



## U.S. Dairy Export Council Restatement & Elaboration of Doha Round Negotiating Priorities June 2002

This submission supplements the “white paper” developed by the U.S. Dairy Export Council and signed by America’s five largest dairy organizations. It provides more detailed information regarding the negotiating objectives of the U.S. dairy industry. Specifically, it addresses proposals for negotiating methodologies pertaining to market access, export subsidies and domestic support.

As world leaders continue to strive for greater transparency and fewer artificial distortions to trade, the U.S. dairy industry fully supports trade rules that provide equitable opportunities for and obligations upon American agriculture. Rural America and its related processing industry depend heavily upon increased access for its agricultural goods to world markets. Yet, U.S. dairy producers and processors are determined to assure that international agreements maximize those interests while also providing sufficient time to adjust to the structural changes that could radically affect their own structure.

Equitable trade initiatives recommended by the U.S. dairy industry include:

### **1. Export Subsidies**

Elimination of export subsidies is the number one priority of the U.S. dairy industry in the Doha agricultural negotiations. This trade-distorting scheme continues to pose a major barrier to the expansion of U.S. dairy exports by depressing world prices, thereby reducing U.S. competitiveness and overall income. In 2001, 15 WTO members, in the aggregate, still retain the right to spend in excess of \$3 billion and to subsidize the milk equivalent of more than 50 billion pounds (22.6 million metric tons) of dairy product exports each year. The EU alone accounts for more than 75 percent of these export subsidies. The United States accounts for just three percent.

- The U.S. dairy industry supports the elimination of all agricultural export subsidies in three years, through progressive reductions, starting no later than December 2005. There should be no difference between developed and developing nations regarding the elimination of export subsidies. The U.S. dairy industry is willing to give up the Dairy Export Incentive Program as long as the Europeans and others eliminate their export subsidies entirely.



*The pervasively negative effect of export subsidies is so extensive that all of the industry's other positions depend upon their complete and rapid elimination. The majority of WTO members have already identified the complete elimination of export subsidies as a goal.*

- The modalities to eliminate export subsidies should not entertain the inclusion of either the “aggregation” of the commitments in value or quantity nor the ability of accessing unused quantities --“rollover.”
- The U.S. must oppose the selective elimination of export subsidies by products. Allowing countries to maintain export subsidies for certain products in exchange of eliminating those subsidies for other commodities should not be considered a viable avenue.
- The elimination of export subsidies should not be jeopardized because of the potential exclusion of an export subsidy component.
- State Trading Enterprises (STEs), as such, do not necessarily constitute interference to trade. An example is the Commodity Credit Corporation (CCC) in the United States. However, monopolistic STEs, with preferential treatment with respect to exports and imports, have consistently distorted trade. Unfortunately, the Uruguay Round (UR) imposed no real disciplines on these state sanctioned companies. This round should not allow entities which have exclusive rights to purchase all domestic product or exclusive rights to export markets.

*The Doha Round must not allow State Trading Enterprises, or companies sanctioned by the government to have exclusive rights to all domestic milk as well as exclusive rights to export markets to continue to function. Any elimination of export subsidies should address the enormous distortions created by STE organizations.*

## **2. Market Access**

Though converting all non-tariff measures to tariffs was critical for agriculture during the Uruguay Round, it created inequitable, unbalanced access to markets. The commitments in the last round permitted many members to isolate their markets entirely, beyond the negotiated minimum access, while countries like the United States provided significantly more net access. Final UR bound tariff levels on key dairy products are still in excess of 50 percent for many WTO members, while the U.S. in-quota rates are nearly or simply zero. Likewise, the average U.S. over-quota tariff for dairy products is about 52 percent, while the average overquota dairy tariff in the EU, Canada, Japan, Korea and other countries typically remains well into the triple digits.



Although the industry is a relative newcomer to international trade, and such trade is still modest in comparison to the size of the domestic market, the United States exported about 5 percent of its domestic milk production in 2001. This amounts to about 8 percent if one removes fluid drinking milk, difficult to export due to its perishable nature. More importantly, our export share for cheese has grown more quickly in recent years than traditional and heavily subsidized exporters such as Europe, and at about the same rate as countries such as New Zealand.

In fact, the United States exported over \$1 billion in assorted dairy products in 2001; the third consecutive record-breaking year of foreign sales. If the next round eliminated all export subsidies, the EU would lose the ability to export at submarket prices:

- About 78% of last year's exports of 458,500 metric tons of cheese, or about 35% of total world trade.
- About 80% of last year's exports of 358,000 metric tons of SMP, or about 24% of total world trade.
- About 60% of last year's exports of 131,000 metric tons of butter, or about 12% of total world trade.

U.S. companies strongly believe we can be competitive in many dairy categories if given a true level playing field. Because the Uruguay Round accomplished important, but very limited, access for U.S. dairy products, we understand that without another round of market access reform, we cannot negotiate viable commercial access for U.S. dairy products to many important markets as well as address the issue of peak tariffs around the world.

The U.S. industry values export markets and the potential for expanding those markets. However, a poorly balanced negotiation will dramatically affect a broad range of the U.S. dairy industry. Therefore, our market access objectives focus on leveling the playing field and ensuring that the United States does not provide greater net access than other member countries.

- Unless it is clear that the elimination of all access barriers is a realistic goal in this round, *we oppose eliminating Tariff Rate Quotas during the current agricultural negotiations.* Because of the price-depressing effect of export subsidies, it is imperative that further implementation of reductions in over-quota tariffs or increases in tariff rate quotas occur only AFTER export subsidies are eliminated. To that end, the modalities on market access should entail an explicit linkage with progress in export subsidy reduction and its subsequent elimination.



- Since the Uruguay Round, over-quota imports have severely affected the United States because of our relatively low over-quota tariffs when compared to other protected markets. *Therefore, the industry's second priority is the harmonization of over-quota tariffs.* The WTO market access modalities should apply a "Swiss formula" with a medium coefficient and a built-in ceiling approach. This is the closest formula to the concept of harmonizing above-quota tariffs (see U.S. Dairy Export Council Market Access paper submitted in May 2001). It is imperative to reduce the disparities left in the Uruguay Round.

Although a simple request/offer approach may not necessarily be able to address the problem of tariff inequities, we must recognize that this form of negotiation will likely play a role.

- *We oppose any additional in-quota access unless export subsidies are eliminated and over-quota tariffs are harmonized.* Furthermore, considerations of additional in-quota access should also take into consideration the net trade flows through over-quota access. Also, if agreed, additional in-quota access should be given first to those countries that did not enjoy special country allocations (e.g. the United States) during the Uruguay Round and developing countries. *Any access that benefits European or other OECD countries should be compensated with a specific country allocation for U.S. dairy products into those markets.*

Finally, ensure that the United States does not provide more access (in-quota or over-quota) than any other protective world market, particularly in ways that put our industry at a competitive disadvantage. Because of the disparities created by the UR peak tariffs, it is essential that the market access modalities include a system to evaluate the actual over-quota access that each protected market offers. *In other words, calculations of minimum market access should also consider both in-quota access as well as over-quota access when calculating any further concessions.*

- *The market access modalities should also entail a mechanism to group sections of the harmonized tariff schedule that offer essentially the same product.* All milk proteins, as well as all butterfat that can be interchangeable, or substitutes, should be in one category. For instance, access given by countries in all dairy proteins (in-quota, over-quota, and ordinary tariffs) should count against their overall access concessions. Since milk is often altered to produce various dairy products with similar characteristics and substitutability, access rules should prevent the circumvention of tariffs through technological advances.



- *The continuation of safeguards is essential to remedy price depressing import surges of dairy products.* Though we understand the danger of improperly stifling access to foreign markets, a transparent, quick and efficient safeguard, with specific disciplines that address import surges, is extremely important. The special safeguard provisions adopted in previous negotiations have not proven to be very effective and need modification towards transparency and simplicity. The U.S. government needs to be able to implement these safeguards without delay.
- *Market access negotiations should use the lowest applied rates rather than the higher bound rates when negotiating tariff reductions.* Countries should not be allowed to use their right to modify their applied rates as a negotiating tool.
- *The United States should propose to bring all countries' in-quota tariffs to zero.* This will guarantee that all access given within a TRQ will have no tariff obstacles. Coupled with transparent TRQ administration, this will provide unrestricted access within a TRQ.
- The structure of dairy product tariffs should be simplified, harmonized and made more transparent. The modalities may include that tariffs can be specific or ad-valorem, but avoid the combination of systems.

The U.S. dairy industry supports market access negotiations that focus on leveling the playing field. To this end, the United States should concentrate on the reduction and harmonization of high tariffs, while improving the administration and enforcement of tariff rate quotas. In addition, but most importantly, the pace of reforms in access should be linked to the timetable on export subsidy elimination.

### **3. Domestic Support**

Today, the EU possesses the primary WTO rights to provide domestic support to its dairy sector. The option of using significantly large domestic subsidies could allow the EU to continue distorting trade in dairy products, even without export subsidies.

Therefore,

- *We support the continuation of the green box principles.* The green box principles should be maintained and expanded to include programs that allow producers to support themselves without taxpayers' money.



- *We support the U.S. government proposal of an exempt and non-exempt approach. However, the elimination of the blue box should not be accepted as a condition for the EU to maintain the huge disparities under the amber box. The elimination of inequities under the blue and amber boxes is the *third priority* for the U.S. dairy industry and should be addressed in the negotiations on agriculture. We do not support the elimination of these programs. Moreover, the United States should only accept reductions in domestic support as part of a package that includes elimination of export subsidies and reciprocal market access.*

The European WTO ceiling on domestic support (AMS) is about \$70 billion, while the United States is at \$19.1 billion. Huge disparities would remain if the EU could freely increase its domestic support outlays, even if it eliminates export subsidies. We must ensure that the United States does not unilaterally disarm with respect to domestic support. Unless negotiations reduce serious disparities in the levels of support, the United States must continue internal programs that counter heavy subsidization by Europe and other OECD members.

- *In negotiating the internal support modalities, the United States also should consider changing the rules of notification of the amber box. At the end of the Uruguay Round, the system in which the aggregate measures of support were to be notified to the WTO had significant flaws. The most obvious oversight is the double counting of producer support. For instance, the U.S. price support program had little impact on U.S. dairy prices until 1999. Nevertheless, the United States has notified to the WTO an average of \$4.5 billion annually for dairy price support, when in reality government outlays were near zero.*

The correction on how member countries notify to the WTO should be a priority for the United States in the agricultural negotiations. *The United States should propose to notify only the actual quantities of government outlay that clearly provide an actual support for prices.* If not, producer subsidy equivalents, already taking into consideration market access barriers, translate into higher prices.

#### **4. State Trading Enterprises**

As previously stated (under export subsidies), State Trading Enterprises (STEs), as such, do not necessarily constitute interference to trade. However, the U.S. dairy industry's *fourth priority* is to eliminate all competitive advantages that monopolistic state trading enterprises enjoy compared to other private companies. In this regard, U.S. negotiators should demand disciplines for single-desk buyers and sellers that have noncompetitive and nontransparent advantages.



## 5. Sanitary and Phytosanitary Measures

The EU is seeking to reopen and weaken the text of the current SPS agreement. The U.S. dairy industry insists that no changes be made to the substance of the WTO Agreement on SPS Measures.

The SPS agreement must preserve the existing WTO rights when improving compliance and transparency. The agreement should incorporate them in a manner that does not alter their strict science-based disciplines. The industry opposes any attempts by the EU to allow social or economic considerations to form any basis for applying SPS measures in exchange for reduction of subsidies, tariff-based market access barriers, or any other negotiating issue.

## 6. Geographical Indications

An alarming precedent concerning geographical indications that could threaten the exports or production of a number of U.S. products, particularly dairy and other food products, is developing. The threat stems from a two-pronged European initiative to expand the types of products given special protection by so-called “geographical indications” (GIs). Domestically, the EU recently proposed changes in its GI rules for products imported into the 15 countries of the EU. Internationally, the EU is seeking to extend protection for GIs, beyond the carefully limited category of wine and spirits (e.g., “Bordeaux” and “Scotch”), in the WTO.

- Every effort should be made to oppose the European actions and create a coalition of countries that understand the consequences of extending GIs to an unprecedented number of products.

In no terms should the U.S. government agree to a trade-off between GIs and progress in the agricultural negotiations.

## 7. Non-trade concerns

The so-called non-trade concerns include topics such as animal welfare, consumer attitudes and fears (known as the precautionary principle), and the notion that the special characteristics of agriculture should permit the continued use of trade measures or trade distorting subsidies. These “non-trade” issues mainly interest the EU and Japan.

- We agree that the specific role of agriculture as a provider of public goods should be recognized. Yet, we strongly disagree with any attempt to use those values to prevent trade. It is important that the United States prevent their



inclusion in a final agreement if the provisions would result in further trade distortions.

As stated above, the U.S. dairy industry does not oppose the idea that agriculture is a unique economic activity that merits different treatment. However, the real issue is the manner in which the objective is accomplished. Legitimate social, cultural and environmental goals are best accomplished through other programs that do not prevent trade.

Likewise, the concept of the "Precautionary Principle", as advocated by the EU, will pose serious risks to objective, science-based, regulatory decisions. The United States should firmly repudiate any proposition by WTO members to use unsound science to regulate agricultural and food trade.

## **8. Dispute Settlement Understanding**

Under GATT rules, the general perception was that overall rules that applied to agriculture were much weaker than those for other goods. Moreover, the enforcement of the GATT dispute settlement process was powerless. The Uruguay Round attempted to improve this procedure by creating new rules governing the process for settling disputes. The WTO dispute settlement system is a significant improvement over its GATT predecessor. However, the effectiveness of the dispute settlement mechanism remains in doubt.

- The U.S. dairy industry supports the AgTrade Coalition proposal (see attachment) that encourages the U.S. government to close ambiguities in the dispute settlement system, which currently allows governments to prolong the dispute settlement process. Tighter rules on time frames and deadlines, as well as mechanisms to facilitate more timely settlements, such as agreed-upon arbitration, could improve the system and make it more accountable.