Comments on the Status of World Trade Organization Negotiations on Agriculture
Submitted by R-CALF USA
To the Agriculture, Nutrition and Forestry Committee of the U.S. Senate
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The Ranchers-Cattlemen Action Legal Fund – United Stockgrowers of America (R-CALF USA) appreciates this opportunity to comment on the status of World Trade Organization (WTO) negotiations on agriculture, particularly with regard to the cattle and beef industry.

R-CALF USA is a non-profit association that represents over 18,000 U.S. cattle producers in 47 states across the nation. R-CALF USA works to sustain the profitability and viability of the U.S. cattle industry, a vital component of American agriculture. R-CALF USA's membership consists primarily of cow-calf operators, cattle backgrounders, and feedlot owners. Various main street businesses are associate members of R-CALF USA.

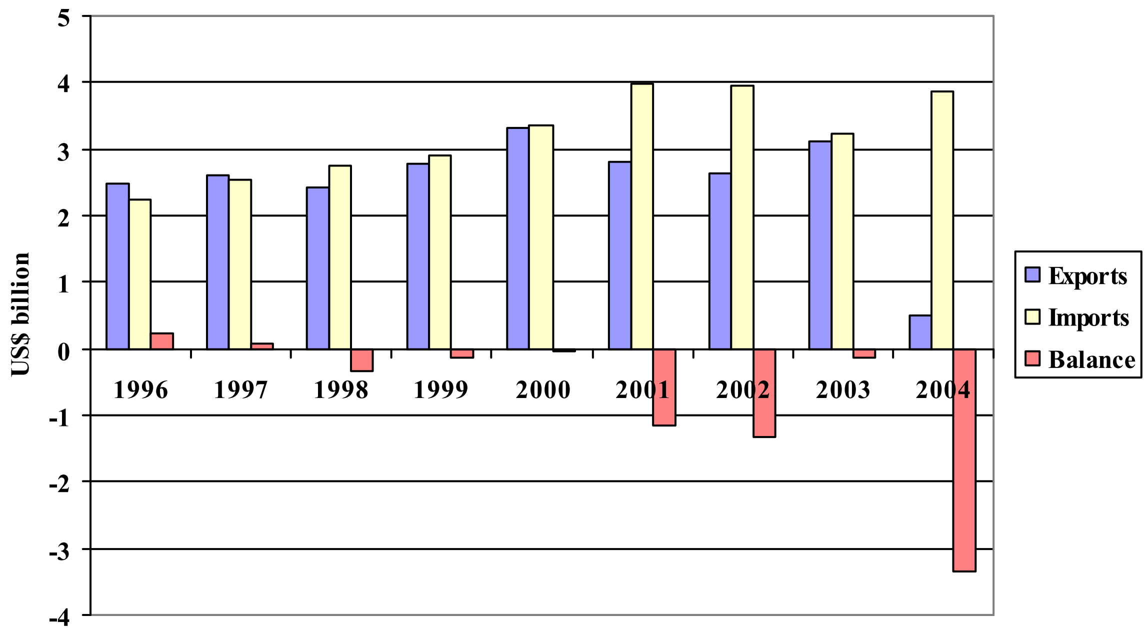
I. Introduction

R-CALF USA believes the current round of negotiations at the WTO – the Doha Development Round – provides an important opportunity for the U.S. to address deep imbalances in the global cattle and beef markets. The world market place for cattle and beef is one of the most grossly distorted markets of any sector. Cattle and beef markets are plagued by massive subsidies, including those provided through state trading enterprises; high tariffs and the manipulation of unscientific sanitary and phytosanitary measures to block imports.

These distortions drive down prices for U.S. producers and shut down markets for U.S. exports. As a result, the American cattle industry suffered catastrophic losses during the 1990s and up until the last two years. While the American cattle and beef market remains one of the most open in the world, markets abroad have slammed their doors shut to American exports. As a result, the U.S. has not enjoyed a trade surplus in cattle and beef trade since 1997, and the deficit in the sector has exploded over the past six years, hitting more than $3.3 billion in 2004.[1] Over the same period, the U.S. has lost its position as a global exporter of beef. While the U.S. was the second-largest exporter of beef in the world in 2000, accounting for 19.5% of global beef exports, in 2005 the U.S. is projected to account for only 4.1% of world beef exports, falling behind Brazil (the number one exporter), Argentina, Australia, Canada, the EU, India, New Zealand, and Uruguay.[2]

[1] U.S. Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics for HS 0102 (cattle), 0201 (fresh and chilled beef), and 0202 (frozen beef).
[2] U.S. Department of Agriculture, Foreign Agricultural Service, *Livestock and Poultry: World Markets and Trade*, April 2005.

U.S. Trade in Cattle and Beef



Source: Census Bureau Foreign Trade Statistics for HS 0102, 0201, and 0202.

Since 1994, more than 122,000 cattle ranches and farms have closed down or gotten out of the beef cattle business.[3] The steep decline of the cattle industry – the largest single component of American agriculture – has devastated ranching families and rural communities across the nation.

The underlying problems facing the American cattle industry are caused in part by the massive distortions in the global cattle and beef market. The Doha Development Round at the WTO provides a crucial opportunity for moving towards that goal. While a number of steps that have been taken in the current round of negotiations are welcome advances, a number of other trade issues of critical importance to the cattle and beef industry have not been adequately addressed to date. Commitments made in the Doha Round to eliminate export subsidies affecting the cattle and beef industry by a date certain are a needed step forward, but sufficient progress remains to be seen on the issues of domestic support, market access, and special safeguards. It is essential that the current round of WTO negotiations address special measures for perishable and cyclical products and that America's ability to effectively enforce its trade remedy laws be fully maintained in the Doha Round. Meanwhile, given that the Agreement on Sanitary and Phytosanitary Measures has not been opened to negotiations in the Doha Round, the Administration and Congress need to use other means available to insist that unsound sanitary and phytosanitary barriers to American beef and cattle exports be eliminated and

[3] U.S. Department of Agriculture, National Agricultural Statistics Service Agricultural Statistics Database, *U.S. and All States Data – Cattle and Calves*, 1994 – 2004.

bring trade cases to remove such barriers if necessary. Unless these outstanding issues receive the urgent attention they need, the current round of negotiations may do little to level the playing field for America's cattle producers.

II. Eliminate Harmful Subsidies

Major beef producing nations provide billions of dollars of subsidies to beef producers through export subsidies and domestic support programs. Brazil, Canada, China, the EU, Japan, Korea and other producers all subsidize beef production, while the U.S. provides no subsidies to the cattle and beef industry outside of disaster assistance and drought relief.[4] In addition, countries such as Australia and Canada use state trading enterprises for beef and for cattle feedstuffs such as wheat. Wheat Boards in these countries, for example, are able to guarantee domestic cattle producers artificially low feed prices, further disadvantaging American ranchers. These massive subsidies severely distort the global market for cattle and beef, artificially depressing prices and undercutting American producers.

R-CALF USA believes that these trade-distorting subsidies need to be eliminated in order to create a truly balanced international cattle and beef market in which the domestic industry can compete and thrive. R-CALF USA welcomes the commitment made in the Doha Development Round to eliminate export subsidies by a date certain, and believes the U.S. must push aggressively to reach agreement on the earliest termination date possible for these subsidies.

On the issue of domestic support, R-CALF USA believes that a sectoral approach would be the most appropriate way to address distortions in the cattle and beef sector. While the U.S. has reserved the right to pursue sectoral initiatives in the Doha round, the U.S. has not yet pushed trading partners to adopt a sectoral approach for cattle and beef support mechanisms. Given the larger difficulties in reducing and rationalizing domestic support across all of agriculture, a sectoral approach on this matter provides significant advantages to American producers in a sector where the U.S. already provides no trade-distorting support and foreign support regimes severely disadvantage domestic producers. The goal of such an approach should be to eliminate all domestic support measures that do not fit the criteria of the so-called permissible "green-box" subsidies. Internal support mechanisms for beef permitted under the so-called "blue-box" category should be as narrow and limited as possible. Finally, the U.S. should work in the Doha negotiations to eliminate state trading enterprises that undermine American cattle and beef producers.

III. Expand Market Access

U.S. tariffs on beef imports are among the lowest in the world. In-quota tariffs on beef imports range from 4 to 10 cents per kilogram,[5] and calculated duties for all beef

[4] For a summary of foreign subsidies in the cattle and beef sector, see Office of the U.S. Trade Representative and the U.S. Department of Commerce, *Subsidies Enforcement Annual Report to Congress*, February 2004, at 37 – 43.
[5] U.S. Harmonized Tariff Schedule at Chap. 2, headings 0201 – 0202 (supp. 2005).

imports in 2004 equaled less than 2.6% of the value of those imports.[6] In addition, dozens of countries receive duty-free access to the U.S. market for in-quota beef imports, either through bilateral free trade agreements or unilateral trade preference programs.[7] Major U.S. trading partners, on the other hand, apply tariffs rates four to ten times higher than the effective U.S. rate. The European Union, for example, imposes tariffs of at least 12.8 percent on beef imports.[8] Japan applies a tariff of 38 percent on beef imports, and Korea's tariffs on beef imports are 40 percent or higher.[9]

In the face of such disproportionately high tariffs in prime export markets, and in light of the already extremely low tariffs imposed on imports into the U.S., a sectoral approach to market access in the beef sector is needed. While the U.S. has embraced the concept of sectoral initiatives, there is no indication the U.S. negotiators are working to create a sectoral approach for market access in the beef sector in particular. Sectoral negotiations on cattle and beef trade will allow the U.S. to seek parity in tariff and quota rates by pushing for harmonization of world rates to the U.S. level. If, however, a formula approach must be used, it is essential that the formula require those trading partners with the highest rates to undertake the steepest reductions and that the reductions achieve parity or near-parity within the shortest possible time. The same market-opening formula should apply to all major cattle-producing nations with high tariffs, regardless of their level of development. Whatever approach is employed, the goal of market access negotiations in beef and cattle in the Doha round should be the same: Bring trading partners' tariff and quota levels to parity with the levels granted by the U.S.

IV. End Unjustifiable Sanitary and Phytosanitary Barriers

In addition to tariffs, trading partners' abuse of sanitary and phytosanitary standards (SPS) presents a nearly insurmountable obstacle to exports of American beef. Scores of foreign countries shut their markets to American beef following the reported first bovine spongiform encephalopathy (BSE) case in the U.S. at the end of 2003, which involved a Canadian animal. Export markets have largely remained closed after the second reported BSE case in the U.S. this year. Currently, 54 countries prohibit some or all imports of U.S. beef, citing concerns about BSE.[10] The United States has repeatedly expressed concerns that many of these import bans are unjustified because they have been imposed with no science-based risk assessment, with an inadequate scientific basis, and/or on the basis of SPS standards that are inconsistent with international standards.[11]

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[6] Calculation based on data from the U.S. International Trade Commission's Interactive Tariff and Trade DataWeb for HS 0201 (fresh and chilled beef) and 0202 (frozen beef).
[7] U.S. Harmonized Tariff Schedule at Chap. 2, headings 0201 – 0202 (supp. 2005).
[8] European Union Tariff Schedule at 0201 – 0202 (2004).
[9] U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers 2005*, at 317 and 359.
[10] U.S. Department of Agriculture, Animal and Plant Health Inspection Service, *BSE Trade Ban Status as of 09/21/05* at http://www.aphis.usda.gov/lpa/issues/bse/trade/bse_trade_ban_status.html .
[11] See, e.g., U.S. Trade Representative, *National Trade Estimate Report on Foreign Trade Barriers 2005*, sections on Argentina, Brazil, Chile, China, Hong Kong, Japan, Korea, and Taiwan at 11, 32, 65, 91, 257, 320, 364, and 596, respectively.

The unscientific BSE bans instituted by U.S. trading partners have taken a terrible toll on American cattle ranchers. The value of U.S. exports of beef and cattle plummeted by more than 83 percent from 2003 to 2004, representing a loss of nearly $2.6 billion in export revenue for the industry in just one year.[12] These losses come on the heels of other unjustifiable SPS barriers to U.S. beef exports, such as the European Union's ban on imports of hormone-treated beef dating back to 1988. While the SPS Agreement is not open for negotiations in the Doha Round, there are many steps the U.S. can take to push for an end to these bans on U.S. beef exports, including through bilateral negotiations, trade enforcement, and improvements in the U.S.'s own controls on cattle imports from countries known to have BSE risks. Ultimately, the U.S. must do everything it can to re-open these essential markets for American beef as quickly as possible.

V. Create Special Rules for Perishable and Cyclical Agricultural Products

In recognition of the unique challenges that producers of perishable, seasonal, and cyclical agricultural products face in international markets, Congress has directed U.S. trade negotiators to:

> eliminat[e] practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;[13]
>
> ensur[e] that import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;[14]

and

> [seek to] develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.[15]

While the U.S. has made an initial proposal to clarify and improve rules on anti-dumping and countervailing duty investigations of perishable, seasonal, and cyclical products in the context of the rules negotiations at the WTO,[16] the U.S. has also proposed eliminating the special safeguard for agriculture in negotiations on the Agreement on Agriculture without proposing any specific measures to be taken under the Agreement to

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[12] U.S. Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics for HS 0102 (cattle), 0201 (fresh and chilled beef), and 0202 (frozen beef).
[13] 19 U.S.C. § 3802(b)(10)(A)(ix).
[14] 19 U.S.C. § 3802(b)(10)(A)(x).
[15] 19 U.S.C. § 3802(b)(10)(B)(i).
[16] *Identification of Certain Major Issues under the Anti-Dumping and Subsidies Agreements*, Submission by the United States to the Negotiating Group on Rules, WTO, TN/RL/W/72, March 19, 2003.

preserve countries' ability to safeguard producers of perishable, seasonal, and cyclical products from the harmful impact of trade distortions.[17]

R-CALF USA believes that the special agriculture safeguard in Article V of the WTO Agreement on Agriculture should be maintained. If the special safeguard has to be eliminated, this should only occur after a new, stronger regime of import relief mechanisms is established for cattle and beef. The U.S. successfully included a quantity-based and price-based beef safeguard in the U.S. – Australia Free Trade Agreement, and this is a model that could be built upon in the Doha Round of negotiations. Specifically, the administration should seek to construct a safeguard mechanism for cattle and beef that incorporates an automatic trigger for the safeguard rather than requiring the filing of a petition from a highly fragmented industry. An automatic trigger will also ensure that import relief is not delayed by an onerous petition process, but instead is available as soon as possible to the producers of perishable products who need immediate relief. In addition, the safeguard should be designed to protect domestic producers not only from sudden spurts in volumes of imports but also from excessive price volatility, which poses a particularly severe risk for producers of perishable products like cattle and beef.

VI. <u>Preserve and Strengthen U.S. Trade Laws</u>

In addition to negotiations regarding the Agreement on Agriculture, negotiations on the anti-dumping, countervailing duty, and safeguard rules are also a core concern of R-CALF USA members. While establishment of a sector-specific safeguard that recognizes the unique challenges the cattle and beef industry faces is essential, as discussed above, the U.S. must also work to ensure that the overall effectiveness of our trade laws, upon which the industry continues to rely, is preserved and strengthened. Of particular concern are on-going Rules negotiations in the Doha Round. Some countries have seized upon the Rules negotiations to try to weaken U.S. trade remedy laws. The U.S. needs to resist these threats and instead use the negotiations to clarify and improve WTO rules so U.S. trade laws can be preserved and strengthened. Congress has expressed its support for such a position through one of its principal negotiating objectives for trade agreements, which is to:

> preserve the ability of the United States to enforce rigorously its trade laws … and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions.[18]

Unfortunately, to date the Rules negotiations appear to be headed in exactly the wrong direction – the very direction that Congress foresaw and directed U.S. negotiators to avoid. Since the Uruguay Round was concluded in 1994, WTO dispute panels and the Appellate Body have made numerous adverse

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[17] *Proposal for Comprehensive Long-Term Agricultural Trade Reform*, Submission from the United States to the Committee on Agriculture Special Session, WTO, G/AG/NG/W/15, June 23, 2000.
[18] 19 U.S.C. § 3802(b)(14)(A).

and overreaching decisions regarding U.S. trade laws. Some of these decisions have created new obligations beyond those agreed to by the parties in negotiations, and some panels have reached adverse conclusions by applying a more onerous standard of review than that provided for in WTO agreements. To redress these wrongs, the U.S. should work to clarify and improve the agreements so that: Adverse dispute settlement decisions can be resolved favorably; U.S. trade laws are protected from further challenge; and the U.S. enjoys the ability to strengthen its trade laws in the future. The U.S. should also take advantage of the current negotiations to ensure that future WTO panels cannot overreach their authority. While U.S. negotiators have made some positive proposals in the current round of negotiations, much more needs to be done if the problems that have arisen over the last decade are to be resolved.

In addition, an aggressive reaction is needed to stave off seriously harmful proposals that have been made by foreign countries in the Rules negotiations. Of the more than 180 formal submissions made in the negotiations so far, the vast majority are designed to weaken trade remedy laws and limit the ability to effectively enforce those trade laws. These proposals must be rejected if the U.S. is to preserve its ability to counteract unfair trade practices that undermine American producers.

VII. Conclusion

R-CALF USA believes that the current round of negotiations at the WTO can benefit America's ranchers if the negotiators work to eliminate gross distortions of the global cattle and beef market. The U.S. should pursue an aggressive agenda in the Doha Round to: eliminate subsidies; harmonize market access; preserve the special safeguard for agriculture; establish special rules for perishable, seasonal and cyclical products; and preserve and strengthen U.S. trade laws. This agenda must be accompanied by vigorous efforts to end unjustifiable sanitary and phytosanitary barriers to U.S. cattle and beef exports. America's cattle and beef producers are faced with unfair trade practices, a sharp deterioration in our trade balance, and threats to U.S. trade laws. The industry has lost tens of thousands of farms and ranches in the past decade and stands to lose many more. This decline can be reversed if the Doha Round results in trade that is open, fair, and balanced.

R-CALF USA appreciates this opportunity to present its views, and looks forward to a continued dialogue with the Committee on these important issues.