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A MULTI DISCIPLINARY DISCUSSION OF IMPACTS ON THE NAFTA AND US – CANADA TRADE

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Introduction

This Information Bulletin provides an assessment of the results and prospects of the current Doha Development Round of the WTO as they present themselves in the wake of the December 2005 Ministerial Meeting in Hong Kong. The four authors were asked to address the overall political situation (Anderson), the negotiations regarding agriculture (Veeman), the legal implications (Reif), and the implications for non-agricultural market access and trade in services (Mirus).

Anderson presents both an optimist's and a pessimist's perspective of the state of play as of December 2005. His overview makes the point that the strong emphasis on agriculture and development may have distracted attention away from the availability of 'low hanging fruit' for a general reduction in the remaining tariffs. In addition, the Doha Development Round focus on agriculture inevitably led to pressure on the EU and US, whose internal politics and relationship with each other meant that progress was going to be difficult. Anderson argues persuasively that the increasing number of WTO members, the political constraints, and the pursuit of bilateral preferential trade arrangements have added to the complexity of the current negotiations and diminished the chances for success. In light of the fact that the Uruguay Round took eight years to conclude, Anderson sees some hope for a 'Doha-Lite' solution by the time the US President's fast track authority expires.

Veeman reviews the backdrop for the role of agriculture in the Doha Development Round. The Uruguay Round was not successful in reducing protection for agriculture leaving unresolved the major challenges of increasing market access, reducing domestic support and eliminating export subsidies for agricultural products. The costs of this situation are considerable: for consumers, for efficient producers of agricultural products (including Alberta), and for developing countries that face access barriers and highly subsidized competition. In light of this background, the achievement of Hong Kong is positive but very modest: phasing out agricultural export subsidies by 2013 is a rather unambitious time horizon. Negotiations on market access and domestic support remain as significant major challenges for the balance of the Doha Development Round negotiations.

Reif provides a legal perspective of the results of the Doha Development Round to date. She points out that any agreement reached, whether on agriculture, non-agricultural market access, trade in services, or the rules of the WTO, will require the "completion of modalities", i.e. is contingent on reaching overall final agreement. Moreover, she points to the Annexes of the Hong Kong Ministerial Declaration which indicate the continuing differential treatment of developing and least developed countries. Substantial legislative changes to existing WTO agreements will be necessary if the Doha Development Round succeeds, and much remains to be negotiated before success, however modest, is achieved. One positive and notable achievement is pointed out by Reif. Just prior to the Hong Kong meeting, agreement was reached to amend the Trade-Related Aspects of Intellectual Property Rights (TRIPS) on patents, pharmaceuticals and public health, making access to HIV/AIDS drugs easier.

Mirus focuses on the non-agricultural market access (NAMA) and services trade negotiations, exploring their possible implications for Alberta's exports. As Hong Kong brought no concrete results on services, he concentrates on NAMA. This is the category of products that covers 90% of world merchandise trade, hence - along with services - holds most promise for benefits from a liberalization of trade. Agreement in NAMA negotiations pertains to time lines regarding unfinished business and a particular formula to be applied for tariff reductions, with details yet to be worked out. Noting that a number of Alberta exports to non-FTA markets face significant tariff peaks, Mirus estimates, on the basis of simple and conservative assumptions, the order of magnitude of additional exports that would result for Alberta-based producers of such products. Not surprisingly, these products are mostly processed raw materials.

The Doha Round After Hong Kong: Is the Cup Half-Empty or Half-Full?

Greg Anderson[•]

President Truman once quipped that he wanted one-armed economists so that they could never make a statement and then say 'on the other hand....' In trying to sort out the political implications of the ebb and flow of the Doha Development Round (DDR) of the World Trade Organization (WTO) over the past five years, there have been plenty of opportunities to utter 'on the other hand.' Assessing the Sixth Ministerial meeting in Hong Kong this past December, its implications for the Doha Round, for the WTO itself, and for the broader international trading system is no different. On the one hand, the political fallout from the Hong Kong Ministerial is positive, but on the other.... Perhaps a more apt approach to assessing the outcome of the Ministerial is to adopt the public approach of many political leaders in the hours after Hong Kong and view the outcome of the Ministerial, and the status of the DDR, as a cup that is either half-empty or half-full. Judging from the official statements emerging from Hong Kong, including those of WTO Director General Pascal Lamy who said that the Doha Round was "back on track," the cup is half-full. Yet, as I will argue in this commentary, there are many more reasons to view the outcome of Hong Kong and the DDR itself as a cup that is at best half-empty, and perhaps even as a cup that is draining quickly.

The Half-Full Cup

There are several important reasons for optimism to emerge out of the Hong Kong Ministerial, all of which advance the DDR's development agenda. First, the 149 members of the WTO managed to agree on several important steps toward completion of the round, the most salient of which were agreements to eliminate all agricultural export subsidies by 2013 and a U.S. pledge to accelerate the elimination of its export subsidies for cotton specifically to the end of 2006. Second, developed countries agreed to accept products from the world's 49 least-developed countries on a duty-free and quota-free basis and to provide additional development assistance to developing countries to improve trade-related infrastructure such as port facilities. And third, members set a date of April 30, 2006 to meet again to work out formulas for reducing tariffs and subsidies on a range of farm and industrial goods.

Yet, the most important aspect of Hong Kong may simply be that the meeting itself did not turn into a political and public relations debacle reminiscent of the disasters in Seattle in 1999 or Cancun in 2003. Although anti-globalization protesters have become a regular feature of WTO meetings since Seattle, protests in Hong Kong were comparatively muted. It may be that pessimists placed too much emphasis on the Hong Kong meeting to deliver major breakthroughs and a final agreement. Although negotiators are urging that renewed urgency and boldness of thought be brought to the DDR in 2006, the round is not hopelessly deadlocked or overdue.

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When the Doha Round was launched in November 2001, four years for completion of the round was intended as a target, not a fixed deadline. When the Uruguay Round of the GATT was finally launched in 1986, it too, much like the DDR, had been the product of several fits and starts, including an embarrassing failure to launch the round at the 1982 Ministerial in Brussels and another Brussels Ministerial in 1990 that ended in stalemate over agriculture. When it officially began in 1986, the Uruguay Round was intended to last only three years. In spite of the round being beset by numerous setbacks, delays, and no shortage of political brinkmanship that pushed completion into 1994, the Uruguay Round has been a resounding success. Doha, optimists argue, is no different. The collapse of the 2003 Ministerial in Cancun, and even the somewhat modest results of Hong Kong, is all part of the natural ebb and flow of a major multilateral negotiation such as the DDR. The DDR may be late and may periodically teeter on the verge of collapse, but it will be completed and it will deliver gains from trade liberalization, recently estimated by the World Bank to be in the order of $800 billion to $1.2 trillion per year, to all its members.

The Half-Empty Cup

Regrettably, this half-full approach amounts to a depressing form of self-deception regarding the DDR's prospects for completion and the consequences of failure. The DDR was launched with much fan-fare in November 2001 and was infused with a line of reasoning that emerged out of the 9/11 terrorist attacks which posited a causal linkage between poverty and extremism. Hence, the Doha Round's emphasis on trade as a development tool. In addition, the Doha development agenda was supposed to deal with one of the main leftovers from rich country-poor country bargain struck in the Uruguay Round; agriculture. The Uruguay Round was successful in part because of a broad bargain whereby all members agreed to a set of measures dealing with issues such as intellectual property, services, and investment in exchange for continued negotiations on ending trade distorting agricultural supports. The second half of the bargain has remained stalled and intractable since then, and only again picked up momentum in the DDR.

However, in many ways, the DDR currently suffers from an over-emphasis on agriculture; an emphasis that was thought by many to have made a much more substantive agreement on agricultural supports at Hong Kong a matter of life or death for the DDR and the WTO more broadly. There are four important points to be made here about agriculture dominating the DDR. First, the failure to reach agreement on agriculture at Hong Kong was important, but the failure to move forward on a host of other issues was probably more important. Chief among them are reductions in barriers to industrial goods (some of the highest of which are maintained by developing countries), and an inability to deal with the application of domestic trade remedy laws, particularly anti-dumping, or a range of poor country capacity issues within the WTO structure, including their ability to successfully utilize the dispute settlement mechanisms. The WTO's membership has long promised to eliminate export subsidies. Yet, while export subsidies in agriculture are obviously trade distorting, they have a minimal impact on global commerce when compared with other kinds of agricultural support programs. In fact, their total elimination has been estimated by the World Bank at only 2% of theoretical gains from complete free trade in agriculture.

Second, in debating how to deal with agriculture in the DDR, the microscope of attention has understandably been on agricultural supports provided by rich countries, and in particular those in the U.S. and EU. While U.S. and EU agricultural support programs and market access restrictions generate egregious distortions in global farm trade, the DDR has effectively been stalled over this single issue which has led, particularly since the Cancun Ministerial in 2003, to the impression that for trade liberalization to take place at all within the DDR, most of the concessions in the round must come from rich countries.

Yet thirdly, these agricultural issues, coupled with the WTO's emphasis on this being a "development" round have also resulted in developing countries not being asked, nor volunteering, to make significant liberalizing concessions of their own. When developing country concessions are on the table, it is most often in the context of lengthy phase-in periods. In addition to the DDR, the past couple of years have witnessed building international pressure to deal with a range of development issues including debt cancellation for the world's most heavily indebted countries, support for the United Nation's Millennium Development Goals, and renewed pledges by G8 leaders at their 2005 summit in Gleneagles, Scotland to boost aid. However, within the DDR, this pressure has translated into an overemphasis on rich country trade concessions that have slowed the larger goal of multilateral trade liberalization. Not only does this undermine the principles of reciprocity and most favored nation treatment (MFN) upon which the GATT/WTO structure was built, developing countries are effectively being told that they should keep in place the very protectionist barriers to openness that in many cases are, in part, responsible for their lack of development. This, in spite of considerable empirical evidence suggesting direct linkages between levels of development and degrees of openness to the global economy. Mexico's painful experience with lengthy phase-ins for agriculture under the NAFTA is a case in point.

The fourth point to be made about such a heavy emphasis on agriculture is that the entire round, already highly dependent on U.S. and EU support, has effectively been hijacked by their respective internal politics and relations between the two. Everyone else, including other developed economies, Cairns Group countries like Canada, and, of course developing states, awaits movement between the U.S. and EU on one issue. Seen in this light, the Hong Kong pledge to eliminate agricultural export subsidies by 2013 is hardly a breakthrough achievement tied as it is to the EU's politics and budget process. Under the present EU budget, reaffirmed at the EU Summit in Brussels at the same time as the Hong King Ministerial, Common Agricultural Program (CAP) funding will remain at more than 40 percent of the entire budget through 2013. Although the December EU Summit in Brussels put forward a vague proposal to review CAP funding in 2008, any agreed changes will not take effect until after 2013.

The U.S. political agenda is just as problematic for the DDR. The negotiating authority given to the Bush Administration by Congress in 2002 is set to expire July 1, 2007. Subject to a new piece of legislation to again renew Trade Promotion/Fast-

Track authority for the Administration, there remains a small eighteen-month window in which to complete the DDR. In advance of the Hong Kong Ministerial, many trade experts calculated that even if a breakthrough in the DDR was achieved, it would take nearly a year of further negotiations amongst legal experts to hammer out the final text for submission to each member country's domestic political process. For the United States, that suggests July 1, 2006 as the practical deadline for the DDR to have completed the negotiation phase. Beyond that, the global trading system risks having the U.S. administration go back to Congress for a brand new grant of negotiating authority; an uncertain prospect at best.

Even if there is progress in the Doha Round, the politics of trade liberalization are sensitive enough in the United States that a number of erstwhile supporters of trade liberalization in Congress would rather Doha not become a major issue in the '06 congressional campaign. This again suggests the summer of 2006 as a practical deadline for completion of the Doha round. Beyond November 2006, regardless of the composition of Congress in terms of Republicans and Democrats, the president's status as a "lame duck" for the remaining two years of his term could be the biggest impediment to either completing the Doha round or requesting a new grant of fast track authority, if required, in 2007. The 2008 presidential election will feature brand new contenders from each party, each vying for their party's nomination (Vice President Cheney will not run). Anyone who followed the recent debate in the United States over the Central American Free Trade Agreement knows how controversial trade has become. Only the bravest of candidates may be willing to adopt trade liberalization as a central part of their agenda. In essence, U.S. trade policy, and the active trade liberalization agenda of the Bush Administration, and real progress in the DDR, could be casualties of U.S. electoral politics that will kick into high gear in mid-2006.

Given these constraints, it is easy to see why the Hong Kong Ministerial was initially assigned so much importance in early 2005, why it was so disappointing to have trade officials playing down expectations leading up to the meeting, and why it was so damaging to have allowed members to again put off making tough decisions by setting a new (and likely unrealistic) deadline of April 30, 2006 to reach agreement on issues that were evidently intractable in Hong Kong.

The Cup is Half-Empty Institutionally as Well

One of the clearest impressions to emerge out of the DDR is the depth of the divide between rich and poor countries within the WTO structure. While the DDR was, in part, intended as a demonstration of how a multilateral organization can incorporate the interests of both developed and developing countries, in many ways it has left the opposite impression. The over-emphasis on agriculture, coupled with the pivotal nature of the internal politics of the U.S. and EU, have only served to reinforce the divisions within the WTO between rich and poor countries by accentuating the dominance of rich countries within the system. The dramatic collapse of the Cancun Ministerial in 2003 was widely seen as a demonstration of the rising power of developing nations within the WTO's structure. The so-called Group of 20 developing countries brought the meeting to a standstill by insisting that developed economies make concessions on agriculture. Yet, this apparent demonstration of strength also pointed to the continuing dominance of developed countries within the WTO's structure and the organization's dependence on their willingness to move the talks along.

All of this is suggestive of why failure in the DDR is not an option for the WTO and why, in the midst of claims of progress emerging from Hong Kong, diplomats were also calling for renewed urgency in 2006. As the DDR limps along, the global trading system is increasingly beset by the rise of regional trading blocks such as the NAFTA, MERCOSUR, and dozens of other preferential trade arrangements (PTAs). While PTAs are allowed under Article 24 of the GATT, provided they liberalize more trade than they restrict, experts agree on two facts. First, PTAs do not yield even a fraction of the benefits of multilateral liberalization, and second, PTAs in practice restrict (through trade diversion) more trade than they liberalize.

In early 2002, Robert Zoellick, then President Bush's trade representative, began articulating what he called "competitive liberalizations," the essence of which was that the United States would use PTA negotiations with like-minded states to bring political and economic pressure on WTO members to conclude a new round. Yet, this strategy has oft-times seemed designed more to pull countries into the U.S. political orbit (i.e. CAFTA, Jordan, Bahrain, Kuwait) than to bring pressure to complete the DDR. It is also a strategy that may ultimately backfire. In the absence of momentum toward agreed multilateral rules governing the global trading system, that system will increasingly deteriorate into what has been called a "spaghetti bowl" of regional preferential trading areas that undermine the benefits of economic openness.

While the challenges ahead for the DDR seem insurmountable, the consequences of failure in the DDR could not be greater. Development as the centerpiece of a new round of WTO negotiations was both the price of being able to start a new round and perhaps a sign of the organization's ultimate demise. Although no one is talking about the outright collapse of the WTO, or the global trading system, placing development at the heart of this round was also an effort to push the organization into dealing with the north-south, developed-underdeveloped, rich-poor, cleavages that have emerged as central to an increasingly interdependent global economy. The success of the DDR will in some sense be a demonstration of whether multilateral organizations such as the WTO can flourish as its membership expands (now at 149 members), is increasingly composed of developing countries (two thirds are developing countries), and confronts a range of non-tariff barriers to trade, many of which are tied to domestic governance.

When the GATT was formed in October 1947 with a mere 23 members, it dealt primarily with border measures such as tariffs which remained the major impediments to trade. Yet, by the end of the Tokyo Round (1973-1979), tariffs had ceased to be the most important impediments to international trade and a range of so-called non-tariff, or behind-the-border measures, such as domestic trade remedy laws, regulatory barriers, patent protection laws, and barriers to foreign direct investment were increasingly at issue. As we might expect, each successive round has consequently been longer, featured more members, and dealt with more challenging issues that touched on aspects of domestic governance over which consensus is more elusive. The GATT/WTO negotiating structure mitigates some of the collective action problems inherent in such a large organization, yet in the DDR we can see the WTO straining under the weight of its diverse membership and the growing range of issues up for negotiation.

It might seem somewhat obvious to suggest that the credibility of the WTO to manage a rules-based global trading system is at stake in the DDR. Yet, the stakes may be higher than ever because of the effort to accommodate states at different stages of development within a broad system. For small countries, the WTO's structure augments their voice and influence in the global economic system in a manner disproportionate to their power in the international system. Failure in the DDR would undermine the WTO's legitimacy as an organization in which small countries can defend their interests against larger, often richer, countries.

On the other side, failure in the DDR could lead to a scenario reminiscent of how the GATT came to be formed in the first place. The GATT was in fact designed as a temporary measure and emerged out of frustration with post-war multilateral talks in Havana, Cuba aimed at creating the International Trade Organization (ITO). By 1946-47, the ITO talks had ground to a halt due, in part, to some of the same kinds of issues now being confronted by the WTO. While contemporary frustration with the WTO by developed countries is unlikely to lead to the creation of a separate organization as occurred in 1947, it will continue to foster the kinds of regional preferences that are rapidly being established under PTA's. More than undermining the multilateral system's principle of non-discrimination, such a "spaghetti bowl" of agreements could ultimately transform the global trading system into one more aptly described as discriminatory. At a minimum failure in the DDR will undermine the kind of active support from both developed and developing countries so essential to the WTO's utility in supporting economic openness and the prosperity that flows from it.

A Few Drops in the Cup

There is undoubtedly much at stake in the DDR and many reasons for pessimism about its outcome. Within the seemingly empty pronouncements from Hong Kong about new deadlines, bringing increased vigor and urgency to negotiations in 2006, and the negotiations being back on track, there is at least one reason for optimism– perhaps President Truman's hated 'other hand.' The original deadline set at Doha for completion of the DDR (January 1, 2005) has come and gone. The dire predictions of disaster if Hong Kong failed to produce a major breakthrough have not materialized. The new deadline of April 30, 2006 for full modalities on all issues (agricultural and non-agricultural) is overly ambitious and will probably lapse as well. None of this necessarily spells the end of the DDR or the WTO. The global economic system has not ground to a halt, nor is it on the verge of collapse, in spite of the litany of obstacles ahead.

There are obvious deadlines ahead, including most importantly the expiration of U.S. Trade Promotion Authority in July 2007 and the inability to substantively eliminate some of the worst agricultural distortions until 2013 when the current EU budget expires. However, the DDR would have to spill into 2009 before it equaled the length of the Uruguay Round. When the Uruguay Round was seemingly deadlocked and U.S. Fast Track Authority was set to expire, the U.S. Congress mustered the will to extend that authority through 1994 and the completion of the round. Could we see something similar after 2007 in spite of the complications of the U.S. electoral cycle? Similarly, will a review of CAP funding by EU governments in 2008 yield agreement on how to significantly reduce agricultural support after 2013?

Since both of these outcomes seem unlikely, placing such a heavy emphasis on the outcome of the Hong Kong Ministerial to significantly advance the DDR was probably well-founded. In the short-run, the WTO's membership will probably begin looking for a face-saving agreement of some kind over the course of the next eighteen months– a kind of "Doha-lite." Such an agreement would be largely political, contain a modest set of commitments, and be designed to keep intact the WTO's legitimacy until a larger set of breakthroughs could be achieved sometime well into the next U.S. administration and into the next round of EU budget negotiations. While a "Doha-lite" would at least keep alive the possibility of future rounds where substantive liberalization could be achieved, it would be a serious blow to the organization's utility as a manager of trade rules for a global economy that is as diverse as it is interdependent and arguably needs such rules more than ever.

ALBERTA AGRICULTURE AND THE DOHA ROUND

Michele Veeman[*]

Background and Introduction

What does the Doha Round mean for agriculture in Canada and in Alberta? Although the Uruguay Round (UR) of negotiations of the General Agreement on Tariffs and Trade (GATT) holds the distinction of having been the first serious effort to incorporate agriculture within the disciplines of the multilateral rules governing international trade, major challenges were left for the subsequent round of negotiations. After five years, from the rocky start of the Seattle World Trade Organization (WTO) Ministerial in late 1999 to the Hong Kong WTO meeting of trade ministers during December 13-18, 2005, many challenges remain, with only a short window of time left for these to be overcome. How did these challenges arise? The Agreement on Agriculture that came into force in 1995 as a result of the UR did provide the framework to bring agriculture into the newly formed WTO and put some disciplines and rules in place, but also enabled many countries to continue with high levels of agricultural protection and support. This is particularly prevalent in developed countries where agriculture constitutes a relatively low proportion of economic activity and some high-cost agricultural sectors are politically important. In short, the UR was successful in incorporating agriculture into the WTO system, but unsuccessful in achieving effective reforms for agricultural trade. Agriculture is a particularly important sector for the Province of Alberta and many of Alberta's highly efficient agricultural sectors are dependent on export markets. Effective reform of agricultural trade is crucial for Alberta's agriculture but this is only likely to be achieved in the context of wide trade negotiations, encompassing other issues beyond agriculture, such as non-agricultural market access and services, which are part of the Doha Round negotiations.

Agricultural Trade and the Uruguay Round

In addition to introducing the WTO sanitary and phyto-sanitary agreement, a very important issue for agricultural trade, the UR Agreement on Agriculture was directed to three major areas of focus: market access, domestic support and export subsidies. However, substantive progress towards reduction in agricultural protectionism was not achieved. Relative to the high levels of protection and bound tariffs for agriculture that were declared by many member nations (often embodied in the tariff-rate quotas that replaced agricultural non-tariff border protection measures, like import quotas and licensing), relatively modest tariff cuts were required in the five-year implementation period (OECD 2001, 2005).

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Similarly, commitments for cuts in domestic support (i.e. in farm subsidies and consumer-based transfers to agriculture) were extremely modest in the context of support levels in the historical base period against which cuts were to be assessed and it was only necessary to satisfy these on an aggregate basis. Further, direct payments under production-limiting programs (the so-called “blue box” programs) were exempt from any discipline. Finally, some types of domestic support to agriculture which UR negotiations determined could be categorized as non- or minimally-trade distorting (i.e. as “green box” programs) do in fact have production and trade effects (OECD 2001; 2005a).

The UR Agreement on Agriculture also allowed numbers of other trade-distorting practices like export subsidies (long prohibited for manufactured goods) to continue for agriculture (although these were capped, in volume and value terms, by agreed reductions from historic levels). Other policies that might have similar distorting effects on export competition (like export credit) were not directly included in the UR commitments. Overall, an end result of the UR Agreement on Agriculture was that the task of negotiating substantive changes in market access, domestic support and export subsidies for agriculture was left for the future, to be negotiated in the anticipated Millennium Round which was mandated to begin in Seattle in late 1999 and subsequently reborn in November 2001 as the Doha Development Agenda of multilateral trade negotiations. Negotiations were expected to be completed by the beginning of 2005, a deadline that has been extended to the end of 2006. The opportunity is still there but the time frame for these negotiations to be successfully completed is rapidly narrowing.

The Challenge for the Doha Round

The challenge for these negotiations was massive: as the OECD reported in 2005, in contrast to tariffs of 5 to 10% for most manufactured products, applied tariffs on agricultural products average above 40%, with many that are much higher. Some nations apply over-quota bound tariffs for politically important agricultural products that are prohibitive; agricultural tariffs that exceed 100% are common (OECD 2001, 2005a,b). Some nations apply higher tariffs on processed or semi-processed food imports than for the raw farm product (“tariff escalation”), giving substantial levels of protection for their local food processing industries (OECD 1997). Although export subsidies have been capped, there have been increases in the use of export credit subsidies. In many instances countries have made only minor modifications to domestic support policies since the UR. Lacking a binding WTO commitment, the 2003 US farm bill reversed some of the agricultural policy reforms that had been achieved in the 1996 US farm bill. Overall, although protection for agriculture has fallen from the peaks recorded in the 1980’s, the aggregate level of protection and support afforded agriculture in OECD countries has changed very little since 1995 when the UR commitments became effective (OECD 2005a).

Significant costs from the consequent massive distortions in world agricultural markets are borne by two groups of competing producers (as well as by domestic consumers in protected markets). One group consists of efficient low-cost agricultural sectors that are members of the world's major agricultural exporters. Some of these are located in medium-income countries (such as Argentina, Brazil, and Thailand) and some in developed countries (such as Australia, Canada, and New Zealand). Much of the agriculture of Alberta is in this category. The other group that is substantially disadvantaged by the world's highly distorted agricultural markets consists of the poorer developing countries. Typically, for countries in this group, agriculture is the dominant source of employment and livelihood for a large proportion of the population and agricultural trade is potentially the most significant source of export revenues. However, their agricultural exports typically face market access restrictions as well as distorted export competition from protected developed country exporters; both types of international market distortions are most evident for sugar, rice, cotton and dairy products.

Reflecting efforts by the less economically powerful nations to bolster their negotiating strength through coalitions, together with increasing recognition of the disadvantaged situation of the less-developed countries in agricultural trade, developing countries become more actively organized in the Doha Round negotiations, expressing their considerable economic interest in agricultural negotiations; their reluctance to engage in negotiations over investment, government procurement, and competition policy; and their reluctance for agriculture to be ignored in favour of negotiating progress for industrial goods, services and related issues that are of particular interest to the United States and the countries of the European Union, amongst other high income nations.

The considerable interest in the success of the Doha Round negotiations for the exporting sectors of Canadian agriculture, particularly for Alberta and the two other prairie provinces, is reflected in high levels of tariffs that restrict access to important markets and the high levels of domestic support that are provided many competitors, leading to overproduction and downward pressure on world market prices. A measure of these distortions is given by the OECD's producer support equivalent measures (PSE). The partners in the North American Free Trade Agreement (NAFTA), Canada, Mexico and the United States, currently have similar aggregate PSE percentages at about 20% of farm receipts. Other OECD members apply even higher rates (the aggregate average PSE for all OECD countries is 30%). The aggregate 2004 figure for the European Union is 34%, exceeded by Japan (56%), Korea (63%), Norway and Switzerland (69% in each instance) (OECD 2005a). These measures of protection and support are of course aggregate figures and not spread evenly across all agricultural sectors; for example, in Canada tariffs are considerably higher for dairy and poultry products, while a high proportion of other agricultural imports enter duty free (OECD 1997).

The OECD also reports the average levels of producer support equivalents for its members for major agricultural products, giving a measure of domestic support and protection on this basis. In 2004 the OECD-wide PSE for beef and veal averaged 34% of farm receipts while a figure of 21% applied for pork, 33% for wheat, 43% for other grains and 27% for oilseeds (OECD 2005a). These average figures mask instances of very high levels of tariffs. For example, Alberta beef, pork and poultry face tariffs of more than 100% in the European Union; Japan applies tariffs of 50% on Alberta beef and more than 200% on Alberta pork. Tariffs are also high in non-OECD countries: tariffs on canola oil are 110% in Venezuela and 45% in India (Agri-News 2005).

Negotiating Progress Through 2005

The fourth WTO Ministerial Conference in Doha, Qatar in November 2001 reaffirmed the need for international reform of support and protection afforded agriculture. However, subsequent progress was slow. The September 2003 Cancun Ministerial meeting failed to reach agreement on a framework text. This was achieved in July 2004, giving terms of reference for further agricultural negotiations directed at the establishment of specific commitment targets and related rules (referred to as modalities). The objectives to be pursued included tiered cuts to bound tariffs (where larger cuts would apply to the highest levels of tariffs), reductions in allowable domestic support (also proposed to be applied on a tiered basis to give a harmonizing effect), as well as disciplines on the length and nature of credit guarantees and the eventual elimination of export subsidies; special and differential treatment for developing countries was also proposed. The depth of cuts in tariffs and support, the timing of implementation and other details awaited further negotiation. Lack of convergence in negotiating positions persisted, particularly for market access issues, leading to fears that negotiations might collapse at the Hong Kong Ministerial meeting of December 2005. However, the Ministerial Statement adopted at the conclusion of this meeting gave a final work plan for the concluding negotiations of the Doha Round. This anticipates final negotiations to proceed in the early months of 2006, with the goals of establishing modalities by the end of April, 2006 and submission of comprehensive draft schedules based on these by July 31 2006 (WTO 2005a,b). The absolutely final deadline for the Doha Round must occur before mid-2007 when the fast track negotiating authority of the US President will expire.

What Comes Next for Agriculture?

What has been achieved in the Doha Round to date? The Hong Kong draft agreement and ministerial statement of the final work plan provides for agricultural export subsidies (often used by the EU) to be phased out by the end of 2013, with a substantial portion of the reduction to be made by the end of the first half of the implementation period. (Developed country use of cotton export subsidies [i.e. their use by the US], a major issue for African countries and other developing country cotton growers, will be discontinued in 2006). Export credits and guarantees (much used by the US and used also by Canada), which are similar in effect to export subsidies when granted on non-commercial terms, will face rules requiring self-financing terms, with repayment within 180 days. It was also agreed that food aid (which is significant for the US) would be subject to new rules to limit displacement of commercial sales. Special provisions for development aid will give duty-free and quota-free access to 97% of the exports of the poorest developing countries (WTO 2005b).

As of January 2006, what is the unfinished business on the Doha Round agenda relative to Alberta's agriculture? This is substantial. One of the two big-ticket issues is market access—specifically the levels and related details for tariff cuts and for minimum access through tariff-rate-quota commitments. Studies show that, among the three focal areas of the agricultural negotiations, market access liberalization would deliver by far the most gain (e.g. Anderson and Martin 2005). Although the structure of tariff reductions has been agreed to, no agreement has been reached on commitment targets. In particular, the Hong Kong ministerial statement did not tackle the issue of selection and treatment of so-called "sensitive" products which, according to the 2004 framework agreement, will face less stringent commitments than "non-sensitive" products. Negotiating positions of the major players are far apart on this issue. A challenge for the final negotiations is to achieve appreciable effective reductions in agricultural tariffs, which will also require limiting exemptions for "sensitive" products (as well as so-called "special" products in the case of developing countries.

The second major challenge in successfully concluding the agricultural negotiations concerns domestic agricultural support; the extent of reduction in all forms of trade-distorting support is at issue and remains to be negotiated. This includes the need for disciplines such as product-specific support caps and rules for programs that have been sheltered from cuts. Loopholes that were opened by the 2004 framework agreement which could, for example, allow the transfer of US countercyclical payments into the "blue box" need to be tightened. Although there has been some convergence in negotiating positions, much remains to be done to if the final agreement is to be effective in reducing the very high current levels of support that apply in almost all the world's rich nations.

Even with a successful outcome in these two outstanding large focal areas for agriculture, there are other continuing issues for agricultural trade that are not on the Doha agenda. These include the tendency for increasing use by many nations of national countervail and dumping legislation and related issues associated with the WTO dispute settlement process. Even with a successful outcome to the Doha Round, agricultural trade issues will continue to be of much importance for Alberta and many other agricultural exporters.

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2005 WTO Hong Kong Ministerial Conference:
Legal Aspects of the WTO Agreement and the Hong Kong Declaration

Linda C. Reif[•]

The WTO Doha Development Round of multilateral trade negotiations was launched in November 2001 with the objectives of new multilateral trade negotiations, further implementation of aspects of the WTO Agreement (especially on agriculture, services and tariff reductions on goods) and increasing the focus on the interests and needs of developing country members.[1] The 2005 WTO Ministerial Conference held in Hong Kong resulted in the last-minute adoption of a Ministerial Declaration on December 18, 2005 which preserves the life of the Round and makes a successful conclusion to the Round by the end of 2006 a possibility.[2] This paper reviews the highlights of the Hong Kong Declaration and other recent WTO developments and examines their implications for the legal provisions of the WTO Agreement.[3] Emphasis will be placed on those areas of interest to Alberta businesses involved in international trade, particularly in the agricultural, mining, energy, manufacturing and services sectors.[4]

The WTO Agreement is a multilateral treaty which has annexes containing the core legal provisions affecting international trade: the General Agreement on Tariffs and Trade (GATT) 1994 and its Uruguay Round Agreements on specific trade issues—including on agriculture, subsidies, dumping and trade-related investment measures (TRIMs), the General Agreement on Trade in Services (GATS), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and the Dispute Settlement Understanding (DSU).[5]

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1 WTO, Ministerial Conference, 4th Sess., Doha, November 9-14, 2001, *Ministerial Declaration*, WT/MIN(01)/DEC/1 (November 20, 2001). See Group of Thirty, *Sharing the Gains From Trade: Reviving the Doha Round* (Washington, D.C., 2004).

2 WTO, Ministerial Conference, 6th Sess. Hong Kong, December 13-18, 2005, *Doha Work Programme Draft Ministerial Declaration*, WT/MIN(05)/W/3/Rev.2 (December 18, 2005) [hereinafter Hong Kong Declaration]. The WTO had 149 member states at this date. See "Low Ambitions Met: Members Adopt Declaration", *Bridges Hong Kong Daily Update*, Issue 7 (December 19, 2005) (on-line). A completed WTO agreement is required by the end of 2006 so that it can be placed before the U.S. Congress for a simple up or down vote prior to the expiry of the President's trade negotiating authority in mid-2007.

3 Marrakesh Agreement Establishing the World Trade Organization (1994) 33 *International Legal Materials* 1141-1272 [hereinafter WTO Agreement]. See also <http://www.wto.org>.

4 Government of Alberta, *Alberta International Trade Review* (2004) at 2-5. Approximately 90% of Alberta's exports of goods went to the U.S.A. and Mexico in 2004, *ibid*. at 16. Governed by the NAFTA, North American trade is essentially tariff-free and non-tariff barriers are tightly circumscribed, North American Free Trade Agreement (1993) 32 *International Legal Materials* 296-456, 605-799.

5 The WTO Uruguay Round Agreements are on: agriculture, sanitary and phytosanitary measures, textiles and clothing, technical barriers to trade, trade-related investment measures (TRIMs), dumping, subsidies and countervailing measures, customs valuation, preshipment inspection, rules of origin, import licensing procedures and safeguards.

WTO Agreement legal regulation of agricultural subsidization and domestic protection is still relatively weak.[6] The Hong Kong Declaration specifies that all forms of agricultural export subsidies and "disciplines on all export measures with equivalent effect" will be eliminated by the end of 2013, contingent on the completion of modalities (i.e. on reaching final agreement overall), and that a "substantial part" of the phase out of these subsidies shall occur "by the end of the first half of the implementation period".[7] Export subsidies on cotton will be eliminated by developed states (mainly the U.S.A.) by 2006 year end.[8] With respect to domestic agricultural support (domestic subsidies), the Hong Kong Declaration states that each member will be placed into one of three bands, with higher cuts to be made by those members placed in the higher bands due to their higher levels of support.[9] The EU is placed in the top band, the U.S.A. and Japan comprise the middle band, and all of the other members—including Canada and developing state members—are placed in the lowest band.[10] Assuming that the Round is completed successfully, amendments to the WTO Agreement on Agriculture and its annexes will be required to implement the elimination of subsidies, reduction in domestic support and other aspects of agricultural trade that may be agreed on, such as disciplines on food aid, export credits, etc.[11]

Further negotiations on "rules" are reaffirmed in the Hong Kong Declaration as contained in Annex D.[12] Annex D acknowledges the importance of agreement on amendments to the WTO Anti-Dumping (AD) and Subsidies and Countervailing Measures (SCM) Agreements.[13] Thus, a successful negotiation could see alterations to the AD and SCM Agreements on the substantive aspects of the definitions of unlawful dumping and subsidization, injury and causation and on the procedural aspects of domestic investigations.

State trading enterprises (STEs, e.g. Canadian Wheat Board) also came under scrutiny in the Hong Kong Declaration, with negotiations aimed at eliminating trade-distorting practices of STEs through the extension of disciplines to the future use of monopoly power by exporting STEs.[14] Further, the Declaration recognizes that WTO members still need to address the treatment of "sensitive products" (e.g. dairy, egg and poultry products protected in Canada through marketing boards), which was a

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[6] Agreement on Agriculture and the Subsidies and Countervailing Measures (SCM) Agreement, Annex 1A WTO Agreement, *supra* note 3; *Sharing the Gains From Trade: Reviving the Doha Round*, *supra* note 1 at 43. See Bernard O'Connor, *Agriculture in WTO Law* (London: Cameron May Ltd., 2005); Marc Benitah, *The Law of Subsidies Under the GATT/WTO System* (London: Kluwer Law International, 2001) at 15-22.

[7] Hong Kong Declaration, *supra* note 2, para. 6.

[8] Hong Kong Declaration, *supra* note 2, para. 11. Elimination of U.S. cotton subsidies should help African cotton exporters, *Sharing the Gains From Trade: Reviving the Doha Round* , *supra* note 1 at 46. Developed states will also give duty and quota free access for cotton exports from LDC members.

[9] Hong Kong Declaration, *supra* note 2, para. 5; Sungjoon Cho, "Half Full or Half Empty?: The Hong Kong Ministerial Conference Has Delivered an Interim Deal for the Doha Round Negotiation", *ASIL Insight*, American Society of International Law (December 29, 2005) (on-line).

[10] Hong Kong Declaration, *supra* note 2, Annex A para. 8; Cho, *ibid*.

[11] Agreement on Agriculture, Annex 1A WTO Agreement, *supra* note 3. E.g., Art. 9 covers export subsidies. Developing members will get an additional five year grace period after the implementation period before they will be required to eliminate export subsidies, requiring an amendment to Article 9:4 of the Agreement on Agriculture.

[12] Hong Kong Declaration, *supra* note 2, para. 28, Annex D.

[13] AD and SCM Agreements, Annex 1A WTO Agreement, *supra* note 3.

[14] Hong Kong Declaration, *supra* note 2, para. 6.

fallback from the earlier draft of the Declaration which envisaged increased tariff rate quotas.[15] Any successful reform of these areas could result in amendment to the GATT 1994, probably through alteration of the relevant Uruguay Round Understanding and/or the negotiation of new Doha Round agreements.[16]

The Hong Kong Declaration only contains agreement on the process for reaching "full modalities" on tariff reduction in agricultural trade and in non-agricultural market access (NAMA) by April 30, 2006.[17] As tariff reduction commitments are engineered pursuant to Article II of the GATT 1994, any new commitments on tariff reduction will be contained in members' national schedules attached to the WTO Agreement.

The Hong Kong Declaration affirms negotiations in trade in services, "with due respect for the right of members to regulate",[18] urges all member states to participate actively with the objective of further liberalizing trade in services, yet gives special treatment to both developing state members ("flexibility" pursuant to GATS Article XIX) and least developed country (LDC) members (who are not expected to make new commitments).[19] Annex C of the Declaration contains objectives, approaches and time lines for services negotiations.[20] While earlier draft language provided for mandatory plurilateral services negotiations, the final Declaration language takes account of developing states' reluctance to commit to more stringent regulation in the services sector.[21] Any future agreement on liberalization of services could see reductions in members' exemptions of service sectors from the most-favoured-nation (MFN) obligation in Article II of the GATS which requires non-discriminatory treatment between foreign services/providers. Also, pursuant to GATS Articles XVI and XVII, there may be increases both in market access and in provision of national treatment accorded to additional services/providers of other members, i.e. non-discriminatory treatment of these services/providers *vis-à-vis* like domestic services/providers. Any such agreements will be provided in national schedules to the GATS. However, it is unlikely that developing country members will make substantial liberalization concessions.

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15 Hong Kong Declaration, *supra* note 2, para. 7; "Low Ambitions Met", *supra* note 2. But see Canadian House of Commons motion passed by all parties on November 22, 2006 calling on the government to give its negotiators a mandate during the Hong Kong Ministerial meeting to ensure that Canadian supply management sectors are not subjected to reductions in over-quota tariffs or increases in tariff quotas.

16 STEs are covered in GATT 1994, Art. XVII and the Understanding on the Interpretation of Article XVII of the GATT 1994, and marketing boards are permitted via GATT 1994, Art. XI:2, Annex 1A WTO Agreement, *supra* note 3.

17 Hong Kong Declaration, *supra* note 2, paras. 10, 23.

18 Hong Kong Declaration, *supra* note 2, para. 25.

19 Hong Kong Declaration, *supra* note 2, para. 26. GATS Art. XIX:2 states: "...There shall be appropriate flexibility for individual developing country Members for opening fewer sectors, liberalizing fewer types of transactions, progressive extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article IV [strengthening of developing country domestic services capacity etc.]."

20 Developing members initially objected to Annex C which was supported by the U.S. and the EU, Cho, *supra* note 9.

21 "Low Ambitions Met", *supra* note 2.

Given that a clear majority of WTO members are developing country or LDC members, the WTO Uruguay Round Agreements already enshrine special and differential treatment for these members through features such as grace periods before legal obligations become binding on developing members and lack of reduction commitments for LDCs. The Hong Kong Declaration affirms these provisions and agrees that they will be reviewed with a view to strengthening them and making them more precise, effective and operational.[22] Decisions on special and differential treatment in Annex F are adopted in the Declaration. These include a new agreement that for the LDC member states, at least 97% of their goods will have access free of import duties and quotas into developed (and some developing) member states by 2008. The exclusion of 3% of LDC exports enables developed member states to continue to protect sensitive domestic sectors (e.g. textiles) which may still negatively affect LDC exports given the latter's narrow range.[23] Annex F also permits LDC members to maintain on a temporary basis existing measures that conflict with their obligations under the TRIMs Agreement.[24] The TRIMs Agreement prohibits members from applying trade-related investment measures (e.g. requiring foreign investors to purchase/use domestic products in their FDI project) in a manner that is inconsistent with their legal obligations to give national treatment to imported goods (GATT 1994, Article III) and to prohibit most quantitative restrictions on trade in goods (GATT 1994, Article XI). While the grace periods for implementation of the TRIMs Agreement by developing and LDC members have expired,[25] LDCs will be permitted to maintain these inconsistent measures for a further seven year period, which may be extended by the WTO. Further, LDCs are also allowed to introduce new measures that are inconsistent with their TRIMs Agreement obligations for a possibly renewable five year period.

In addition, in early December 2005 prior to the Ministerial Conference, in a little-noted development, WTO members actually reached their first agreement on formal amendment of the WTO Agreement. They agreed to amend the TRIPs Agreement, in permanent replacement of the 2003 interim waiver created pursuant to the 2001 Doha Declaration on the TRIPS Agreement and Public Health.[26] The waiver and the amendment are attempts to give countries (especially those developing countries facing HIV/AIDS and other health crises) which do not have a domestic pharmaceutical industry increased access to cheaper pharmaceutical drugs which they cannot produce themselves. Article 31(f) of the TRIPS Agreement allows member governments to permit production of patented products without the consent of the patent holder through governmental compulsory licensing as long as the use is

22 Hong Kong Declaration, *supra* note 2, para. 35.

23 Cho, *supra* note 9; "Low Ambitions Met", *supra* note 2.

24 Annex 1A WTO Agreement, *supra* note 3, Arts. 2-5, Annex.

25 TRIMs Agreement, *ibid*., Art. 5.

26 Doha Ministerial Declaration on the TRIPS Agreement and Public Health, WTO Doc. WT/MIN(01)/DEC/W/2 (November 14, 2001); 2003 WTO General Council Decision, Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, WTO Doc. WT/L/540 (August 30, 2003). The amendment take the form of Article 31 *bis* and an Annex to the TRIPS Agreement, see WTO General Council Decision, WTO Doc. IP/C/41 (December 6, 2005). Two-thirds of the WTO members must ratify the change by December 1, 2007 before the TRIPS Agreement amendment will take effect, WTO Agreement, *supra* note 3, Art. X:3. See also Hong Kong Declaration, *supra* note 2, para. 40.

authorized predominantly for supply of the domestic market. The amendment, when it enters into force, allows WTO member states to issue compulsory licenses allowing their drug companies (i.e. generic drug makers which are not patent holders) to manufacture pharmaceuticals for *export* to the eligible states for use in addressing public health problems especially those resulting from HIV/AIDS, TB, malaria and other epidemics.[27] Patent holders are to be provided with adequate remuneration pursuant to Article 31(h) of the TRIPS Agreement. Canada is one of the few countries which have already amended its patent legislation to allow for such compulsory licensing,[28] and so the WTO amendment, when it takes effect, will give a stronger international law foundation to the Canadian legislation. In conclusion, the Hong Kong Declaration will result in a few amendments to the Uruguay Round agreements annexed to the WTO Agreement, albeit most changes are essentially contingent on successful completion of the negotiations. Numerous other issues though are left for further negotiation in 2006. If overall negotiations are concluded successfully, many of the new commitments will be realized through changes to members' national schedules for goods and services although it is possible that formal amendments to parts of the WTO legal agreements will be required in some cases. Also, an agreement on formal amendment of the WTO TRIPS Agreement on patents, pharmaceuticals and public health was reached prior to the Hong Kong Ministerial Conference.

[27] Eligible importing members are any LDC member and any other member that submits notice that it intends to use the system in whole or in a limited way. A number of developed state members including Canada, the U.S. and EU countries have stated that they will not use the system as importing members and other states have stated they will only use the system in emergency cases. See Annex to TRIPS Agreement, *ibid.*; WTO Press Release, "Members OK amendment to make health flexibility permanent", Press/426 (December 6, 2005).

[28] *Patent Act*, R.S.C. 1985, c. P-4, as am., ss. 21.01-21.19 (see Bill C-9, entered into force May 14, 2005). Norway and India have also amended their laws while South Korea and the EU are in the process of doing so, "Members OK amendment to make health flexibility permanent", *ibid*.

THE IMPLICATIONS OF THE HONG KONG WTO-MINISTERIAL DECLARATION FOR NON-AGRICULTURAL MARKET ACCESS (NAMA) AND SERVICE EXPORTS

Rolf Mirus•

The Hong Kong Ministerial Conference of the Doha Round was the 6th such conference since the Uruguay Round had been "sealed" in Marrakech in 1994. It was preceded by the unsuccessful Cancun meeting in 2003. Labelled a "Development Round", Doha promised special treatment for the poorest members, effectively giving them a veto in the negotiations. While the progress to date has been limited, Hong Kong saw some steps taken towards the conclusion of the round, and it is to be hoped that the time lines agreed upon can be adhered to. This brief research note aims to a) explain the accomplishments of the recent Ministerial and b) attempt an assessment of its likely impact on exports of non-agricultural goods and of services from Alberta. It is organized accordingly.

The fact that over 85% of Alberta's merchandise exports are destined to NAFTA and other free trade agreement markets, hence are already substantially liberalized, should remind readers that, relatively speaking, the WTO-developments represent a "side-show" to Alberta's NAFTA exports. We nevertheless conclude that the "side-show" may contain an extra $30 million more per year for Alberta or, put another way, more than a 10-dollar bill for every Albertan per year from the NAMA-negotiations alone.

The Results of Hong Kong for Non-Agricultural Market Access

The Ministerial Declaration reaffirmed the Doha commitments and the elements of the NAMA-framework that had been adopted in 2004. The specific progress and results are in the nature of principal commitments that have yet to be converted into detailed agreements and their implementation. To that end a lot of work still needs to be done by the negotiators: the so-called "modalities" have to be agreed upon.

Tariffs

Agreement was reached on the application of a particular formula for NAMA-tariff reductions. Non-agricultural goods, (NA goods) are those not covered under agriculture and pertain, essentially, to manufactured products, fuels and mining products, fish and forestry products. Almost 90% of world merchandise exports are NA products, and the previous WTO round had succeeded in lowering the average tariff levels from 6.3% to 3.8%. Progress had also been made in extending the coverage of tariff lines that were "bound": from 21% to 73% of all tariff lines. Applied tariff rates often are actually lower than the bound (maximum) rates, but "binding" *per se* enhances the predictability of border costs for exporters. The Doha Round addresses high remaining tariffs, in particular tariff "peaks" (>15%) and tariff escalation, the tendency to levy low tariffs on raw materials and increasingly higher

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tariffs on products based on these raw materials as they are transformed in processing and manufacturing stages.

One of the declared objectives of the Doha Round is the elimination or reduction of tariffs and tariff peaks, especially for products of export interest to developing countries. A major result at Hong Kong is the agreement to apply the "Swiss Formula" for tariff reductions, which leads to larger cuts of high tariffs, thus compressing the range of tariff rates.

Less than full reciprocity in tariff reduction commitments made by developing countries is also a goal. The resulting special and differential treatment for developing countries, and the poorest among them, would take the form of longer phase-in periods, substitution of commitments to "bind" more tariff lines for tariff reductions, and lower reduction requirements. Developed countries are to fully open their markets to developing country exports, save for so-called "sensitive" products. This is to help remedy the current situation in which the developed countries impose tariffs four times higher on exports of developing countries than those of the developed countries. Especially hard hit are labour-intensive industrial goods and processed foods from developing countries.

The Ministerial Declaration of Hong Kong asks that details be agreed upon as soon as possible, and it recognizes the challenges that are implied when non-discrimination is the ultimate goal, yet non-reciprocal preferences are being instituted for a sub-group of members. As regards tariff lines still "unbound", their treatment for purposes of tariff reduction appears close to being settled. The emerging consensus is a non-linear mark-up, *i.e.* the addition of a certain percentage to the applied tariff rate of the unbound tariff line in order to establish a base line for the (formula-based) tariff cuts that are being negotiated. The details remain yet to be worked out. The mark-up could be a constant percentage, a percentage inversely related to the level of the applied rate, or an average-based mark-up.

Non-Tariff Barriers (NTBs)

The Ministerial Declaration calls for NTBs to be identified (notified), categorized and examined by the Negotiating Committee. Specific liberalization proposals are to be submitted by the members as soon as possible, with implementation details due by April 30, 2006, and full draft schedules by July 31, 2006. It is very much an open question what is likely to happen with respect to NTBs.

The Results for Trade in Services

Very little tangible progress has been made concerning trade in services. The Ministers have exhorted each other to intensify their efforts, to make proposals as soon as possible, to submit requests for market opening to other members by February 28, 2006, revised offers by July 31, 2006 and final draft schedules of their new commitments by October 3, 2006. Under the General Agreement on Trade in Services (GATS), members have considerable discretion regarding their approach to opening of their service sectors to foreign competition. Some issues are exemptions from MFN status (non-discriminatory access), requirement of commercial presence, the extent of foreign equity participation, as well as access and duration of stay for independent professionals.

The Implications of (likely) NAMA Results

It needs to be stressed at the outset that the lack of final results leaves an essential element of uncertainty when an attempt is made to assess the implications of the Doha Round under this heading. We present what we consider a likely (and non-ambitious) outcome regarding tariff reductions and subsequently pursue its implications for Alberta's non-NAFTA exports. As already mentioned, NA exports constitute nearly 90% of world merchandise trade. Therefore, the extent of cuts in tariffs and tariff peaks, as well as the reduction in tariff escalation, hold the best prospect for an expansion of international trade in such products. In the Uruguay Round 40% cuts in average industrial tariffs were obtained.

The agreed-upon "Swiss Formula" for tariff cuts is given by the expression

$$Z=AX/(A+X),$$

where Z is the new, lower tariff, A is a (country) specific coefficient and equals the maximum tariff rate, and X is the tariff rate at the beginning of the implementation period.

The contemplated coefficients A for developed countries span the range of 5 to 10%, for developing countries 15 to 30%.

Let us illustrate the application of the formula for some hypothetical cases. The average current tariff level X for NA products is approximately 3.8%, say 3% for developed and 6% for developing economies. Let A be 5% for developed and 15% for developing countries. The formula says that after the implementation period, by 2013, (though perhaps later for the developing countries,) the tariff level will have fallen to 1.875% for industrialized and 2.86% for industrializing countries. The assumed values for A in this example represent the upper end contemplated in the negotiations. The less ambitious lower end of 10% and 30%, respectively, would result in post-implementation tariff averages of 2.33% and 5%. For the developed countries the cuts would be in the range of 37.5% to 23.4%, for the developing countries between 52.3% and 16.7%. For argument's sake, let us suppose that the negotiations result in a 25% cut in NA tariffs. Assuming that these cuts would apply to 95% of NA products – some "sensitive" products will continue to be protected – and applying a price elasticity of –2, we should expect that after the transition NA trade will expand by 2%. (This is based on a 25% reduction in the average tariff of 3.8% to 2.85%; 3.8% is the average of developed and developing countries, and we attribute 75% of trade to the developed world.)

For the realized and final impact of the Doha Round much will depend on the A-coefficients that are agreed upon. Protection seekers will argue for high coefficients relative to existing tariff levels. Compared to the 40% reduction achieved in the Uruguay Round, the Doha Round is likely to result in a more modest cut in the remaining tariffs. This is reflected in our assumption of a 25% average tariff reduction.

The Implications for Alberta Exports of Non-Agricultural Products

On the assumption that tariff cuts of 25% will be achieved some further speculation is possible about the impact on Alberta's NA exports to Non-FTA areas. Focusing on exports that currently face high nominal tariffs, the following products, destinations, and export values (2004) allow us to make an estimate of the benefits of the Doha Round for Alberta businesses.

Product (HS-Chapter)	Countries	Tariff Rate(s)	Export Value(s) in 2004
Plastics (39)	China	6.5	$91 mill.
	Australia	10%	24 mill.
	Selected Countries	High Tariff	200 mill.
Hides and Skins (41)	China	5%	14.5 mill.
	Selected Countries	High Tariff	30 mill.
Wood (44)	Korea	10%	1.8 mill.
	Selected Countries	High Tariff	80 mill.
Wood Pulp (47)	Indonesia	40%	27.5 mill.
	Selected Countries	High Tariff	33.5 mill
Man-Made Staple Fibres (55)	Indonesia	40%	3.4 mill.
	Selected Countries	High Tariff	36.5 mill.
Nickel Products (75	Singapore	10%	12.5 mill.
	Selected Countries	High Tariff	82 mill.
Machinery (84	Venezuela	35-40%	15 mill.
	India	25-40%	16 mill.
Electrical Machinery (85)	Brazil	35%	7.7 mill.
	China	0-15%	34.5 mill.
Optical/Medical Instruments (90)	Brazil	15-35%	8.7 mill.
	China	4-8.4%	13.5 mill.
	Venezuela	35-40%	4.2 mill.
	India	40%	1.2 mill.

Data based on WCER Information Bulletin 84, August 2005, Jeff Koskinen: "Alberta Tariff Reduction and Elimination Priorities, 2002-2004".

It should be noted that some prohibitively high tariff rates mean that there are no current exports to these jurisdictions. When we apply our previous elasticity estimate to these sample export values we are quite likely arriving at a conservative "guestimate" of the impact of the Doha Round for NAMA. And when we are generalizing across all non-FTA export destinations we are also ignoring the phase-in period(s). With these caveats, using again the expected 25% average tariff reduction and applying it to an assumed pre-Doha tariff of 10% – conservative in light of some of the tariff levels shown above – a price reduction of 2.3% is implied. Coupled with the price elasticity of –2, we would expect these exports to increase by approximately 4.5%. The exports referred to above (the sums for the selected high tariff countries) amounted to $660 million. Thus additional exports of roughly $30 million are arrived at, though this calculation ignores the dynamic effects of increased trade on incomes and the province's relative competitiveness.

The Implications for Service Exports

In light of the dearth of any concrete results in the services negotiations, it is not possible to make conjectures about the impact on Alberta's service exports. Moreover we have poor export value data on services. It is clear, however, that Alberta-based expertise in oil and gas services (exploration, extraction, monitoring and transmission), engineering services, consulting, and financial, administrative and educational services stands to gain significantly from any positive outcome of the Doha Round as regards trade in services.

Conclusion

The complexity of unanimity dependent negotiations implies a veto for "unhappy" members. Therefore a modest outcome is our expectation. This has been reflected in our assumptions.

It is to be hoped that expiration of the "Fast Track" (Trade Promotion Authority of the US President) in 2007 will hasten a successful conclusion of the round, albeit with modest outcomes.

For NAMA the modest outcome that we have arrived at on the basis of our assumptions amounts to finding dollar bills on the sidewalk: between 10 and 20 dollars for every Albertan for every year after the implementation. For that reason one must wish the negotiators lots of energy and stamina! Any trade liberalization in NA goods and in services will, of course, also make for more competition inside the NAFTA-market, as the relative advantage of Canadian suppliers diminishes and trade diversion is reduced.