



U.S. Dairy Industry Negotiating Priorities

OVERVIEW

This submission represents the collective views of the Alliance of Western Milk Producers, the American Dairy Products Institute, the International Dairy Foods Association, the National Milk Producers Federation, and the United States Dairy Export Council, in response to the March 28, 2000, Federal Register notice requesting industry input on general U.S. negotiating objectives, as well as country and commodity-specific export priorities for agriculture in the upcoming multilateral trade negotiations.

The Seattle Ministerial meeting failed to launch a comprehensive round. Nevertheless, pursuant to the Uruguay Round mandate, negotiations in agriculture have started under the auspices of the so-called "built-in agenda." Member countries of the World Trade Organization (WTO) recently agreed to a work plan in which countries could submit negotiating proposals during the next 12 months. Although we are very supportive of this work plan and the built-in agenda, the U.S. dairy industry continues to believe that the United States' priority should focus on launching a comprehensive round of WTO negotiations.

The dairy industry is concerned that, in the absence of a comprehensive round, countries opposed to further trade reform could hold back the negotiations by pursuing tangential issues. In particular, U.S. negotiators must guard against efforts to legitimize trade barriers under the guise of "multifunctionality," "precautionary principle," or "consumers rights". Instead, the United States should work toward the rapid elimination of export subsidies and the establishment of meaningful reciprocal access through reduction of tariffs and elimination of all non-tariff measures.

It is imperative that through the negotiations, the United States continue to combat trade-distorting schemes, and defend U.S. interests. The United States should not embrace other countries as permanent allies. On the other hand, the United States should seek to build international consensus for goals that promote U.S. interests in reforming agricultural trade. U.S. officials must demonstrate leadership on global trade issues by sending frequent, clear messages that the United States is prepared to negotiate only if the outcome of the negotiations will provide its agricultural and food sectors with fair trade.



The U.S. industry has much to gain from successful negotiations, but it could lose its future growth capacity if an incomplete or poorly balanced agreement results. Therefore, the U.S. government should recognize that our goals are carefully interrelated. Failure to reach significant progress in all of the key reforms could seriously affect the dairy industry's future position.

The most critical areas for the upcoming round, which are addressed below, are:

- Scope, Timing and Structure of Negotiations
- Export Subsidies
- Market Access
- Domestic Support
- Circumvention and Dispute Settlement
- Other Issues

A. Scope, Structure and Timing of the Negotiations

A critical priority for U.S. agriculture is to broaden the agenda and launch a new round of comprehensive talks. The scope, structure, and timetables for the next round of negotiations are particularly important.

Recommendation: The U.S. dairy industry urges the U.S. government to support a broad-based round of negotiations that concludes with a single undertaking, and includes economic sectors beyond agriculture of importance to such key players as the EU, Japan, and the developing countries. The negotiations should not allow early harvest of agreements on a sector-by-sector basis. The U.S. dairy industry strongly encourages the U.S. government to seek a three-year negotiation.

Without the pressure of the benefits that accrue from gains in non-agricultural trade in the next WTO Round, entrenched interests, hostile to freer and fairer trade will seriously undermine any progress on agricultural trade. Yet, the larger round or comprehensive "single undertaking" approach does not require every subject relating to the WTO to be included.

The United States has stated that it would like to see that the negotiations start on time and end as soon as possible, but timing the negotiations will be sensitive. However, the expiration of the "due restraint" clause (Peace Clause) should have an effect on the timeframes established on the negotiations.



Finishing the negotiations in the year 2002 would allow countries to make the necessary internal changes (legislative) to accommodate any disciplines agreed on the new round. This will also match the expiration of the Peace Clause leading to implementation by the year 2004.

Specific Agricultural Issues

For agriculture in general and the dairy industry in particular, it is critical that the next round continue the reforms made in the Uruguay Round Agreement on Agriculture. To this end, the U.S. government must address issues regarding previous commitments on export and domestic subsidies and market access.

B. Export Subsidies

Export subsidies continue to pose a major barrier to the expansion of U.S. dairy exports by depressing world prices and hindering the convergence of U.S. and world prices. In 2000, 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.

Recommendation: The U.S. dairy industry supports the elimination of all agricultural export subsidies in five years, through progressive reductions starting no later than 2002.

This is the industry's highest priority upon which all its other positions depend. The U.S. government and the Cairns Group have already identified the complete elimination of export subsidies as a goal. Such subsidies would include, among others, the EU restitution programs and the U.S. Dairy Export Incentive Program. Although all the major WTO players in agriculture currently retain WTO rights to use export subsidies, over 100 members do not; those that do include the United States and at least seven members of the Cairns Group. These countries, plus the new members that are likely to be admitted to the WTO soon (such as China), should form a powerful anti-subsidy bloc in the current negotiations.

The elimination of export subsidies should not be jeopardized through the exclusion of export subsidy components. Toward that end, the current subsidy rules should be clarified to make explicit their coverage of potential de facto export subsidies that can be used in the dairy industry, including the government managed class-price systems based on export performance, such as the Canadian system, which was deemed to be an export subsidy by dispute settlement ruling. The U.S. dairy industry pledges to work



closely with U.S. negotiators to identify schemes that should be considered export subsidies.

Circumvention of export subsidy commitments is a major concern to the U.S. dairy industry. It is imperative that the negotiations establish tighter disciplines to preserve the integrity of previous commitments. The dairy industry cannot afford to lose resources and market share pursuing individual countries through legal procedures to make them abide by their commitments.

C. Market Access

Although converting all non-tariff measures to tariffs was critical for agriculture during the URA, the exercise produced unbalanced access to markets. Current WTO commitments permit many members to retain largely closed dairy markets. Final Uruguay Round bound tariff levels on key dairy products are still in excess of 50 percent for many WTO members. Over-quota tariffs on dairy tariff-rate quota (TRQ) items in the EU, Canada, Japan, Korea and other countries typically remain well in the triple digits. In-quota tariff rates for the EU are excessive. TRQ's themselves are small and often administered through restrictive licensing arrangements.

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

1. **Linkage to export subsidy elimination:** Reductions in tariffs should be developed in relation to the timetable and rates for achieving elimination of export subsidies.
2. **Base Levels:** 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.
3. **Ordinary Tariffs** (all tariffs excluding products subject to TRQs): All ordinary peak tariffs should be capped immediately upon implementation of the next WTO round. To identify the level of the upper limit on tariffs will require additional analysis. However, this cap should provide real access in all markets under ordinary tariffs.



4. **Tariff Rate Quotas (TRQs):** Over-quota tariffs on dairy products subject to TRQs should be reduced in a manner that ensures reciprocal and equal obligations among the WTO members that maintain tariff rate quotas. In-quota tariffs on dairy products should be immediately bound at a harmonized level upon implementation of the next round.
5. **Non-Tariff Measures:** Although the URA created a tariff only system, many countries maintain practices (beyond licensing) that are non-transparent, discriminatory, and trade restrictive. The U.S. dairy industry will work closely with the U.S. government to develop an inventory of non-tariff measures affecting the dairy industry. For instance, TRQ licensing procedures and activities of import STEs must be addressed immediately with a view toward providing real market access. Examples of other non-tariff measures include government controls over imports based on domestic supplies, administration of import licenses, and price reference or price bands that can create trade barriers. The U.S. dairy industry is working to develop a list of its market access priorities for this purpose.
6. **Simplification:** The structure of dairy product tariffs should be simplified, harmonized and made more transparent.

D. Internal Support

When the next WTO round commences, the EU will be the primary possessor of 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.

Recommendations:

1. Support the general principles of the “Green box.”

For these policies with the smallest potential effect on production and trade, the objective should be to close loopholes so countries would not mask production and trade distorting subsidies. In addition, the U.S. must ensure that all subsidies are promptly reported to the WTO, including indirect subsidies (such as credit, lower energy cost assistance.) To this end, the industry pledges to work closely with U.S. negotiators to develop policies acceptable to support dairy farmers and the industry in general that have minimal effect on trade.

2. Seek greater disciplines on all countries’ domestic supports, with particular attention to ensuring that EU supports are brought under control.



The EU WTO ceiling on domestic support (AMS) is about \$80 billion, while the U.S. is at \$19.1 billion. This huge disparity would be exacerbated if by eliminating export subsidies, the EU could freely increase its domestic support outlays. We must ensure that the European Union does not continue to heavily subsidize its domestic production.

3. Seek limits of the “Blue box” policies seeking its ultimate elimination.

The Blue box policies allow direct payments related to production as long as those payments were under limiting programs (e.g. fixed yields, head of livestock). Although these payments were included in the base aggregate measure of support (AMS), they were exempt from reductions and notification. These policies have a significant potential to distort trade even without export subsidies and should be included in the “Amber box.”

4. The dairy industry will work with the government to develop positions on:

- Treatment of supply management, import controls and over production.
- Domestic support reduction priorities for other WTO members.
- Other issues to be decided, including special consideration to developing countries, and the status of the “*de minimus* exemptions.”

E. Dispute Settlement

Under GATT rules, the general perception was that overall rules that applied to agriculture were much weaker than 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.

Recommendation: The U.S. dairy industry encourages the U.S. government to find ways to close ambiguities in the dispute settlement system, which currently allows governments to drag out 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.



F. State Trading Enterprises

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. The Uruguay Round imposed on STEs the same rules that apply to private entities regarding export subsidies and market access. However, the unique powers of single-desk buyers and sellers have the potential to distort trade.

Recommendation: The U.S. dairy industry supports efforts to impose greater transparency on STEs and single-desk buyers and sellers.

The dairy industry will work with the government to develop a profile of all monopolies of economic significance to the interests of U.S. dairy trade. In principle, the U.S. should stress the importance of eliminating import and export monopolies that are supported with government legislation. At a minimum, these entities should be subject to the same risks and uncertainties as faced by their market-driven competitors. WTO rules should provide adequate disciplines on the trade-distorting activities of STEs.

G. Sanitary and Phytosanitary (SPS) Measures

There is some concern that the EU is seeking to reopen and weaken the text of the current SPS agreement.

Recommendation: The U.S. dairy industry insists that no changes be made to the substance of the WTO Agreement on SPS measures.

Any potential changes should be confined to procedural changes, improving compliance and transparency, etc., and should be incorporated in the agreement in a manner that does not alter the strict science-based disciplines of the SPS agreement. 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.

H. OTHER ISSUES

1. **Peace Clause:** The Agreement on Agriculture provides an exemption to the Subsidy and Countervailing Agreement, which prohibits actions against certain subsidies. The exemption will automatically expire at the end of 2003 unless specifically extended. The expiration of the Peace Clause will help bring the EU and other WTO members to the negotiating table because of its legal ramifications.



Recommendation: In principle, the U.S. dairy industry opposes the extension of the Peace Clause, unless it benefits the U.S. negotiating position by ensuring good faith negotiations, and comprehensive, satisfactory results.

2. **Biotechnology:** The growing production and trade of agricultural products produced through biotechnology has prompted a surge of new trade disputes and restrictive regulatory measures. Both the Sanitary and Phytosanitary (SPS) Agreement and the Technical Barriers of Trade (TBT) Agreement in the WTO provide guidelines for developing regulations based on science.

Recommendation: The U.S. dairy industry strongly supports the position that biotechnology issues be resolved on the bases of science-based frameworks.

3. **Precautionary Principle:** The concept of the "Precautionary Principle" as advocated by the European Union poses serious risks to objective, science-based regulatory decisions. The EU is clearly determined to raise the issue of public safety and consumer preference in international forums (WTO and Codex). The United States should firmly repudiate any proposition by WTO members to use unsound science to regulate agricultural and food trade.

Recommendation: The U.S. government should reject other countries' efforts to delay further trade reform or draw off gains achieved in tariff reductions on the purported grounds of food safety. The United States should take a leading role to oppose trade discrimination because of non-scientific concerns.

4. **Multifunctionality:** There are as many definitions of multifunctionality as there are countries that use the term. The idea behind multifunctionality is that agriculture is a unique economic activity that should be treated differently. Most countries including the United States concede that point, but the real issue is about how to accomplish that objective. Some countries have tried to use the concept to justify maintaining import barriers and trade-distorting subsidies.

Recommendation: Legitimate social, cultural and environmental goals can best be accomplished through non-trade-distorting direct payments. The U.S. government should present a paper defining multifunctionality and determine what means of support would be acceptable and least trade-distorting.