Canadian Industries***, is to provide a report on factors affecting trade between the United States and Canada in fresh tablestock potatoes, seed potatoes, raw potatoes for processing and frozen processed potatoes (ATU, February 14, 1997). The report will focus on the period 1992-96, and to the extent possible, on 1997 as well.

The hearings were an opportunity for members of Congress from U.S. potato-growing regions to express their views on issues that are plaguing the industry. In particular, it was an opportunity to air grievances related to Canada's role in this industry, whether real or perceived. Many of the grievances reflected perceptions that the success of the Canadian potato industry in recent years has been primarily due to "generous" government subsidies. In addition, U.S. interests' frustration with Canadian import restrictions in relation to consignment sales and bulk shipments were noted.

Through its exchanges with several panels of witnesses representing growers and processors on both sides of the border, the Commissioners attempted to sift out the pertinent facts from all the information that was presented. Parties will have until May 27 to file their post-hearing briefs with the ITC. Some of the issues on which the Commissioners hoped to receive further analysis in the post-hearing briefs were industry production costs in Canada and information on what marketing roles, if any, are played by the various potato organizations in the Canadian provinces. Further analysis was also requested on the issue of direct investment by U.S. and Canadian potato

growing and processing interests in each others' markets and the evolution of the potato contract negotiation process over the years.

In addition, during the hearing Dr. Joseph Guenther from the University of Idaho had presented some figures which he believed showed considerable revenue loss to U.S. growers as a result of Canadian imports. The Commissioners requested additional documentation in support of Dr. Guenther's use of certain price elasticity of supply factors. Of note, an industry development that attracted considerable attention at the hearing was the recent awarding of a frozen french fry supply contract by a major U.S. fast food chain to a potato processor in eastern Canada.

From 1992 to 1996, U.S. potato production has actually increased at a faster rate than potato production in Canada. In the U.S., growth has been experienced in northwestern states such as Idaho and Washington, while in Canada, significant growth has been achieved in Prince Edward Island, Manitoba and Alberta. Per capita consumption of potatoes in Canada and the U.S. has seen modest growth over the last few years, reflecting changes in consumer lifestyles and foodservice industry efforts to promote the sale of french fries.

In 1996, Canada exported an estimated \$315 million of potato and potato products to the U.S., over half of which was accounted for by frozen french fries. For fresh and seed potatoes, however, the north-south flow has been relatively even with the U.S. having a net trade surplus with Canada, in terms of value, in 5 of the last 6 years. Canadian exports of fresh and seed potatoes to the U.S. normally account for 1 to 2 percent of U.S. domestic production.

In related developments, on May 5, USDA announced that it would buy \$23.5 million (U.S.) worth of processed potato products for donation to child nutrition and other domestic food programs. Then, on May 9, the USDA also indicated that it planned to pay potato growers to divert 1996-crop fresh Irish round white and russet potatoes to charitable institutions or for use as livestock feed. The ITC's investigation was requested by the U.S. Trade Representative on January 15, 1997 and is to be completed by July 15, 1997.

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3. New Hearing in Pasta Dispute

On May 5-7, 1997, the Canadian International Trade Tribunal held oral hearings in Ottawa for its rehearing of the impact of dumped Italian pasta on the domestic market. On the first day of the hearings, a consultant testifying on behalf of the Canadian Pasta Manufacturers Association (CPMA) explained his view that there is not a lot of brand or package size loyalty among Canadian purchasers of pasta. Most of the remainder of the hearings was comprised with legal arguments from the opposing sides. In January 1997, following an appeal by the Canadian Pasta Manufacturers' Association, the Federal Court of Appeal ordered the reconsideration, finding that that the CITT made errors in law when arriving at its original decision and also underestimated the impact of the imports on the domestic market (*ATU, February 14, 1997*). In May 1996, the CITT released its decision that imports of subsidized and dumped Italian pasta are not injuring and do not threaten the Canadian industry. The CITT's new decision is due in late May 1997.

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4. House of Commons Committees Release Report on Special Import Measures Act

In December of 1996 the Sub-Committee on the Review of the Special Import Measures Act of the Standing Committee on Finance and the Sub-Committee on Trade Disputes of the Standing Committee on Foreign Affairs and International Trade released their Report on the Special Import Measures Act (SIMA). On May 17, 1996, Finance Minister Paul Martin had asked the Standing Committees on Finance and on Foreign Affairs and International Trade of the House of Commons to jointly review the SIMA and to advise the government of any changes that should be made to the law.

SIMA governs the application of anti-dumping and countervailing duties to imports of dumped and subsidized goods that are found to cause injury to domestic producers. Anti-dumping duties are additional duties designed to offset an exporter's under pricing in an importing country's market. Countervailing duties are designed to offset the effects of foreign subsidies on imported products. The Minister of Finance sought the committees' advice on whether the SIMA still represented a balance of interests between domestic industries seeking protection from injurious imports and economic sectors that rely on imported products that are frequently the focus of such trade remedy actions.

The sub-committees concluded that the basic circumstances that motivated Canada to establish the SIMA continue to exist. As such, the sixteen recommendations contained in the report by the committees represent a fine-tuning of the legislation rather than any wholesale changes.

The committees' sixteen recommendations have to do with issues such as:

- providing better access to the SIMA process for small and medium-sized businesses;
- greater access by counsel and experts to confidential information filed in anti-dumping and countervail investigations;
- the transfer of responsibility for preliminary determinations of injury from the Department of National Revenue to the Canadian International Trade Tribunal (under the current process the CITT conducts the final injury determination forcing complainants to submit information on injury to both Revenue and the CITT); and
- establishing a non-exclusive list of factors that would guide the CITT in terms of its rulings on when and how to conduct public interest investigations.

The report's recommendation on fair and equal access by small and medium-sized producers was in response to a particular concern of the Canadian Federation of Agriculture. The CFA had pointed out that most producer organizations do not have the in-house skills necessary to do the information-gathering and analysis that is needed to put together a strong case. In addition, the legal costs that go along with being part of a prolonged investigative process are often prohibitive. The report also notes that equal access to the SIMA is already a priority of Revenue Canada and that it is being proactive in this area by assisting small and medium-sized producers during the pre-initiation process.

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5. Canadian and U.S. Officials Meet to Review Wheat and Sugar Files

On April 21, U.S. and Canadian officials met to gauge the potential for progress on an issue that has been outstanding for some time. The United States operates a Re-Export Program for sugar-containing products exported to Canada and the view is held by many that this program is a violation of the NAFTA's Article 303 duty drawback provisions. The Canadian Sugar Institute has long sought a concerted action against the U.S. on this program but views held by other members of the Canadian sugar beet and food industries have not been as cohesive. Discussions are ongoing in an effort to resolve this issue in a way that is acceptable to economic interests on both sides of the border. On March 20, 1997, Canadian Trade Minister Art Eggleton raised this issue at a meeting of the NAFTA Commission, an action necessary to allow the potential establishment of a dispute settlement panel to rule on this issue.

On April 25, officials met again to discuss U.S. concerns related to Canadian wheat exports into the U.S. market. Canadian Agriculture and Agri-Food Minister Ralph Goodale has repeatedly and publicly stated that Canada will not agree to any new limits on the volumes of wheat it can ship south. (In 1994-95, Canada had agreed to a 1.5 million tonne cap on its wheat shipments to the U.S., for that year only). The door remains open, however, to the possibility of setting up some sort of bilateral consultative forum as a means of reducing the political friction that inevitably flares up whenever Canadian grain shipments are thought to be causing "disruptions" in the U.S. market.

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6. WTO Panel Initial Report on EU Beef Hormone Ban Completed

According to published reports, the WTO panel's initial report on the EU beef hormone ban has been presented to the parties to the dispute. According to the WTO's rules on dispute settlement, the initial panel report is to remain confidential. Media reports, however, have indicated that the ruling is in favour of the Canadian and U.S. positions in this case (*Globe and Mail*, May 9, 1997).

On October 16, 1996, at Canada's request, the WTO had established a panel to investigate the issue of the EU ban on the use of hormonal growth promotants in animals destined for human consumption, and its effect on imports. The same panel that had been established on May 20, 1996 to rule on a similar complaint by the United States, is ruling on the Canadian complaint.

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7. U.S. and Canadian Cattlemen Consider Pilot Project for the Northwest

According to Canadian Cattlemen's Association (CCA) president, David Andrews, the CCA and the National Cattlemen's Beef Association are in the process of developing a northwest pilot project. As part of the pilot, Canadian cattle would be recognized for their disease-free status on brucellosis and tuberculosis. In return, Canada would allow feeder cattle from Montana to be fed in designated Canadian feedlots during the winter season without requiring some of the testing

now in place. This procedure could eventually be expanded to include other states.

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8. DFAIT Releases 1997 Market Access Report

On March 27, the Department of Foreign Affairs and International Trade released its report on ***Canada's International Market Access Priorities - 1997***. The report describes how Canada is seeking improved access for goods, services and investments in several important markets. The document covers multilateral and regional trade liberalization initiatives and specific market access issues in key markets, including the United States. This report replaces the ***Register of U.S. Barriers to Trade*** which had been issued annually by the Department since 1993.

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9. QUAD Trade Ministers Meet in Toronto

Canadian Minister for International Trade, Art Eggleton, met with his counterparts, United States Trade Representative Charlene Barshefsky, Japanese Minister for International Trade and Industry, Shinji Sato, and Vice President of the European Commission and Commissioner Responsible for Commercial Policy, Sir Leon Brittan from April 30 to May 2, 1997. The Quadrilateral Trade Ministers held their 30th meeting in Toronto to review developments in international trade since the Singapore Ministerial Conference of the World Trade Organization and to consider future directions in international trade in the evolving world economy.

In agriculture, the Ministers reviewed the WTO's ambitious built-in agenda for further negotiations and recognized that achievement of the analysis and information exchange necessitated by the work program would require the commitment of all WTO members. The accession of new members to the WTO was also supported on the grounds that the entry of these new members be on "commercially viable" terms and in "a manner that preserves the integrity of the WTO rules." In 1998, the GATT (the predecessor of the WTO) will observe its 50th anniversary.

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10. APEC Trade Ministers Meet in Montreal

Trade ministers from the Asia-Pacific Economic Cooperation (APEC) forum met in Montreal from May 8 to 10 to focus on issues related to the facilitation of trade through reductions in costs of doing business in the region. Specific concerns being addressed included the harmonization of standards, simplification of customs procedures and clarification of regulations. The Trade Ministers' meeting, which was also attended by WTO Director General Renato Ruggiero, is considered a preparatory step towards the November 1997 APEC Leaders' meeting in November.

The Trade Ministers also heard a report from the APEC Business Advisory Council and received the results of the APEC Customs/Industry Symposium being held from May 7 to 9. In Canada, 1997 is being marked as Canada's Year of Asia Pacific (CYAP) and as such a number of events will be held in an effort to increase Canadians' awareness of our extensive business and cultural relations with countries of the Asia-Pacific. The stated goal of APEC is to achieve free and open trade and investment in the region by 2010 for developed countries and by 2020 for developing countries.

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11. Canada And Mercosur Announce Trade Talks

On April 22, Canada and Brazil (on behalf of Mercosur which is a customs union of Brazil, Argentina, Uruguay and Paraguay) agreed to begin talks towards a free trade agreement. The leaders of the two countries agreed that a new agreement would be a stepping stone to the Free Trade Areas of the Americas (FTAA). The target for completing an FTAA is 2005. The talks between Canada and Mercosur are expected to continue in May (*Globe and Mail, April 23, 1997*). Earlier in April, federal Trade Minister Art Eggleton announced that Canada was considering such activities because it was becoming apparent that the U.S. would not soon be granted the fast-track negotiating authority it needed to take leadership in expanding free trade between north and south America.

Total trade between Canada and Mercosur is now \$3 billion annually, which is less than 10% of the U.S.-Mercosur trade. Mercosur currently has an 11% tariff on all imports.

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12. U.S. Court to Hear Challenge of NAFTA

On February 26, the U.S. Court of Appeals for the District of Columbia decided to hear both jurisdictional and substantive arguments in the case alleging that the NAFTA dispute settlement system with respect to anti-dumping and countervailing duties (Chapter 19) violates the U.S. Constitution. Briefs are expected to be filed this summer, followed by oral arguments in the fall.

The Court's decision did not follow the U.S. Justice Department's argument that the Court should first determine whether the complainants had standing in the case. The case was filed in January by the American Coalition for Competitive Trade (ACCT) but the U.S.'s implementing legislation for the Canada-U.S. Free Trade Agreement says that such a constitutional challenge must be made by parties who have been adversely affected by the panel system (*ATU, February 14, 1997*).

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13. Canada and China Sign Beef Protocol Agreement

In early April, Canada became the first country to sign a beef import protocol agreement with China. According to Canadian Agriculture and Agri-Food Minister, Ralph Goodale, the protocol would set the terms and conditions under which Canadian producers may export their beef products directly to China's retail market.

At the time the protocol was signed, a number of matters flowing from the agreement remained to be finalized, including the review and approval of exporting establishments by Chinese authorities. Although China had not yet concluded its criteria for exporting plants, it had indicated that it expected to do so this year.

Canadian Cattlemen's Association president, David Andrews, touted the protocol agreement, noting that in the long term the agreement may give Canada an "inside track" in terms of accessing the potentially huge Chinese market and minimizing the risk of doing business in China.

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14. U.S. and EU Reach Veterinary Equivalency Agreement

On April 30, 1997, U.S. Agriculture Secretary Dan Glickman announced that the U.S. and the EU had reached an agreement on an overall framework for recognizing as equivalent each other's veterinary inspection systems. This follows an inability by these trading partners to reach an agreement before the previous April 1 deadline and a similar agreement reached between Canada and the EU in March (*ATU, April 9, 1997*).

The U.S.-EU agreement is said to cover \$1.5 billion (U.S.) in U.S. animal product shipments to the EU and an equal value of EU exports to the U.S. Poultry meat inspection, however, is an area where issues remain unresolved and so was not included in the agreement. According to the USDA statement, the U.S. will now begin a thorough examination of the EU's poultry inspection system and its ability to meet U.S. meat inspection rules under the new Pathogen Reduction/Hazard Analysis and Critical Control Point (HACCP) program.

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15. Western Farmers Vote in Favour of Wheat Board

On March 26, the federal government announced the results of the vote by prairie farmers on the future of barley marketing. The results were that 62.9 % of voters want the Canadian Wheat Board to continue as the sole marketer of barley exported from Canada. A total of 58,042 farmers in the Prairie provinces cast votes.

The vote was announced in November 1996 by federal agriculture minister, Ralph Goodale, The CWB has a monopoly on buying barley that is exported or used domestically, except for feed barley sold domestically. Voters had the option of retaining the current system or going to a free market for all domestic and export sales. (*ATU, December 11, 1996*).

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16. EU States Delay Fur Ban

In February 1997, EU countries effectively delayed the imposition of a EU ban on fur caught using leghold traps when they asked the Commission to renegotiate draft deals with Canada and Russia, by the end of June at the latest, in order to further restrict the use of inhumane traps. The EU countries want, for example, the ban on non-padded steel-jawed leghold traps to take effect in 2.5 years rather than in 4 years in the tentative agreements. In December, the EU environment ministers had recommended that the ban be in place by the end of March 1997. This marks the fourth time that the ban has been delayed. (*Inside U.S. Trade, February 28, 1997*).

The EU is also trying to reach a bilateral deal with the U.S. The U.S. had rejected the tentative deals with Canada and Russia.

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Agri-food Trade Update is written by Laurinda Lang and Sid Friesen of the Policy and Program Coordination Branch. Please direct any inquiries or comments to Laurinda Lang, by telephone at (519) 826-3242, by mail at 1 Stone Road West, Guelph, Ontario N1G 4Y2 or by e-mail to llang@omafra.gov.on.ca

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Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

JUNE 16, 1997

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1. Canada-Chile Free Trade Agreement to Come into Force July 1, 1997

The implementation of the Canada-Chile Free Trade Agreement (CCFTA) has been delayed beyond the original target date of June 2, 1997. It is now expected to come into force on July 1, 1997. Implementation of the CCFTA will be the culmination point for a free trade negotiation which was launched in January 1996 and concluded 10 months later in November 1996. The two countries launched negotiations after it became apparent that the U.S.'s participation in Chile's accession to the NAFTA would be delayed until at least after the 1996 U.S. Presidential election. The CCFTA is, however, seen as a "bridge" to Chile's eventual accession to the NAFTA.

The CCFTA will give Canada improved access to the Chilean market for products such as grains, oilseeds, horticultural products, red meats and processed foods. For most agri-food products, trade between Canada and Chile will be duty-free either immediately, or within 5 to 10 years. Canada will, however, retain its tariffs for dairy, poultry and egg product imports outside the WTO tariff rate quotas. In what could be a precedent for other trade agreements, and consistent with

Canada's philosophy that trade remedy laws are not appropriate with a free trade area, Canada and Chile have agreed to eliminate the use of anti-dumping measures for products that are no longer subject to tariffs, or in 6 years, whichever occurs first.

[See [a statistical summary of Ontario's and Canada's agri-food trade with Chile, provided by OMAFRA's Statistical Services Unit.](#)]

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2. FTAA Trade Ministers Meet in Belo Horizonte

On May 16, 1997, Trade Ministers of the 34 democracies in the western hemisphere met in Belo Horizonte, Brazil for their Third Ministerial Meeting. Trade Ministers from the FTAA countries are preparing for the Second Summit of the Americas is to be held in Santiago, Chile in March 1998. The first such Summit was held in Miami in 1994.

In Belo Horizonte, Ministers reiterated their commitment to conclude negotiations of the Free Trade Area of the Americas (FTAA) no later than 2005. There was also agreement to initiate the negotiations at the Santiago Summit in March 1998. At the Trade Ministerial to be held in San Jose in February 1998, Ministers will formulate how the negotiations will proceed, including such features as their objectives, approaches, structure and venue.

Some of the key principles around which there was widespread agreement in Belo Horizonte were the following:

- consensus will be the fundamental principle of decision-making in the FTAA process;
- the FTAA can co-exist with bilateral and sub-regional trade agreements;
- the FTAA will be consistent with the WTO;
- countries may negotiate and join the FTAA individually or as members of sub-regional integration groups negotiating as a unit;
- smaller economies will receive special attention to ensure their full participation in the FTAA process;
- the need to establish a temporary administrative Secretariat to support the negotiations; and
- the need to conclude negotiations by 2005.

According to the Canadian Statement at the Belo Horizonte Trade Ministerial, FTAA members are also seeing the need for the FTAA to provide for clear and predictable rules of origin and for disciplines on investment.

On May 13, just prior to the FTAA Trade Ministerial, the International Policy Council on Agriculture, Food and Trade (IPC) also met in Belo Horizonte. Emanating from this meeting was a series of recommendations for the anticipated negotiations of the FTAA. One issue that the IPC sees as needing to be addressed is the treatment of tariff rate quotas established under the WTO. The abolition of export subsidies and the potential of using an integrated network of competition policy structures to replace national anti-dumping regulation will also be at the forefront of

discussions. Potentially controversial issues to be dealt with in the negotiations will be food safety regulation and the treatment of genetically modified organisms.

The IPC also notes that the FTAA negotiating heads will need to find a way to work around the problem of carrying on negotiations in the FTAA simultaneous to the anticipated 1999 round of agricultural trade negotiations in the WTO. The IPC is an international group of individuals who use their expertise and influence to advocate for liberalized agri-food trade policies. The Washington-based IPC has members in 22 different countries, including Canada.

[See the [Statement by Canada at the Third Western Hemisphere Trade Ministerial at the website of the Department of Foreign Affairs and International Trade.](#)]

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3. Canada and EU Initial Agreement on Humane Trapping Standards

On May 26, 1997, Canada and the European Union (EU) initialed adjustments to the International Agreement on Humane Trapping Standards. This development follows five months of intensive discussions between Canada and the EU and responds to European demands to improve the understanding that was reached in December 1996. The agreement, which has yet to be ratified by the EU's member states, is similar to an agreement expected to be reached between the EU and Russia. Prior to this, the EU had on at least four occasions delayed its ban on the use of fur caught using leg-hold traps, most recently in February 1997 (see May 14, 1997 ATU). The need for an agreement stems from the EU's resolution in 1991 to ban the use of such traps.

The adjustments to the agreement further Canada's commitment to a ban on the use of leg-hold traps, clarifies the scope of provisions concerning the use of traditional traps by Aboriginal peoples and increases the number of species covered from 18 to 19. The commitments apply to trapping standards for all purposes, including pest control, conservation, fur and food.

[See the [Department of Foreign Affairs and International Trade Press Release on Canada's Initialling of an Agreement on Humane Trapping Standards with the EU.](#)]

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4. CITT Confirms Ruling of Non-Injury from Italian Dry Pasta

On June 2, 1997 the Canadian International Trade Tribunal (CITT) again found that Italian pasta has not caused material injury and does not threaten to cause material injury to the domestic Canadian industry. The ruling stems from a judgment by the Federal Court of Appeal on January 31, 1997, requiring the CITT to recommence its injury inquiry. (See April 9, 1997 and May 14, 1997 ATU's.) The ruling applies to dry pasta, not stuffed or otherwise prepared, and not containing eggs, in packages up to and including 2.3 kg in weight, originating in or exported from Italy. The CITT's Statement of Reasons for its June 2 finding should be released by June 17, 1997 (within 15 days of the finding).

[See the [CITT's Statement of Reasons for its original ruling of non-injury, released on May 13, 1996.](#)]

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5. Dairy Farmers of Ontario Developing an Optional Export Program

Since 1996, Dairy Farmers of Ontario (DFO) has made available a collective Optional Export Program (OEP). However, no contracts have as yet been entered into under the collective program which offers processors raw milk for export purposes, at prices in excess of the confectionery price of approximately 32 or 33 cents per litre. DFO is now also putting in place the details for an individual OEP. Under the individual OEP, producers would be able to sign contracts with processors to supply milk for export products at a price somewhere under 32 cents per litre. Individual producer export contracts would be limited to 10 percent of their quota holdings for domestic production.

Meanwhile, a group of Ontario dairy farmers is organizing itself as the Ontario Export Milk Producers Group (OEMPG). The goal of OEMPG (Ontario Farmer, May 27, 1997) is to promote a plan whereby dairy farmers outside the supply management system would be able to produce milk for export markets at international prices.

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6. References to International Trade Policy in Dairy Farmers of Canada's 1997 Dairy Policy

On January 23, 1997, Dairy Farmers of Canada (DFC) adopted its 1997 Dairy Policy. The Policy envisions "a dairy industry comprised of profitable, independent farm businesses operating within a strong and adaptive system of supply management". In support of this vision, the DFC proposes a Canadian trade policy which includes elements such as:

having the Canadian Dairy Commission remain as the administrator of Canada's butter tariff rate quota;

- insisting that Canada's tariffs on milk and dairy products may be maintained at currently negotiated levels;
- advocating that future trade negotiations for the dairy sector occur in the forum of the World Trade Organization (WTO) as opposed to the Asia Pacific Economic Cooperation forum;
- ensuring that in the next round of WTO negotiations sufficient attention is given to the internal support, export subsidies and other programs (i.e. procurement programs) of Canada's trading partners; and
- asking the federal government to address problems resulting from cross border purchases of dairy products.

7. EU Agriculture Ministers Discuss Options to Keep EU Dairy Products Competitive on World Markets

European Union (EU) Ministers of Agriculture met informally in Middelburg, Holland on May 26 and 27 to discuss dairy policy reform. In 1984, the EU instituted a milk quota system. As a result of an extension agreed upon in December 1992, this system will continue until March 31, 2000. The discussion at the meeting in Middelburg was focused on the direction of EU dairy policy after the year 2000.

The EU dairy sector will face pressures from various forces in the next few years. Commitments in the WTO will reduce the volume of dairy production that may be disposed of on global markets at subsidized prices. At the same time, the EU will need to provide incremental increases in access to its dairy market to other exporting countries like Australia and New Zealand. In addition, there is the issue of the EU's eastward expansion. Extending the current dairy policy regime to the central and east European countries as they join the EU would exacerbate the surplus production problem.

As a way to address these oncoming pressures, EU member states are proposing several solutions. Some member states favour the continuation of the current system with only minor refinements as needed. Other states, such as France, continue to favour the adoption of a "two-tier" approach, initially proposed by Denmark, whereby there would be separate prices and quotas for domestic and export production (see April 9, 1997 ATU). Although there is concern about the WTO-compatibility of such a system, this approach appears to be attracting greater support among EU member states. In part due to questions about its WTO-compatibility and the complexity of administering such a policy, the United Kingdom and several other members would favour the complete dismantling of the quota system. A few member states also made a case for being allotted a greater share of the existing milk production quota.

Milk production remains the largest agricultural sector in the EU, accounting for over 18 percent of total output. Even with the quota system, the EU dairy sector is the largest in the world (accounting for 20 percent of global production) and is the dominant player in export markets (accounting for 45 percent of global dairy product exports). The EU also runs an annual milk production surplus of 9 to 9.5 million tonnes. This surplus production must either be added to existing stocks or be disposed of on export markets at subsidized prices.

[See [the Executive Summary of the EU Directorate-General for Agriculture April 1997 paper on the "Dairy Sector Situation and Outlook"](#)]

8. Progress Made on Multilateral Agreement on Investment

When the Organization for Economic Cooperation and Development (OECD) Ministerial Council met on May 26 and 27, 1997, they noted their satisfaction with progress to date towards the negotiation of a Multilateral Agreement on Investment (MAI). Negotiations on the MAI were initiated in 1995 and are expected to conclude in 1998. While the negotiations are being conducted within the OECD forum, the MAI will be a free-standing international treaty open to all OECD and non-OECD countries.

The MAI will establish disciplines in three main areas, including investment protection, investment liberalization and dispute settlement. The dispute settlement mechanism will provide a forum for dealing with state-to-state and investor-to-state grievances. The MAI will call on its signatories not to lower environment and labour standards in order to attract foreign investment, while allowing governments the freedom to implement labour and environmental policies of their choosing, as long as those policies are not more stringent for foreign investors than for domestic investors.

Issues still to be resolved in the MAI negotiations revolve around the status of investment provisions contained in regional trade agreements, the coverage of sub-national measures and the treatment of cultural measures. In addition, there is the difficult matter of coming to agreement on what types of measures taken for security or public order reasons should be exempted from the general provisions of the MAI. The MAI will be fully consistent with all agreements under the WTO.

Canada is one of 29 country members of the Paris-based OECD.

[For more information on the Multilateral Agreement on Investment, [visit the Organization for Economic Cooperation and Development web site.](#)]

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Agri-food Trade Update

A quarterly review of international trade policy issues and developments
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JULY 9, 1997

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1. WTO Final Panel Report on EU Beef Hormone Ban Delivered

On June 30th, the World Trade Organization panel established to examine the European Union ban on the import of meat treated with hormones for growth-promoting purposes, delivered its final report. Although WTO rules require that the contents of the report remain confidential until delivered to all WTO members, the EU issued a press release on July 1st in which it noted that the panel had found that the EU ban was not in conformity with a number of provisions of the WTO Agreement on Sanitary and Phyto-Sanitary Measures. The EU Commission also expressed its disappointment with the panel ruling and noted that it intended to bring the matter before the Appellate Body of the WTO

The panel simultaneously released its final reports for both the panel established at Canada's request on October 16, 1996 and the panel established at the request of the United States on May 20, 1996. (The same panel ruled on both complaints). If the final report is in fact appealed, the Appellate Body would have 60 days (the rules allow for an extension to 90 days, if necessary) to conclude its review. The appeal would be limited to issues of law covered in the panel report and legal interpretation developed by the panel.

The final panel report is also currently being reviewed by the Government of Canada. Canada's position has always been that there is no scientific basis for the European Union's import prohibition and that it is contrary to the European Union's WTO obligations.

[[See July 1 press release from the EU on decision to appeal WTO hormone panel findings.](#)]

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2. Canada-Chile Free Trade Agreement Implemented on July 5

After another short delay, the Canada-Chile Free Trade Agreement (CCFTA) was implemented on July 5, 1997. It was to have been implemented on July 1st (ATU, June 16, 1997) but was held up by the need to secure legislative approval in Chile. The CCFTA finally received approval from the Chilean Senate on July 2nd. CCFTA implementing legislation had received Royal Assent in Canada on April 25, 1997.

[[See Canadian Department of Foreign Affairs and International Trade July 4 press release on the implementation of the CCFTA.](#)]

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3. New Canadian Federal Agriculture and Trade Ministers

With the re-election of a Liberal-majority federal government in Canada on June 2nd, Prime Minister Jean Chrétien made several changes around the cabinet table. Among the changes, Lyle Vanclief was named the new Minister of Agriculture and Agri-Food and Sergio Marchi was named the new Minister of International Trade.

Mr. Vanclief has been a Member of Parliament since 1988 and from 1993 to 1996 served as the Parliamentary Secretary to the Minister of Agriculture and Agri-Food. The new Minister has a background of farming central Ontario and is a graduate of the University of Guelph. Mr. Gilbert Normand, representing a riding in the province of Québec, was named Secretary of State for Agriculture and Agri-Food and for Fisheries and Oceans.

The new Minister of International Trade, Sergio Marchi, was previously the Minister of the Environment. First elected to parliament in 1984, Mr. Marchi has also held a cabinet posting as Minister of Citizenship and Immigration. The Argentinean-born Minister represents the Toronto

riding of York West.

Ralph Goodale, the previous Minister of Agriculture and Agri-Food has taken over the portfolio of Natural Resources, while maintaining responsibility for the Canadian Wheat Board. Art Eggleton was moved from his posting as International Trade Minister to become the Minister of National Defence.

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4. Canadian Agriculture Ministers Discuss Preparations for 1999 Round of Multilateral Trade Negotiations

At their meeting in Trois-Rivières, Québec on July 3 and 4, 1997, Canadian federal, provincial and territorial ministers of agriculture had the opportunity to discuss several issues related to trade. Regarding preparations for the anticipated 1999 round of multilateral trade negotiations in agriculture, ministers agreed that the Canadian international negotiating position and strategy would be developed by the federal government in consultation and collaboration with provinces and industry. Ministers also pointed to the successful NAFTA panel defence of the Canadian position on dairy and poultry tariffs as an example of a close and effective collaborative effort among the federal and provincial governments and industry. Full and effective consultations are to be pursued in an effort to identify Canadian priorities for negotiation in 1999. On the subject of internal trade, Ministers agreed to undertake consultations with a view to broadening the agri-food component of the 1995 Agreement on Internal Trade.

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5. Canadian Federal Government Reviewing Regulations on Live Hog Imports from U.S.

Agriculture and Agri-Food Canada is proposing two amendments to its Health of Animals Regulations. The two amendments are designed to facilitate shipment of live swine across the Canada-U.S. border, while minimizing the risks of introducing pseudorabies and swine brucellosis into Canada's national swine herd.

Under the present regulations, swine from the United States must be tested for brucellosis and pseudorabies before being exported to Canada. Upon entry, they must also undergo a minimum 30-day quarantine, during which they must be re-tested for brucellosis and pseudorabies. The first proposed amendment would exempt swine imported into Canada from the United States from the current testing and quarantine requirements, provided they are taken directly to an abattoir and slaughtered immediately.

Only owners or operators of abattoirs will be allowed to import swine for immediate slaughter. In addition, swine may only be imported from states that are recognized as free of both pseudorabies (stage IV and V states under the American Pseudorabies Eradication Program) and swine brucellosis (stage III of the Swine Brucellosis Control/Eradication Program). The proposed regulation will require that as they are being loaded in the United States, all swine be examined

by a veterinarian accredited by the United States Department of Agriculture.

This change in regulation is expected to increase the availability of slaughter swine for Canadian abattoirs and to allow abattoir owners to better use their plant capacities. According to the Canadian Food Inspection Agency's (CFIA) Regulatory Impact Analysis Statement, the Canadian Meat Council, the United States Department of Agriculture and the United States swine industry all requested the slaughter swine amendment. The Canadian Pork Council apparently does not object to the proposal while the Québec Ministry of Agriculture, Fisheries and Food did express concern that any outbreak of disease could result in the United States prohibiting the importation of pork from Canada.

The other change would see Section 106 of the Health of Animals Regulations amended to allow trucks that have delivered Canadian swine to abattoirs in the United States to return without being disinfected. This is intended to facilitate movement of slaughter swine into the United States by reducing the costs of transportation. According to a risk analysis conducted by Agriculture and Agri-Food Canada, these trucks do not represent any risk of introducing disease as long as they have not carried United States swine.

The proposed amendments have been published in the Canada Gazette with August 14th set as the deadline for the submission of comments.

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6. CITT Releases Statement of Reasons on Finding of Non-Injury from Italian Pasta

On June 17th the Canadian International Trade Tribunal released its Statement of Reasons for its June 2nd finding that imports of Italian pasta are not causing material injury and do not threaten to cause material injury to the domestic Canadian industry. That finding was the result of a new inquiry as the Federal Court of Appeal had ruled on January 31, 1997 that the CITT's original finding of May 13, 1996 had made contradictory and erroneous statements concerning the volume and significance of non-premium Italian pasta (ATU, June 16, 1997).

In its Statement of Reasons, the CITT says that the central issue to be addressed was the significance of sales of non-premium brands of Italian pasta in terms of their actual percentage share of total sales of Italian pasta and of the impact of those brands in the Canadian marketplace during the period of inquiry. The CITT's analysis showed that the total retail market for dry pasta grew over the period of inquiry (1992 to 1995), although sales of 450 and 500 gram package sizes grew by 37 percent, a much faster rate of growth than for the market as a whole. Data also showed that the vast majority of the growth in sales in these package sizes was represented by sales of five particular Italian brands identified as "premium."

As the domestic pasta manufacturing industry had already acknowledged that imports of premium brands were not having a price-suppressive effect on the domestic industry, the CITT was led to conclude that the impact of the non-premium 450 and 500 gram imports was insufficient to be causing material injury to the domestic industry.

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7. U.S. and Canadian Officials Continue Discussions Related to Sugar and Grains

Canadian and U.S. officials met on June 27th to continue ongoing discussions on sugar and grain trade issues. On sugar, Canada has had a long-standing complaint regarding access to the U.S. market and the status of the Re-Export Program for sugar-containing products (SCP's) exported to Canada. With the implementation of the Uruguay Round GATT Agreement, Canada has seen a dramatic reduction in its access to the U.S. market for sugar and SCP's and part of the current discussion revolves around "locking-in" access to a much smaller market but with the certainty that it will not be reduced even further.

On wheat, the United States continues to be concerned about Canadian wheat exports into its market. Although its options on dealing with Canadian wheat exports are severely limited, Agriculture Secretary Glickman and United States Trade Representative Charlene Barshefsky have stated that they will not allow imported grains to "disrupt" the U.S. market. The Canadian federal government has consistently expressed its refusal to agree to any cap on its exports.

Meanwhile, efforts are underway to reduce tensions in the North American grain industry by increasing the mutual understanding of each other's grain handling and marketing systems. With this goal in mind, industry stakeholders from the U.S. and Canada recently met in Winnipeg for an informal exchange of ideas and views.

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8. United States to Allow Beef Imports from Argentina

On June 24th, the United States Department of Agriculture announced that it would begin to allow, under certain conditions, the importation of fresh, chilled, or frozen beef from Argentina. This development recognizes that not a single case of foot-and-mouth disease has been seen in Argentina since 1994. This final rule by USDA's Animal and Plant Health Inspection Service (APHIS) is one component of a comprehensive "regionalization" initiative first proposed by USDA in 1996. Under regionalization, APHIS would establish requirements for foreign "regions" based on scientific risk class levels, replacing current regulations that are based on declaring individual countries free of certain diseases. This regionalization concept is also a prominent feature in the ongoing dialogue between the EU and U.S. on accepting the United States' meat inspection regime as equivalent to that in the EU. The rule with respect to beef imports from Argentina becomes effective on August 25th.

The Canadian Food Inspection Agency is going through a similar process of reviewing Canada's regulations with respect to imports of beef from Argentina.

[[See USDA press release on decision to allow beef imports from Argentina.](#)]

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9. European Union Approves Labeling of Genetically Modified Organisms

On June 18th the European Union (EU) adopted a Commission Directive which will make labeling compulsory for all new products which contain or consist of genetically modified organisms (GMO's). Under Directive 90/220/EEC, companies putting new products on the market must indicate on the label or in an accompanying document that the products may contain or may consist of genetically modified organisms. The Directive is expected to become law by July 31, 1997.

There is a growing international debate on the labeling of genetically engineered foods. The debate has focused on whether to label them, how to label them and what information should be on the label. This issue was discussed in meetings that EU Agriculture Commissioner Franz Fischler had with U.S. Agriculture Secretary Dan Glickman and U.S. Trade Representative Charlene Barshefsky in Washington on June 16th. U.S. officials made clear their opposition to any labeling scheme that would require the segregation of GMO products.

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10. Canada-EU Trapping Agreement not yet ratified by EU

Although European Union Environment Ministers met in Luxembourg on June 19th and 20th a ratification vote on the Canada-EU accord on human trapping standards was put off. It appears that at least a few EU member countries were not prepared to give their consent to agreements negotiated with Canada and Russia. According to the June 27, 1997 issue of Inside U.S. Trade, EU member officials saw little advantage to ratification of these agreements as long as there was no agreement with the United States and the United States was threatening to bring the issue to dispute settlement in the WTO.

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11. ITC Beef 332 Investigation Completed

The United States International Trade Commission (ITC) cattle and beef investigation (332-371) has been completed. The purpose of the investigation, which was announced on October 31, 1996, was to conduct a study and prepare a report on (1) the impact of the North American Free Trade Agreement (NAFTA) and the Uruguay Round Agreements on United States imports and exports of live cattle for slaughter and fresh, chilled and frozen beef; and (2) steps that have been taken by the United States, since the enactment of the NAFTA, to prevent the shipment of live cattle and fresh, chilled and frozen beef through Mexico and Canada for importation into the United States (see ATU, April 9, 1997).

The fact-finding report was submitted to the House Committee on Ways and Means and Senate Committee on Finance on July 7th and are available to the public as of today.

Agri-food Trade Update is written by Laurinda Lang and Sid Friesen of the Policy and Program Coordination Branch. Please direct any inquiries or comments to Laurinda Lang, by telephone at (519) 826-3242, by mail at 1 Stone Road West, Guelph, Ontario N1G 4Y2 or by e-mail to llang@omafra.gov.on.ca

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Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

SEPTEMBER 10, 1997

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1. WTO Panel Report on EU Beef Growth Hormones Made Public

On August 18th, the WTO publicly released the final dispute settlement panel's final report on the European Union's import ban on meat produced using growth-promoting hormones. The WTO panel's findings upheld the claims by Canada and the United States that the EU's measures are

inconsistent with the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures. The EU measures in dispute stem from a 1981 EC Directive requiring its member states to prohibit the administration to farm animals of substances having a thyrostatic, oestrogenic, androgenic or gestagenic action. The report had been presented to the disputing parties on a confidential basis on June 30th (ATU, July 9, 1997).

The report must be adopted by the Dispute Settlement Body of the WTO within 60 days, unless the panel's decision is appealed by the EU. It is highly expected that the report will be appealed to the WTO's Appellate Body, in which case the Appellate Body would then have 60 to 90 days to review the final panel report.

[[See and August 25th press release by the Canadian Department of Foreign Affairs and International Trade on the WTO Panel Report on the EU Beef Hormone Ban](#)]

[[See a USTR August 18th press release commenting on the public release of the WTO panel report on the EU beef hormone ban](#)]

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2. Canada and the U.S. Come to Terms on Sugar

On August 29th, Canada and the United States reached an agreement on sugar and sugar-containing products (SCP's) that will resolve the lengthy bilateral dispute concerning access to the U.S. market. In return for agreeing not to challenge the U.S. Re-Export Program for Sugar-Containing Products in a NAFTA panel, the U.S. has agreed to give Canada guaranteed access for 10,300 tonnes of refined sugar and 59,250 tonnes of SCP's. Canadian exporters may also ship refined sugar to the U.S. under the unallocated portion of the global refined sugar TRQ. The U.S. did not increase its overall global import quotas of 22,000 tonnes and 64,709 tonnes for sugar and SCP's, respectively. The August 29th agreement can be cancelled by either side on six months notice.

Canadian industry reaction to the agreement has been mixed. U.S.-based SCP manufacturers in Canada are pleased that they will continue to have access to the SCP Re-Export Program. The sugar refining industry itself is pleased to have more secure access to the U.S. market, although at levels far below historical exports. Other industry players, including several Canadian SCP manufacturers, would have preferred for the federal government to challenge the U.S. SCP Re-Export Program in the NAFTA, as the removal of this program would have given them a competitive edge in the Canadian market over SCP's imported from the U.S.

[[See Canadian Department of Foreign Affairs and International Trade press release on the August 29 agreement](#)]

[[See United States Trade Representative press release on the August 29 agreement](#)]

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3. Clinton Administration Continues To Be Troubled By Canadian Wheat Imports

The U.S. Administration continues to be under pressure from wheat producers in Montana and the Dakotas to deal with high levels of wheat imports from Canada (ATU, July 9, 1997). The Administration recognizes, however, that it is extremely limited in the legal trade actions it has available to it to use against Canada. Most recently, USTR Barshefsky and Agriculture Secretary Glickman met with key U.S. congressional leaders on July 31st to discuss concerns related to Canada-U.S. grain shipments. Ambassador Barshefsky and Secretary Glickman indicated that they would press Canada to allow U.S. grain exports access to the Canadian market that was at least equivalent to that provided to Canadian shipments to the U.S. The Canadian federal government has consistently expressed its refusal to agree to any cap on its exports.

According to the August 8, 1997 issue of Inside U.S. Trade, the U.S. Commerce Department has agreed to review information submitted by U.S. wheat growers in support of an anti-dumping case. To date there has been no indication that the Commerce Department will actually initiate such an anti-dumping case.

[[See USTR July 31st press release on meeting to discuss Canadian grain shipments](#)]

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4. Department Of Commerce Releases Preliminary Determination Of Swine CVD Rates

On September 3, the U.S. Department of Commerce (DOC) released its preliminary determination for the countervailing duty (CVD) on Canadian live swine for the period of April 1, 1995-March 31, 1996 (11th administrative review). The DOC determined that the CVD rate should be \$0.0071 per kg (0.32 cents /lb). However, recognizing that several programs have been discontinued, the preliminary cash deposit rate was calculated at \$0.0055 /kg (0.25 cents/lb). This is a de minimus rate, meaning that it will not be collected. The new rates will not take effect until the DOC finalizes its determination (120 days). The CVD applies to all live swine except purebred breeding swine, slaughter sows and boars, and weanlings.

When finalized, the CVD from the 11th review will replace the current rate, resulting from the 10th administrative review, of \$0.0098 per kilogram (0.45 cents per pound) with a cash deposit rate of \$0.0013 per kg (0.059 cents/lb, which is de minimus).

A substantial part of the 11th CVD rate is to offset the National Transition Scheme for Hogs. The net subsidy for the program was found to be \$0.00476/kg.

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5. U.S. Dairy Industry Petitions USTR to Take Section 301 Action Against Canadian Dairy Policy

On September 5th, the National Milk Producers Federation, International Dairy Foods Association and U.S. Dairy Export Council petitioned the United States Trade Representative (USTR) to initiate a "Section 301" case against Canada's dairy industry. If USTR proceeds with a Section 301 investigation, it is expected to examine the WTO-compatibility of Canada's special milk class pricing system as well as the specifics of Canada's handling of its commitment under the WTO for the importation of fluid milk products.

Section 301 of the Trade Act of 1974 is the principal U.S. statute for addressing perceived unfair foreign practices that affect U.S. exports of goods or services. In each Section 301 investigation, the USTR must seek consultations with the foreign government whose acts, policies or practices are under scrutiny. If the consultations do not result in a settlement and the investigation involves a trade agreement, the USTR is required to use the dispute settlement procedures that are available under that particular agreement.

USTR will have 45 days from receipt of the request (until October 20th) to make a decision on whether it will act. If it does decide to act, it would then have 150 days to complete its investigation. USTR is expected to formally request the launching of a WTO panel to deal with this issue if at the end of its investigation it is left unsatisfied by Canada's response to its allegations of unfair trade practices.

More information on this development will be forthcoming in the next issue of Agri-Food Trade Update.

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6. Customs Re-Opens Comment Period for Country of Origin Marking on Front Panels of Frozen Imported Produce

On August 18th, the U.S. Customs Service re-opened a comment period on a proposal to require that the country of origin of frozen imported produce be marked in a "conspicuous place" on the front panel of retail packages. This second comment period, will end on October 17, 1997, was made available after U.S. Customs felt that not all interested parties had had an adequate opportunity to express their views on this issue during the original comment period, held from July 23, 1996 to September 23, 1996.

This new comment period comes just after Representative Terry Everett (R-Ala.) introduced a bill in the U.S. House on July 31st. Similar to the proposed regulation, Rep. Everett's bill would require that all frozen imported produce packages carry front panel country of origin labeling, similar to the proposed regulatory amendment.

The legislation currently in place, Section 304 of the Tariff Act of 1930, already requires that any product (or its container) imported into the United States be labeled in a "conspicuous place...legibly, indelibly, and permanently" to ensure that the purchaser is aware of its country of origin. The proposed regulatory amendment would strengthen this regulation by requiring that the country of origin marking be on the front panel of the package.

The Government of Canada has expressed its concerns on the proposal to require front panel country of origin labeling. In addition, a number of U.S. industry groups have noted that they would be adversely affected by the proposed amendment. Groups such as the American Frozen Food Institute (AFFI) have noted that the new labeling requirement would not enhance food safety in the U.S. in any way, while resulting in cost increases to the ultimate consumer. In addition, the proposal is seen by some U.S. industry groups as being unnecessary as U.S. Treasury already has the enforcement authority to penalize companies not meeting the current labeling requirements. More stringent labeling requirements that are used as a disguised barrier to trade could also invite retaliatory actions by U.S. trading partners.

[[See U.S. Customs Service notice of August 12th on the re-opening of a 60-day comment period](#)]

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7. United States International Trade Commission Releases Beef Report

On July 7th, the U.S. International Trade Commission (ITC) completed its Section 332 report on the impact of the NAFTA and the Uruguay Round GATT Agreement on U.S. imports and exports of live cattle for slaughter and fresh, chilled and frozen beef. The report also looks at steps that have been taken by the U.S., since the enactment of the NAFTA, to prevent the transshipment of live cattle and beef through Mexico and Canada for importation into the United States. Section 332 reports are conducted under the authority of section 332 of the U.S. Tariff Act of 1930.

Not surprisingly, the report found that the U.S. and Canadian cattle and beef industries, and to a lesser extent, the Mexican cattle and beef industry, are highly interrelated. This report marks the third fact-finding investigation that the ITC has conducted in the last 10 years with respect to competitive conditions facing the U.S. and Canadian cattle and beef industries.

With the implementation of the NAFTA on January 1, 1994, Canada, the U.S. and Mexico eliminated duties on all cattle and beef imported from each others' jurisdictions. In the case of Canada and the U.S., most fresh beef shipments having been crossing the border duty-free both ways since April 1, 1990, and cattle have been moving duty-free since January 1, 1993. Even prior to the implementation of the Canada-U.S. Free Trade Agreement in 1989, Canadian and U.S. tariff levels on cattle and beef were minimal.

With respect to the NAFTA, the report finds that the single factor having had the greatest impact on the U.S. cattle and beef industry was the elimination of Mexico's import duties on beef. With the implementation of the NAFTA, Mexico eliminated its 20 percent duty on fresh beef and 25 percent duty on frozen beef. While this factor was assessed to have allowed U.S. exports to gain a much larger share of Mexican beef imports, the report finds that the benefits provided by the tariff elimination were far outweighed by the loss of consumer purchasing power in Mexico associated with the devaluation of the peso, beginning in late 1994.

With respect to Canada, the report includes an analysis of factors contributing to the growth in the number of Canadian live cattle for slaughter being shipped to the U.S. The conclusion from the analysis is that slaughter cattle exports are highly elastic, meaning that relative price signals are the most important factor in determining final market destinations. Price signals are transmitted

when meat packers on either side of the border bid up prices in an effort to obtain more cattle to maintain a higher level of plant throughput. A high level of throughput is necessary to sustain profit levels.

The report also notes that although western Canadian slaughter cattle exports to the U.S. have seen significant growth in recent years, this level of growth seems to be leveling off, beginning with the fourth quarter of 1996. The additional cattle slaughter capacity that has been established in Alberta in the last two years is thought to be responsible for this leveling off. The report does not address what the impact of this might be for future Canadian beef exports to the U.S.

The report also notes the ongoing shift of the Canadian cattle feeding and slaughter industries to the western provinces and the increased levels of imports of U.S. beef products into the eastern Canadian market. There is an anticipation that the elimination of Western Grain Transportation Act rail subsidies in Canada will ultimately result in a larger cattle feeding industry on the prairie provinces as more feedgrains stay in the region. However, it is felt that relatively high grain prices in 1996 have delayed the impact of the loss of WGTA rail subsidies.

On the issue of transshipment, the report notes that no cases have been detected by U.S. federal agencies in recent years. In addition, in the post-NAFTA context there does not appear to be any economic incentive for transshipment to occur.

Although Section 332 investigations are only fact-finding in nature, there is always concern that they might be followed by further trade action by U.S. industry groups. The Canadian Cattlemen's Association was generally pleased with the balanced analysis offered by the report.

[[See the executive summary of the beef and cattle section 332 report at the website of the United States International Trade Commission](#)]

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8. ITC Releases Potato Report

On July 15th, the U.S. International Trade Commission (ITC) completed its report into Competitive Conditions Affecting the U.S. and Canadian Fresh and Processed Potato Industries. The report was conducted under Section 332 of the U.S. Tariff Act of 1930. It provided a comprehensive overview of the U.S. and Canadian potato industries, analyzing market and industry trends and providing a description of industry-directed government support programs in the two countries. The report notes that the competitive environment of the U.S. potato market has changed significantly in recent years in response to a number of factors that also involve the Canadian potato and potato processing industries:

- a shift in market demand away from fresh potatoes to frozen french fried potatoes;
- the expansion of Canadian fresh potato production and processing capacity;
- changes in government programs in the U.S. and Canada to conform to the WTO Agreement on Agriculture;
- growth in exports in the U.S. and Canada;

- increasing foreign investment in the processed potato sector; and
- a shift to north-south regional trading patterns between the United States and Canada.

In both countries, much of the government assistance benefiting the industry is not necessarily targeted directly toward the industry. For example, the development of the industry's infrastructure in Canada has largely been in response to government incentives to farmers to shift from low-value crop production to relatively high-value crops like potatoes. Also, in the United States, the industry has made extensive use of an irrigation infrastructure that benefited from government assistance but which also had much more widespread objectives than to stimulate potato production. As a result, the ITC investigators did not attempt to come up with a numerical comparison of government support for the industry in the two countries.

Canadian fresh potatoes currently enter the U.S. duty-free, while frozen processed potato products face a 1 percent tariff. For products entering Canada from the United States, fresh potatoes face a tariff of 77.2 cents/tonne, while frozen processed potato products are also assessed a 1 percent duty. Under the Canada-U.S. Free Trade Agreement, all tariffs on potatoes and potato products traded between the two countries will be eliminated as of January 1, 1998.

The ITC report stated that Maine potato producers have faced stiff competition from P.E.I. and New Brunswick potato growers in the Boston and New York markets in recent years, but as a whole the U.S. potato industry has been doing quite well. From 1992 to 1996, the U.S. potato and potato products industry saw its international trade surplus climb from \$US 264 million to \$US 371 million. This success can largely be attributed to the growth of the industry in the northwestern U.S. states of Oregon, Idaho and Washington and the development of strong markets in Asia for U.S. frozen processed potato products.

The Canadian potato industry, which is about one-fifth the size of the U.S. industry, has grown along with it. Canada's trade balance with the U.S. for potatoes and potato products has gone from a deficit of \$US 26 million in 1992 to a surplus of \$US 100 million in 1996. Strong growth in the Canadian trade balance can largely be attributed to an expansion of the fresh and processing potato industries in P.E.I., the growth of Manitoba's processing potato industry and the development of Alberta's seed potato industry.

This fact-finding study was the 4th investigation by the ITC since 1980 into the competitiveness of the U.S. and Canadian potato industries. In 1980, the ITC made a negative injury determination in a countervailing duty investigation on frozen potato products imported from Canada. In 1982, the ITC completed a section 332 fact-finding report similar to this one and also made a negative injury finding in an anti-dumping investigation into frozen french fried potatoes imported from Canada. In 1983, there was an anti-dumping investigation into fresh potatoes imported from Canada and the ITC again made a ruling of non-injury.

Although Section 332 investigations are only fact-finding in nature, there is always concern that they might be followed by further trade action by U.S. industry groups. Canadian potato producer groups were generally satisfied that the report offered a balanced picture of the potato growing and processing industries in the two countries.

[[See the executive summary of the potato section 332 report at the website of the United States International Trade Commission](http://www.usitc.gov/publications/section332/potato/potato332.pdf)]

9. NAFTA Reports by U.S. Industry and Government Show Satisfaction with Results

Several recently-released reports in the United States gives cautious, but firm, approval of the economic impacts of the NAFTA in the three years since its implementation. The reports acknowledge the difficulty in isolating the NAFTA impact from other important factors such as the completion of the Uruguay Round GATT agreement and Mexico's peso crisis in late 1994.

A report released on July 15 by a broad-based group of U.S. farm and food organizations found that the U.S. agricultural industry has benefited from NAFTA, on balance. However, the group, which includes the American Farm Bureau Federation, would like to see several outstanding trade issues addressed. These issues, which are recognized as not necessarily having been caused by NAFTA include access to the Canadian dairy and poultry market, grain trade between the U.S. and Canada, access of U.S. feeder cattle to Canada and imports of winter vegetables from Mexico.

The groups also state that their findings demonstrate the importance of the U.S. moving quickly to push for further trade liberalization on both a bilateral and a multilateral basis.

The approval soon of fast-track negotiating authority for the Administration is seen as one of the first actions that must be taken along this path.

On July 11th, the U.S. Administration released its own report card on the NAFTA. The report, which was prepared by the International Trade Commission, "estimated that NAFTA has had, on balance, positive, although modest, effects on the U.S. economy and individual industry sectors". The report's chapter on sectoral trade focused on the trade agreement's impacts on Mexico-U.S. trade and investment, noting that the Canada-U.S. Free Trade Agreement has been operational since 1989.

In addition to the two U.S. reports, on July 11th, the Organization for Economic Cooperation and Development issued its own report on the NAFTA. The report, the North American Free Trade Agreement: Implications for Cereals, Oilseeds, Meat and Dairy Products Markets and Trade found that tariff preferences enjoyed by NAFTA members in selling cereals, oilseed oils and other feed ingredients to each other is leading to increased Canadian and U.S. exports to Mexico that might otherwise have gone to Mexico's non-NAFTA trading partners. Look for more analysis on this report in the next issue of Agri-Food Trade Update.

[[See report on U.S. Agricultural Export Experience with NAFTA Partners on American Farm Bureau Federation website](#)]

10. Change in Ontario Regulations Allows Bottling of Imported Wine

On August 15, 1997, Ontario Minister of Consumer and Commercial Relations, David Tsubouchi, announced that a change to regulations under the Liquor Control Act would allow the bottling of imported wine by Ontario wineries. Under the Agreement on Internal Trade, other provinces which have allowed their wineries to bottle imported wine for some time, will have full access to the Ontario market by January 1, 2000. The change in the Ontario regulation will allow Ontario wineries get ready to compete with these out-of-province wineries.

Imported wine bottled by Ontario wineries will be clearly labeled as imported wines in Liquor Control Board of Ontario stores and will not be sold in winery retail stores.

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11. Ontario Garlic Growers Request Year Round Anti-Dumping Duties

On August 7, 1997, the Garlic Growers Association of Ontario (GGAO) requested that the Canadian International Trade Tribunal (CITT) amend its ruling of earlier this year and impose anti-dumping duties on imports of fresh garlic from China throughout the year. In March 1997, the CITT found that the Canadian industry had been materially injured from dumped Chinese garlic and, as a result, remedial anti-dumping duties were imposed on imports between July 1 and December 31 each year. In making its March decision, the CITT reasoned that imports could not have caused injury during the months when domestic producers could not supply the Canadian market. The garlic producers believe that Chinese exporters are circumventing the CITT's ruling by exporting a great volume just prior to July 1.

On August 13, the CITT acknowledged the request for the amendment and asked for submissions from both sides by September 12. The CITT will decide sometime thereafter whether to review its March decision.

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12. European Union Agrees on Guidelines for Labeling of GMO Products

On July 25th, the European Commission agreed on guidelines on the labeling of products produced from genetically modified organisms (GMOs). Based on these guidelines, the European Commission plans to prepare draft legislation which is designed to meet consumer demand for adequate labeling and transparency and consistency in the treatment of GMO's. One of the principles around which the legislation is to be drafted is a need to comply with the EU's international obligations. As such, the labeling guidelines will not require the mandatory segregation of production, transportation or distribution of GMO-containing and non-GMO containing lines of products.

The Commission intends to apply the general labeling principles to all products in the food chain that are manufactured from GMO's. In 1997, specific initiatives are to be presented for application to animal feeds and seeds. Directive 90/220/EEC is also to be revised later this year to make its consistent with these new guidelines (ATU, July 9, 1997).

[[See the July 25 press release on the guidelines for labeling of GMO products at the website of the Delegation of the European Commission to the United States](#)]

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Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

OCTOBER 21, 1997

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1. U.S. Requests WTO Consultations on Canadian Dairy Practices

On October 8th, the United States notified the WTO Dispute Settlement Body that it was initiating dispute settlement proceedings against certain aspects of Canadian dairy policy. At issue are Canada's special milk class pricing system as well as Canada's implementation of its commitment under the WTO for the importation of fluid milk products.

As the first step in the process, Canada and the U.S. have agreed to have consultations which would likely take place in mid-November. If the consultations do not resolve the issue, the U.S. would be in a position to formally request the launching of a WTO panel by early December. Other WTO members have until October 23rd to indicate whether they wish to join the consultations.

On October 1st, United States Trade Representative (USTR) Charlene Barshefsky had indicated that the U.S. would challenge Canada's dairy trade policy under "Section 301" of the U.S. Trade

Act of 1974 (ATU, September 10, 1997). This was in response to a petition presented to USTR on September 5th by three U.S. dairy industry groups. Section 301 of the Trade Act of 1974 is the principal U.S. statute for addressing perceived unfair foreign trade practices. Section 301 investigations normally trigger the use of the dispute settlement provisions under the WTO.

In 1995, the Canadian dairy industry established a milk pricing and pooling system. Operating as a normal commercial enterprise, the industry classifies milk and makes it available for use in dairy products and in products containing dairy ingredients at prices which reflect what particular markets will bear. This industry system was designed to allow dairy processors and further processors to remain competitive in domestic and global markets.

New Zealand and the U.S. have argued in the WTO Committee on Agriculture that this milk pricing system acts as an export subsidy. As such, they argue that Canadian dairy product exports should be subject to the WTO's export subsidy rules. Under the Uruguay Round Agreement on Agriculture export subsidy rules, producer levy-funded dairy exports are regarded as subsidized exports and are subject to the export subsidy reduction commitments.

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2. Unilever to Challenge Quebec Margarine Colouring Regulations Under AIT

On October 8th, the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) received a formal request from Unilever Canada Ltd. to challenge Quebec's margarine colouring restrictions. Unilever, situated in Rexdale, markets its margarine products across Canada. September 1st, 1997, was the date on which technical measures with policy implications became subject to the Agriculture and Food Goods Chapter of the Agreement on Internal Trade (AIT). Margarine colouring regulations are one of the specifically identified measures in this category.

Under the AIT, which was brought into force by all governments, OMAFRA has 30 days to decide whether it will initiate a challenge based on Unilever's request. If a challenge is initiated, there would be a 10 day-period in which to initiate consultations with Quebec. If the issue could not be resolved, then it could proceed to a dispute settlement panel.

As noted, the Ontario government became a signatory to the AIT on July 18th, 1994, followed by its entry into force on July 1st, 1995. Canadian federal and provincial Ministers of Agriculture agreed on the content of the Agriculture and Food Goods Chapter of the AIT in the summer of 1995. Discussions are currently underway with stakeholders to revise this chapter, as directed by Ministers of Agriculture at their July 1997 meeting in Trois-Rivières (ATU, July 9, 1997).

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3. Canada and Argentina Reach Access Agreement on Pork and Beef

On September 30th, the federal government announced that it had reached an agreement with Argentina on a one-year veterinary pilot project that opens access to Argentina's market for

Canadian pork while allowing Argentina access to the Canadian market for beef. The agreement follows three years of negotiations between Canadian and Argentinean officials on technical issues.

For Argentinean beef, the agreement reflects that country's recent success in eradicating hoof and mouth disease. Argentina will now be able to compete for a share of the unallocated portion of Canada's existing beef tariff rate quota (TRQ). Canadian pork producers, meanwhile, will have an opportunity to be a supplier of some of the 30,000 to 40,000 tonnes of pork that Argentina imports annually.

[[For more details see the press release on the Agriculture and Agri-Food Canada website](#)]

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4. Canada Suspends Barley TRQ

On September 8th, the federal government announced that it was suspending the application of its tariff rate quotas (TRQ) for barley and barley products imported from the United States. The suspension of the TRQ was packaged as a practical demonstration by Canada of its commitment to an open Canada-U.S. border for the two-way shipment of grains. Although the TRQs have had little practical effect on trade, they can be an administrative burden on Canadian importers. Canadian Wheat Board Minister Ralph Goodale also noted that Canada had reserved its right to reinstate its TRQ on barley and barley products if any action was taken on the U.S. side to disrupt or distort normal trade flows or to threaten to do so.

The TRQs on barley and barley products were implemented in 1995 pursuant to the WTO Agreement on Agriculture. They replaced import licensing and provided additional market access for foreign barley and barley products. Under the provisions of the Canada-U.S. FTA, Canada is required to exempt U.S. barley and barley products from the TRQs when U.S. support levels for barley production fall to, or below, the level of support to barley production in Canada. According to the federal government, preliminary calculations indicate that this condition may be met in the spring of 1998.

The federal government indicated that Canadian barley producer and trade associations had expressed support for the suspension of the barley TRQ.

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5. Revenue Canada Investigating Allegations of Baby Food Dumping

On October 3rd, Revenue Canada announced that it had started an investigation to determine if jarred baby foods are being dumped into Canada from the U.S. Dumping is said to occur when goods are sold, either to importers in Canada at prices that are less than the selling price in the exporter's domestic market, or at unprofitable prices.

The investigation follows a complaint filed by the H.J. Heinz Company of Canada Ltd., which manufactures baby food at its plant in Leamington. Heinz alleges that imported jarred baby food has hurt its sales and has led to reduced production and employment in Leamington.

Revenue Canada's preliminary decision on this matter is expected in early January, 1998. If this decision is positive, Revenue Canada would then commence to assess provisional anti-dumping duties on imported baby food while the Canadian International Trade Tribunal (CITT) would launch its investigation into whether the domestic industry has suffered material injury due to the dumped imports. Any provisional duties assessed would be re-funded if the CITT's investigation concludes that there has been no material injury.

If Revenue Canada finds dumping has not occurred, then the investigation will be terminated.

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6. President Clinton Sends Fast-Track Proposal to Congress

On September 16th, President Clinton submitted to the U.S. Congress his long-awaited proposal for the extension of fast-track negotiating authority and for tariff-cutting authority. The proposal is called the Export Expansion and Reciprocal Trade Agreements Act of 1997. Fast-track negotiating authority expedites the U.S. trade negotiation process by committing Congress to vote trade agreements "up" or "down" without being able to suggest amendments. Without fast-track, other countries would be hesitant to engage in trade discussions with the U.S. The previous fast-track authority and most tariff cutting authority expired in 1994.

Clinton's proposal would apply fast-track procedures to implementing legislation for any trade agreement signed by October 1, 2001. With Congressional approval, this date could be extended to October 1, 2005. The proposal would also give the President the right to carry out tariff-cutting agreements with other countries that reduce U.S. tariffs by as much as 50 percent and to eliminate tariffs in cases where they are less than 5 percent ad valorem.

President Clinton's fast-track proposal sets out the Administration's trade negotiation objectives. Broad objectives include the opening up of foreign markets, the strengthening of dispute settlement mechanisms, and the enhancement of living standards in the U.S. and elsewhere. Perhaps the most difficult task for the Administration was to articulate its views on labour and environmental standards, as they relate to trade agreements, in a way which would enable the legislation to get the bi-partisan support which will be required for its passage on Capital Hill. As such, the Administration states that it will seek to address those foreign labour and environmental policies and practices in future trade negotiations that are "directly related to trade."

The proposed Export Expansion and Reciprocal Trade Agreements Act of 1997 also highlights services, investment, intellectual property rights and agriculture as priorities for the U.S. in future trade negotiations. In agriculture, U.S. priority issues are the reduction or elimination of tariffs and subsidies and the development, strengthening and clarification of rules in areas such as the activities of state-trading enterprises, international commercial requirements affecting biotechnology, the administration of tariff rate quotas and the use of sanitary or phytosanitary restrictions.

The Senate Committee on Finance approved the fast-track proposal on October 1st. On October 6th, House Ways and Means Committee Chairman Bill Archer released his own version of fast-track legislation. The Archer proposal contains the same general thrust as the bill passed by the Senate but reportedly provides more details on the issue of labour and environmental provisions "directly related to trade". The Clinton Administration is hoping that it can get Congressional approval of fast-track before the end of the year, thereby avoiding a protracted and politically-nasty debate in which the battle lines would probably be most obvious within the Democratic Party itself.

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7. U.S. President Announces Initiative for Stepped-Up Inspection of Imported Fruits and Vegetables

On October 2nd, U.S. President Bill Clinton announced that he would be asking the U.S. Congress to give the Food and Drug Administration (FDA) the power and the obligation to ban the importation of fruits, vegetables and other foods from countries whose safety precautions do not meet American standards. The law would be similar to a law that already requires the United States Department of Agriculture (USDA) to keep meat and poultry from countries with perceived inferior food safety systems out of U.S. stores.

The President noted that in his next budget he would provide funding for the FDA to dramatically increase its international food inspection force. The Departments of Health and Human Services and Agriculture were also directed to work together to develop specific safety standards for the growing, processing, shipping and selling of fruits and vegetables. The Secretaries of these Departments were also directed to report back to the President within 90 days with a one-year schedule for developing these standards.

At this time few details are available on how this new food inspection initiative will be implemented.

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8. EU Appeals WTO Panel Ruling on Beef Hormones

On September 24th, the European Union (EU) formally announced it was appealing the WTO panel rulings which favoured the U.S. and Canada on the issue of the EU's ban on the importation of meats from animals which have been administered with any of six specific hormones (ATU, September 10, 1997)

The appeal to the Appellate Body will take from 60 to 90 days. Dispute settlement rules require that the appeal be limited to issues of law. The EU has indicated that its appeal will challenge the panel's legal interpretation on key terms related to the SPS agreement such as:

- burden of proof;

- appropriate level of sanitary protection chosen by the European Communities;
- techniques and factors to be taken into account in the "assessment of risk";
- concepts of "identifiable risk" and the weight of evidence in case of scientific uncertainty;
- "arbitrary or unjustifiable distinctions" in the levels of sanitary protection applied by the European Communities in different situations; and
- the role assigned to the Codex Alimentarius as international standards for the hormones in dispute.

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9. Canada Gets Improved Conditions of Access to EU Durum Market

The European Union's (EU) Cereals Management Committee recently announced that it would recommend a lowering of the EU's vitreous kernel content requirement (a quality parameter related to protein content) for durum wheat. This development is expected to improve Canadian durum wheat access into the European market for the 1997-98 crop year, by providing access for more grades of Canadian durum at the lowest tariff rate.

Canadian Agriculture and Agri-Food Minister, Lyle Vanclief, viewed the Cereals Management Committee's recommendation as an interim solution providing improved access to the EU market. He noted, however, that negotiations with the EU would continue in pursuit of a long-term arrangement. Canada has viewed as unsatisfactory several aspects of the way that the EU implemented its Uruguay Round commitments on cereals access.

[[See Agriculture and Agri-Food Canada press release on the EU Cereals Management Committee's recommendation](#)]

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Agri-food Trade Update

A quarterly review of international trade policy issues and developments
that have implications for the agri-food sector in Ontario

DECEMBER 18, 1997

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1. Federal Government Asks CITT to Review Issues Related to Dairy Blend Imports

On Wednesday, December 17th, the Government of Canada announced that it would ask the Canadian International Trade Tribunal (CITT) to review issues related to imports of product mixtures containing dairy blends, including butteroil/sugar blends, that are not covered by tariff-rate quotas (TRQs). The review by the CITT which is to begin immediately and be completed by July 1st will examine and present options to the government on tariff classifications, tariff levels and the issues related to emergency safeguard action.

In recent months, DFC had been urging the federal government to unilaterally and immediately re-classify the tariff line under which the sugar-butter oil blends are imported. Two other less preferred options proposed by the DFC were for either the federal government, or the DFC itself, to challenge the current tariff classification in the CITT.

Sugar-butter oil blends have been imported into Canada in increasing quantities since 1995. For the first seven months of 1997, 7,158 tonnes were imported into Canada, having a value of \$15.6 million. The blends, which contain 49 percent butter oil and 51 percent sugar, are used in ice cream manufacturing. In 1996, most of the imports came from Oceania (either directly, or routed through Mexico) with smaller amounts originating in the U.S. and European Union. Within Canada, the blends have been mostly used by ice cream manufacturers in Ontario.

The importation of the sugar-butter oil blends began in 1995 with the implementation of the Uruguay Round GATT Agreement. The Dairy Farmers of Canada (DFC) maintain that these imports are designed to circumvent Canada's prohibitive tariff levels for dairy product imports.

DFC estimates that in 1996-97, the imported blends displaced 2.6 percent of Market Sharing Quota (MSQ). They estimate that in 1997-98 dairy producers' milk revenues could be reduced by as much as \$50 million and that the imported blends could eventually displace 4 percent of Canada's MSQ. DFC believes the imported blend should be classified as a "butter substitute" and that over-quota imports should be subjected to prohibitive tariff rates under tariff line 2106.90.34.

On November 20, 1997 the House of Commons Standing Committee on Agriculture and Agri-Food held a special information meeting with affected stakeholders on the importation of sugar-butter oil blends. In their presentation, dairy processors and importers projected that the maximum potential usage of sugar-butter oil blends in Canada is 10,000 tonnes annually. This is based on their assessment that for practical reasons the imported blends can only replace 25 percent of the butterfat used in ice cream production. Dairy processors and importers estimate that the imported blends would only reduce producer milk revenues by \$13 million on a net basis (on the basis that producers can sell surplus milk on the world market at lower prices). Dairy processors have indicated that the imported blends reduce their butterfat costs by \$1/kg.

The federal departments of Agriculture and Agri-Food, Revenue, Finance and Foreign Affairs and International Trade have joint responsibility for this issue. Officials at Revenue Canada have stated that they believe the imported blends are currently correctly classified as a food preparation, containing between 10 and 50 percent milk solids by weight, in tariff line 2106.90.95. Federal officials have also stated their view is that to raise the tariff rate for this line would require Canada to engage its WTO partners in a negotiation process in which Canada's trading partners would need to be compensated for their loss of market access.

The CITT is a quasi-judicial administrative body which operates within Canada's trade remedy system. One of the CITT's mandates is to conduct inquiries and provide advice on economic, trade and tariff issues referred to it by the Governor in Council or the Minister of Finance.

[\[See December 17, 1997 press release by Government of Canada announcing decision to ask CITT to review issues related to dairy blend imports.\]](#)

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2. Dairy Dispute Moves One Step Closer to Panel

On October 8th, the United States notified the WTO Dispute Settlement Body that it was initiating dispute settlement proceedings against certain aspects of Canadian dairy policy (ATU, October 21, 1997). Consultations, the first step in the dispute settlement process, were held in Geneva on November 19th, but the dispute remains unresolved. The U.S. is now in a position where it could request the launching of a WTO panel to address this issue at the next meeting of the WTO's Dispute Settlement Body (DSB) in January. As WTO procedures allow Canada to veto the request for a panel, it is anticipated that the a panel may be established at the next meeting in mid-

February.

Japan and Australia have joined the dispute as third parties and were represented at the consultations on November 19. There is still no official word on whether New Zealand has decided to join the dispute as a third party. The dispute is centred around Canada's special milk class pricing system as well as its handling of its WTO tariff rate quota for fluid milk imports.

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3. WTO Appellate Panel Report on EU Beef Hormone Ban to be Delayed

On September 24th, the European Union (EU) formally announced it was appealing the WTO panel rulings which favoured the U.S. and Canada on the issue of the EU's ban on the importation of meats from animals which have been administered with any of six specific hormones (ATU, October 21, 1997).

Earlier it had been anticipated that the Appellate Body report would be delivered to the disputing parties in late December. The report has now been delayed to mid-January.

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4. APEC Leaders Make Progress on Sectoral Trade Liberalization in Vancouver

Leaders and trade ministers from Asia Pacific Economic Cooperation (APEC) member countries met in Vancouver for their Annual Summit from November 24-25. Discussions included the broad APEC initiative to open up trade on the basis of pursuing early, voluntary, sectoral liberalization (EVSL) in specific sectors where trade sensitivities are lower and where prospects for agreement on tariff reduction or elimination are enhanced. It was agreed that action should be taken to free up trade in 15 different sectors and divided them into two action phases. The sectors in Phase 1 will be recommended for immediate liberalization while the Phase 2 grouping, which includes oilseeds and food, will be reconsidered at the 1998 APEC conference after proposals have been further developed. Canada, Malaysia and the U.S. had put forward a trade proposal which would see the elimination of all import restrictions and export subsidies that distort trade in oilseeds and oilseed products among APEC countries. The trade ministers directed officials to further develop the proposal for their consideration in 1998. Officials were also directed to further develop a proposal for trade liberalization of food for consideration at next year's conference.

[[See November 27, 1997 Agriculture and Agri-Food Canada press release on progress made on agricultural trade at APEC Summit in Vancouver.](#)]

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5. Minister Vanclief Holds Discussion with European Counterpart

On November 12th, Canadian Agriculture and Agri-Food Minister Lyle Vanclief met with EU Agriculture Commissioner Franz Fischler to review a number of bilateral trade issues, including an assessment of the prospects for ratifying a bilateral veterinary agreement.

Mr. Vanclief also registered ongoing Canadian concerns with respect to the EU's cereals import regime and the EU's cumbersome approval system for products produced with the benefit of biotechnology. Mr. Vanclief urged that the EU make its approval system more transparent and timely, noting that "science rather than emotion should always guide us in ensuring the health and safety of consumers."

Mr. Vanclief also underscored Canada's frustration with the proposed EU ban on tallow imports from North America, which are designed to minimize the risk of transmitting spongiform encephalopathies like "Mad Cow" disease (BSE). He noted that Canada is BSE-free and asked that the Commission not introduce this unnecessary barrier to trade. He emphasized that "there is no scientific basis for this ban when appropriate manufacturing processes are used," and that this conclusion was reached by the Commission's own Scientific Committee on Cosmetology.

In addition, the Minister indicated his wish to see improved access to the EU market for Canadian wines, and raised Canadian concerns over the level of EU export subsidies on malt.

Mr. Vanclief also indicated his full support for the Mr. Fischler's proposal to reinstate periodic "QUINT" meetings of Agriculture Ministers from the U.S., Australia, Japan, EU and Canada. These meetings will be used as forum to discuss agricultural policy and trade reforms as countries move towards resuming agricultural negotiations in the WTO in 1999. Mr. Fischler is to host a QUINT meeting in March 1998.

[\[See November 12, 1997 Agriculture and Agri-Food Canada press release on discussions held by Minister Vanclief and Commissioner Fischler.\]](#)

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6. U.S. Plans for Fast-Track De-Railed

Recognizing that fast-track likely did not have enough votes to get it passed in the U.S. House of Representatives, the U.S. Administration decided at the last minute to indefinitely delay a vote in the House. The President's proposal on fast-track had been approved in the Senate on November 4th and a vote was scheduled to take place in the House of Representatives on November 7th. In statements issued since the canceled vote, President Clinton has expressed hope that the necessary level of Congressional support required to pass fast-track can be marshaled early in 1998.

On September 16th, President Clinton had submitted to the U.S. Congress his long-awaited proposal for the extension of fast-track negotiating authority and for tariff-cutting authority (ATU, October 21, 1997). Fast-track negotiating authority expedites the U.S. trade negotiation process by committing Congress to vote trade agreements "up" or "down" without being able to suggest

amendments. It is expected that without fast-track, other countries will be more hesitant to engage in trade discussions with the U.S. However, the long-term impact of the postponed vote on on-going trade liberalization initiatives in the WTO, APEC and FTAA is not known at this time.

The previous fast-track authority expired in 1994.

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