Ontario

Ministry of
Agriculture and Food

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Agri-food Trade Update

ATU

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

CONTENTS

MISCELLANEOUS

MULTILATERAL DEVELOPMENTS

1. New WTO Negotiating Round Commenced

Last November the World Trade Organization (WTO) held its 4th Ministerial Conference in Doha, Qatar. The meeting culminated in the release of a Ministerial Declaration on November 14, 2001, in which the 142 WTO members attending the event agreed to launch broad-based multilateral trade negotiations.

In addition to negotiations on services, textiles and other sectors, the Doha Declaration affirms the desire to negotiate new disciplines for agricultural trade. The mandate for agriculture reform targets three basic pillars: market access, agricultural export subsidies, and trade distorting domestic farm support.

Other areas of relevance to agriculture announced in the Doha Declaration include talks to identify issues relating to the application of trade remedy rules (anti-dumping and countervail provisions), and discussions on extending protections for geographic indications to food products other than wine and alcoholic beverages.

The Doha Ministerial sets out an aggressive timeframe for the conduct of the negotiations, with a target date for completion set for January 1, 2005. An early indication of whether the negotiations are on track to meet this schedule will come at the 5th WTO Ministerial Conference, to take place in September 2003 in Cancun, Mexico.

WTO Ministerial Conference in Doha, News Releases, Photos, Speeches and Meeting Summaries

Department of Foreign Affairs and International Trade (DFAIT) Report on Doha Ministerial Conference.

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2. WTO Agricultural Negotiations Continue

The Doha Ministerial Conference confirmed that talks on further trade liberalization in agriculture, which originally commenced in early 2000 under the WTO Committee on Agriculture, will continue within the broader context of a new round of WTO negotiations. The agriculture negotiations will seek progress on the three basic pillars of measures affecting agricultural trade: elimination of export subsidies, substantial reductions in trade-distorting domestic support, and significant improvements in market access.

One of the most contentious elements of the negotiations on agriculture will be the proposed elimination of agricultural export subsidies, a common EC policy tool. The US recently proposed a schedule for the elimination of all export subsidies within five years. The EU, while signaling a willingness to discuss reductions in export subsidies in agriculture, remain adamant that "phasing out" is not on the table. The EU, in turn, has requested that any discussion on reducing export subsidies must take place in the context of clarifying rules for the provision of food aid and the use of export credits, both policy tools commonly used by the US.

Another key issue in the agriculture negotiations concerns the ongoing high levels of domestic farm support. This issue has come to prominence since the recent ratification of the 2002 U.S. Farm Bill, which entrenches US$180 billion in farm support funding over the next ten years. While US officials are adamant that the extent of the new support provisions do not exceed current WTO domestic support caps, the Farm Bill announcement calls in to question US leadership in seeking reform in this area. Both the EU and China have indicated that they feel less urgency in undertaking wholesale domestic support reforms as a result of the precedent being set by the US. The EU will release a paper on its plans for further Common Agricultural Policy reform in mid-July, which will offer an early glimpse of the direction European negotiators are likely to take as the Doha trade talks unfold.

The schedule for agricultural negotiations is as follows:

Date	Topic Area
June 2002	Export competition
Early September 2002	Market access
Late September 2002	Domestic support
December 2002	Committee Chair's Overview Paper
March 2003	Deadline for tabling negotiation modalities

The agricultural negotiating chair, Mr. Stuart Harbinson, will release a review document in mid-December, outlining the various positions put forward and the areas of contention and commonality. Modalities, or member offers, are to be tabled by March 2003, with a draft text planned for release by the September 2003 WTO Ministerial Conference.

In April 2002, the Ontario Ministry of Agriculture and Food (OMAF), in partnership with Agriculture and Agri-Food Canada, hosted a conference in Guelph to discuss the WTO negotiations and implications for agricultural reform. Canada's agricultural negotiator, an ex-USTR agricultural negotiator, a Geneva-based representative of developing countries and a Canadian trade consultant shared their various perspectives on the issue. A conference summary and speaker presentations are available on the OMAF "Agri-Food Trade Policy Seminar" website.

Doha Ministerial Declaration

AAFC website on WTO agricultural negotiations

DFAIT Paper on "Canada's Objectives - WTO Agriculture Negotiations as a Canadian Priority"

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3. WTO Compliance Panel Issues Report Regarding Canada's Dairy Export Measures

On June 24, 2002, a World Trade Organization (WTO) panel reported that Canada's dairy exports continue to benefit from export subsidies. The report has been released to the parties (the US, New Zealand and Canada) on a confidential basis, and does not become public until it is submitted to the broader WTO membership, likely in late July. The report represents one step in a long series of trade litigation before the WTO, commenced in 1998 by the U.S. and New Zealand.

The trade action affects Canadian exports of butter, cheese, skim milk powder and other dairy products (representing about 4-6% of total milk production). The issue is not whether Canada can continue to export dairy products, but rather what is Canada's allowable limit for dairy exports. Through WTO negotiations, Canada has agreed to maintain a schedule of export subsidy reduction commitments for "subsidized" dairy products. Therefore, if Canada's current dairy export marketing measures are eventually found to confer a subsidy, Canada's allowable dairy export levels would be capped at about one third of current output. If no subsidies are found, there is no limit on the dairy goods Canada can export.

Given that this challenge involves the interpretation of new export subsidy provisions under the WTO Agreement on Agriculture, it is expected that the matter be ultimately referred back to the WTO Appellate Body, which is the forum best suited to address issues of legal interpretation of international trade obligations.

Canada announced its decision to appeal the panel's decision on June 24, 2002. The appeal process is likely to take the balance of the fall, with a decision from the Appellate Body possibly issued in November/December 2002.

Current provincial export marketing practices, including the operation of the Ontario dairy export exchange, will continue until the issue of whether the new dairy export practices comply with WTO export subsidy rules is conclusively determined by the WTO Appellate Body.

DFAIT announcement of intention to appeal decision - June 24, 2002

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4. Regional Free Trade Agreement (FTA) Negotiations Update

4.1 Free Trade Area of the Americas (FTAA)

The FTAA negotiations, which seek a comprehensive hemispheric free trade area for 34 countries in North, Central and South America as well as the Caribbean (excluding Cuba), continue, though overshadowed somewhat by the ongoing WTO trade talks.

The Negotiating Group on Agriculture (NGAG) has met in February and March 2002 in Panama City. In April 2002, the NGAG identified continued areas of divergence on tariffs, rules of origin and subsidy disciplines. All the above have been brought forward to the general Trade Negotiations Committee for reconciliation. A meeting of Trade Ministers will take place in November 2002.

The target for completion of the FTAA negotiations is 2005.

[AAFC Overview of FTAA]

[Canada's Positions and Proposals on FTAA and FAQ - DFAIT]

[Official FTAA website]

4.2 Central American Four (CA4)

Free trade negotiations between Canada and El Salvador, Guatemala, Honduras and Nicaragua (or 'Central American Four' or 'CA4') commenced in November 2001. The first round of the formal Canada-CA4 FTA negotiations took place in El Salvador in December 2001, followed by second and third rounds of negotiations in February 2002 (Nicaragua) and in April 2002 (Ottawa). The parties are scheduled to meet again in mid-July 2002 to review their respective offers.

Canada's objectives in the negotiations are significant tariff reductions and market access gains for a number of agriculture and food products, including meats, pulses, processed grain products, canola oils and french fries.

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CANADA-US BILATERAL ISSUES

5. 2002 US Farm Bill Ratified

The Farm Security and Rural Investment Act (FSRI), commonly known as the US Farm Bill 2002, was proclaimed by President Bush on May 13, 2002. The Farm Bill sets the base level of US farm support at $180 billion over the next ten years. The support schedule under the previous Farm Bill was enhanced annually be significant ad hoc payments.

A key concern, especially for the grains and oilseed sectors, is the high incentive that these subsidies provide for US over-production, and the significant downward impact this is expected to have on commodity prices. For the first time, pulse crops are also included in the Farm Bill package.

The direction of the 2002 Farm Bill has deflated any early momentum at the WTO agricultural negotiations. Although remaining within its domestic subsidy support caps (if no further ad hoc support is approved), the high level of US domestic subsidies has relieved other agriculture producing members, such as the EU and China, from international pressure to undertake internal agricultural reforms. The direction of the US Farm Bill tends to undermine US credibility in pushing for further agricultural subsidy reforms.

Another key concern is the inclusion of country-of-origin labeling (COL) provisions in the 2002 Farm Bill. Because the pork and beef industries in Canada and the U.S. are highly integrated, strict requirements for a "Product of USA" label could cause severe market disruptions and hamper current commercial activity in both sectors. Mexico is voicing similar concerns regarding the potential impact of COL regulations. The Farm Bill requires that voluntary regulations be in effect by September 2002, and that mandatory country-of-origin labeling regulations be in effect by September 2004.

[US Department of Agriculture (USDA), Farm Bill 2002 News Release and Information by Title]

Side-by-side Comparison of 1996 and 2002 US Farm Bill - USDA

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6. Trade Promotion Authority and Trade Adjustment Assistance

Trade promotion authority (TPA), previously known as fast-track authority, allows the US Administration a mandate to negotiate trade agreements while limiting the review capacity by Congress to either a blanket approval or rejection of those agreements. TPA is perceived as helpful to continued momentum at the Doha trade negotiations, since it provides U.S. negotiators with a mandate to enter into negotiations on specific contentious issues, and make offers or concessions without the threat of being later overturned by Congress.

Trade adjustment assistance (TAA) is a new US federal program established to provide aid to workers who are displaced as a result of increased imports. Workers whose employment is adversely affected by trade can apply for TAA and may be eligible for training, job search and relocation allowances, income support, and other employment services. TAA's income support provision allows for weekly cash payments for 52 weeks after a worker's unemployment benefits are exhausted. Approval of the TAA package is critical to Democratic support for granting the Administration trade promotion authority.

Both initiatives were included in a broad trade legislation package, the Andean Trade Preferences Act (ATPA). The House and the Senate have passed their respective versions of the ATPA. The House and Senate now have to reconcile their different versions by conference before it can be sent forward to the President. A conference schedule has yet to be agreed to.

TPA Summary on U.S. Trade Representative website

Official U.S. TPA website

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7. US Finds Nothing Conclusive on Canadian Wheat Board Practices

After an investigation period of 17 months, on February 15, 2002, US Trade Representative (USTR) Robert Zoellick acknowledged that there was no evidence to proceed with a Section 301 action against the Canadian Wheat Board (CWB). He nonetheless characterized the sale practices of the CWB as "monopolistic" and injurious to American domestic growers.

The investigation of CWB practices was initiated at the behest of the North Dakota Wheat Commission in October 2000 as a Section 301 action. A report was original scheduled for issue in October 2001, but was delayed as the new Administration considered its options for response.

This latest finding is consistent with that of the previous eight US challenges, which also failed to find evidence of inconsistency with international trade rules.

Given the long standing concerns of US growers with the practices of the Canadian Wheat Board, it is anticipated that state-trading enterprises will form a key agenda item for US negotiators at the WTO agricultural trade talks. It is Canada's position that the U.S. interpretation of a "state-trading enterprise" is overly broad and does not implicate the practices of the CWB.

USTR News Release, February 15, 2002

Canadian Ministers Vow to Continue Defense of CWB, Government of Canada News Release, February 15, 2002

Chronology of Past U.S. Investigations of the CWB

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DOMESTIC TRADE REMEDY ISSUES

8. U.S. and Canadian Tomato Investigations Issue Mutual "No Injury" Findings

8.1 U.S. Dumping Investigation of Canadian Greenhouse Tomatoes Halted

The United States International Trade Commission (USITC) determined on April 2, 2002, that US tomato growers are not materially injured or under the threat of injury as a result of greenhouse tomato imports from Canada. The investigation started in May 2001, with a petition filed by Florida and California greenhouse tomato growers.

The U.S. Department of Commerce had ruled earlier that the tomatoes are sold in the U.S. at less than fair value. Dumping duties were assessed against imports from Canada at an average rate of about 16%. As a result of the USITC's negative injury determination, further investigation is halted and the anti-dumping duties on greenhouse tomato imports from Canada are revoked.

Greenhouse Tomatoes from Canada Do Not Injury U.S. Industry, USITC News Release

Ontario Greenhouse Vegetables News Release, April 04, 2002

8.2 Canadian Investigation of US Tomato Imports Withdrawn

In response to the US finding (see above), the Canadian Tomato Trade Alliance's complaint regarding dumped US tomato imports was withdrawn. This prompted a brief announcement by the Canadian International Trade Tribunal (CITT) on June 26th that there was no evidence to show that Canadian growers were being injured or under threat of injury from US tomato imports.

The Canada Customs and Revenue Agency (CCRA) issued a preliminary determination in March 2002, finding that U.S. tomatoes have been dumped into Canada at dumping margins ranging from 0 - 71%, with an average dumping margin calculated at 22%. The recent CITT ruling effectively closes the investigation.

CITT Final Injury Determination - June 26, 2002

Provisional Duties Imposed on Fresh Tomatoes from the U.S. - CCRA News Release

Ontario Greenhouse Vegetables News Release, March 26, 2002

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9. Canadian Growers Protected from Dumped Garlic from China and Vietnam

Following the expiry review of a previous anti-dumping order affecting Chinese garlic imports early this year, the Canadian International Trade Tribunal (CITT) ruled in March 2002, that duties would continue to be imposed on fresh garlic from China from July 1 to December 31 inclusively. Furthermore, the Tribunal declined China's request to conduct an interim review of the CITT's earlier injury decision, which enabled anti-dumping duties to be applied year-round to Chinese garlic imports.

In July 1996, the Garlic Growers Association of Ontario (GGAO), whose membership accounts for approximately 70 per cent of the total Canadian garlic production, petitioned against fresh garlic imports from China. The Canadian Customs and Revenue Agency (CCRA) determined in February 1997 that Chinese garlic exports were being dumped on the Canadian market. Following a positive CITT ruling on injury in March 1997, anti-dumping duties were applied to fresh garlic imports from China on a seasonal basis. The latest ruling by the CITT extends this order for another five years.

To address the concern that Chinese garlic imports were circumventing the six-month protection period, the GGAO filed a new complaint for year-round protection from garlic imports originating from China and Vietnam. In May 2001, the CITT found that garlic imports from China and Vietnam had caused material injury to the domestic industry.

Garlic Growers Association of Ontario

CCRA Final Determination on Garlic, Fresh or Frozen

CITT Fresh Garlic Import from China Expiry Review Final Report

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10. CITT Announces Expiry Review For Canned Baby Food

On June 28, 2002, the CITT issued notice that its April 1998 order affecting the US imports of canned baby food is due to expire April 2003, unless an expiry review finds the need to continue the order. Automatic expiry is required of all CITT orders after the lapse of five years since issuance, unless sufficient reason can be demonstrated for the CITT to hold an expiry review.

In April 1998, the CITT found that Ontario-based HJ Heinz Company of Canada was negatively affected by the dumping of US prepared baby food imports. Anti-dumping duties, reflecting dumping margins of about 60%, were imposed.

Subsequently, Heinz' sole competing supplier, U.S.-based Gerber Products Company, withdrew from the Canadian market. This circumstance prompted the CITT to conduct a public interest inquiry in July 1998 to consider the market dynamics likely to result from the imposition of full duties on consumer choice, monopoly pricing and marketing, and other considerations. In November 1998, the CITT issued its report recommending the reduction of anti-dumping duties by two-thirds the original amount assessed.

CITT Notice of Expiry - June 28, 2002

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11. AIT Panel Review Of Quebec Margaine Colouring Regulations Commences

Current Quebec regulations prohibit the marketing of margarine that is coloured the same pale yellow hue as butter. Given the cost implications of an extra-production run for Unilever Canada Limited to service Quebec, the lone jurisdiction retaining such provisions, Ontario has agreed to challenge the regulations under the Federal/Provincial Agreement on Internal Trade (AIT). Under the AIT, all provinces, including Quebec, agreed to repeal margarine colouring regulations by September 1997. Ontario repealed its regulations in 1995.

In October 1997, on behalf and at the request of Unilever, Ontario initiated the internal trade challenge, which has since involved a series of consultations. Recently, the AIT Secretariat has provided the principle parties (Ontario and Quebec) with a notional timetable for the panel review process, which includes establishing the panel by September, holding a hearing in November, and releasing the panel report by January 2003.

AIT Secretariat website

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OTHER TRADE ISSUES

12. GMO Exports Endure Trade Restrictions

12.1 EU Continues to Block Canada's GM Canola Imports

A lengthy impasse in the EU approval process for GMOs has kept Canadian GM canola out of the EU market for the last five years. The legislative roadblocks have been led by a number of EU member states, including France, Austria, Greece and Luxembourg, which have raised concerns regarding the potential health or environmental risks associated with GMO products.

To address the Member States' concerns and to facilitate approval of GMO imports, the European Commission (EC) has proposed revisions to existing legislation. However, the EU Environment Committee, an arm of the European Parliament, has recently proposed amendments to the original proposal. The amendments seek stricter protocols for approval, broadening the scope of the requirements to include traceability and labeling protocols on all live animals and any food produced from or with GMOs (i.e. enzymes, additives, etc), and reducing the threshold for GMO content from 1% to .5%. The amendments will be brought before the EU Parliament in July, and thereafter needs the approval of the European Council (likely to be considered by year end).

More information on the Canadian Food Inspection Agency (CFIA) website

European Communities Biotechnology Proposal

European Parliament website

12.2 China: New Regulations on Agricultural GMOs

China's Ministry of Agriculture (MOA) released new GMO import regulations on January 7, 2002, as follow-up to GMO legislation introduced in May 2001. The regulations cover the labeling, marketing, manufacture, processing, and import/export of agricultural GMOs. In April 2002, China's MOA agreed to postpone enforcement of the new law to December 20, 2002, and instead issue temporary approval certificates in the interim based on product approvals from the exporting country. The new regulations affect all imports of GMO soybeans, corn, canola, cottonseed and tomatoes.

Canada and the US are contesting the new regulations, on the grounds that they do not provide adequate information regarding application procedures, and that they create burdensome certification and notification requirements which could unduly delay or halt exports of GMO-based products.

Click here for more information on the Canadian Food Inspection Agency (CFIA) website

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13. Ontario Agri-food Exports Reach All-Time High

Trade numbers for 2001, issued by Statistics Canada in February 2002, show that Canadian agri-food exports reached an all-time record of $24.4 billion by the end of November 2001. The value represents an increase of 13.4% over the same period in 2000.

The experience is mirrored in Ontario. Ontario's agri-food exports accounted for nearly one third of Canadian exports, registering more than $7.7 billion in shipments in 2001. A full 87 per cent of that went to the US. Statistics show that every sector of Ontario's agri-food industry benefited from the increase in exports, including the sales of food ingredients, grains, vegetables, meat, animals and confectionery.

Canadian Agricultural Exports Reach All Time High. AAFC News Release, February 4, 2002

Ontario First on Global Menus: Exports Up. OMAF News Release, February 11, 2002

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14. New Federal International Marketing and Trade Funding as part of APF

On June 25, 2002, AAFC Minister Lyle Vanclief announced $175 million in federal funds over the next six years to support market development and trade policy initiatives in support of the agriculture and food sector. The funding commitment reflects the trade component of the Agricultural Policy Framework (APF) initiative, which involves a comprehensive review by federal and provincial governments of national agricultural policy.

The APF, which involves $5.2 billion in funding over six years, is designed to build Canada's reputation as a leader in food quality and in safe, environmentally-responsible and innovative production and processing practices. Branding Canadian agriculture and food products based on quality and production strengths at home, is expected to assist market access efforts in key international markets, and help the industry to better respond to increasing global competition. The new money is also targeted to augment the federal government's trade liberalization and trade advocacy efforts at the WTO. Details of specific spending objectives are still to be worked out in consultation with the industry and the provinces.

AAFC Announcement on Market Development and Trade Funding - June 25, 2002

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15. Upcoming Events and Activities

Date	Events and Activities
July 12	EC White Paper on CAP Reforms
July 15-19	Negotiations on Canada-Central America Four FTA
July 28	Scheduled Tabling of Compliance Panel Report Regarding Canadian Dairy Export Practices at WTO Dispute Settlement Body Meeting
July 29-30	Inter-sessional Meeting of WTO Agriculture Negotiators on Market Access
September 2-4	WTO Agriculture Negotiations - market access
September 23-27	WTO Agriculture Negotiations - domestic support
November 1	Trade Ministers Conference re: Free Trade Area of the Americas (FTAA)
November 29	AIT Panel Hearing on Quebec Margarine Colouring Regulations

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