

## Brief to the House Standing Committee on International Trade

### Study: the Reform of the World Trade Organization (WTO)

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#### Background

Despite clear evidence that trade has contributed to unprecedented prosperity and development, respect for the rules and the institutions that govern it has severely eroded, paving the way for further disruption and trade-distorting policies. The 25 year old World Trade Organization (WTO) is facing its deepest crisis with unprecedented challenges that cut across the three major functions of the organization, notably the dispute settlement mechanism, the monitoring and transparency function as well as the negotiations and rule-making function.

The WTO has not concluded a major multilateral trade deal in decades and has not kept pace in adapting to the 21<sup>st</sup> century global economy, for instance to the rise of technology and the need for global supply chains to rapidly adjust to quickly changing market needs. Its dispute settlement mechanism struggles to cope with the increasingly complex disputes and is paralyzed with the blockage of the appointment of judges to the Appellate Body. Beset by a lack of transparency, the monitoring of existing commitments is unable to contain escalating trade tensions. Moreover, the intensification of protectionism and nationalism even in traditionally trade championing economies and the erosion of respect for international trade rules, heightened by the COVID-19 pandemic—has a very real chilling effect on trade. Exporters and businesses at the user-end of the multilateral trading system rightfully worry about and witness how trade rules are loosely abided by and in cases blatantly undermined. In this context, there is an urgent need to reform, strengthen and modernize the WTO to ensure predictability and stability in trade. This is crucially important to Canadian agri-food exporters who depend on export markets.

While global trade in food and agriculture has doubled since the entry into force of the WTO Agreement on Agriculture in 1995, the global legal regime for agri-food remains conspicuously weak. The rules do not adequately cover trade-distorting domestic support, subsidies and export competition. Efforts to ensure science-based, rules based and predictable conditions for farmers and food manufacturers are under pressure as a greater number of complex regulatory requirements<sup>i</sup> is placed on exporters for legitimate and less legitimate reasons. There is a widespread evidence of the increased incidence of non-tariff barriers and trade distorting measures in agri-food trade over the past couple of decades. A Sept 2020 report by the UN Food and Agriculture Organization demonstrates that international trade is absolutely central to the future of agriculture and food security. To this end, reforms and agriculture trade negotiations at the WTO are of immense importance.

As countries grapple with recovery efforts, nations recognize that trade will play a central role in returning economies to full speed by allowing countries to leverage global growth and enable them to recover more quickly than by acting alone. A robust, respected and fully functioning WTO will be essential to healing a battered global economy. But this can only happen if WTO members find a way to restore predictability, transparency and enforcement, and ultimately advance international trade reform in the global trading system. Canada should play a leadership role among WTO members to help lead the organization out of the crisis and move towards a stronger international trading system that fosters enhanced global trade and supply chains.

## Introduction

International trade in food has now gone far beyond a bag of lentils or a bushel of wheat crossing a national border. It currently stands at \$1.5 trillion annually. Today about one third of all global agricultural and food exports are traded within global value chains. In fact, primary commodities cross national borders at least twice, as they are exported for further processing into food. International trade in food feeds one in every six people around the globe, and this ratio has been growing steadily.

For 90% of farmers in Canada, the role of trade as a transmission mechanism for moving food from where it is abundant to where it is in demand, underscores the importance of trade policy — and the WTO framework of rules — as a means to create predictable and competitive market conditions for farmers. The experience of losses at the border due to the imposition of a non-tariff barrier or delays in approving crop protection products can be severe enough that exporters lose interest in the market such that the expected gains from a trade agreement are foregone.

The multilateral rules-based system remains the basis for achieving levels of fairness and predictability which are required to provide the needed confidence amongst sellers and buyers to permit international trade to take place and grow. The WTO gives Canadian agricultural and food exporters' most-favoured nation (MFN) treatment in 164 countries, representing about 80 per cent of the global economy. The WTO is the only viable alternative for addressing subsidies and its Agreements – on Agriculture, on the Application of Sanitary and Phytosanitary measures and on Technical Barriers to Trade, on Trade Remedies, on Subsidies, Antidumping and Countervailing Measures, and Rules of Origin to name just a few – are key components of that rules-based structure.

Multilateralism and rules-based trade are critical for Canada's prosperity and international relations. As a middle power with a trade-dependent economy, Canada should leverage the "Ottawa Group"<sup>ii</sup> (OG) to guide WTO reform efforts to advance a proactive and pragmatic vision for the trade rules for the future. CAFTA strongly support the work of the Ottawa Group led by Canada to modernize and reform the WTO towards more liberalized global agri-food trade.

The Canadian Agri-Food Trade Alliance (CAFTA) wishes to convey its strong support of the WTO as the proper and only way to guarantee the full range of rules and necessary predictability to promote global economic activity and growth. CAFTA members have a critically important interest in the WTO being an effective organization and CAFTA remains a staunch advocate of the rules based multilateral trading system and comprehensive reforms to address international agri-food trade distortions. We strongly believe the WTO remains the best forum for achieving fair, global and reciprocal gains in international trade. The WTO has been an effective forum for addressing trade disputes such as Country of Origin Labeling (COOL) and is the only forum to effectively address agricultural domestic subsidies.

CAFTA suggest below preliminary areas of focus for WTO reforms:

### 1. Safeguard the dispute settlement system

*The dispute settlement function is crucial in ensuring members' compliance with the rules. The impasse over the Appellate Body threatens the whole system.*

- WTO reforms should address as soon as possible the impasse in the process of nominating, reviewing, and approving members to the Appellate Body, one of the pillars of the institution.
- WTO members should set more efficient procedures for the WTO dispute settlement system to handle the growing number and complexity of trade disputes and for the establishment of clear and comprehensive rules on the functioning of the Appellate Body's authority.

- In response to the loss of the Appellate Body, several WTO members, including Canada, have implemented an interim mechanism to hear disputes. More countries should be encouraged to join the interim arrangement. While this is an important step, it is a stop-gap measure until a larger solution is found. The priority long term should be on reinstating the full functionality of the Appellate Body and restoring confidence in that system as a preferred alternative for resolving issues.

## **2. Update, strengthen, and modernize the current WTO rules**

*WTO Members should continuously update agricultural trade rules to meet current and future challenges and enhance the predictability of the global food supply.*

A sustained and open policy dialogue on possible priorities and areas of convergence should begin immediately. Suggested steps for agri-food include but are not limited to:

- Measures against trade distortive agricultural domestic support;
- Ensuring that regulatory measures are science based;
- Improving market access for goods and services, including addressing market access inequities in world agri-food markets;
- Rules to address subsidies and market-distorting practices.

For example, a renewed commitment to the WTO Agreement on the Application of Sanitary and Phytosanitary Measures<sup>iii</sup> at MC 12 would amplify the importance of science-based rules.

## **3. Improve the monitoring function of the WTO**

*It is essential that WTO reforms address improving the WTO's monitoring function to increase transparency, rigor on all critical areas such as subsidies, unnecessary technical barriers and sanitary and phytosanitary measures.*

The general sentiment is that there is a need for greater transparency and timeliness, with particular interest in the Committee on Agriculture and notification of domestic support.

- WTO members should reflect on potential implications of non-or late reporting and explore whether there could be deadlines following the end of a country's fiscal year to notify the WTO on domestic support spending and program changes. The situation of countries notifying subsidies on agriculture several years after the facts is ridiculous and risks the process becoming irrelevant.
- It should also be noted that the lack of strong motivation or absence of disincentives for countries to notify of their domestic support spending, does not appear to cause any advantage or disadvantage from reporting on time and ahead of others.
- WTO members should reflect on ways to ensure the requirements are not unnecessarily complex and burdensome and recognize that it is difficult for businesses to wade through their own country's notifications, let alone those of other countries whose programs exporters are not familiar with.
- Further to notifications of domestic support, WTO members should also discuss the confidence that exists in the accuracy of what countries are reporting on their own measures.

CAFTA put forward the statement below before the Ottawa group to emphasize the importance of timeliness of notifications and transparency:

*"In times of crisis, countries have demonstrated an ability to share and provide information and notifications of measures adopted in response to the pandemic in relatively timely, transparent manner. Such practices should remain in place and be made permanent to increase the transparency and timeliness of notifications for sanitary and phytosanitary as well as other technical measures that affect agricultural trade. This timeliness*

*and cooperation should also be extended to sharing information on the justification for such measures as well as working together on other potential solutions to manage risks without blocking trade. Countries and businesses are adapting to digital working methods and the industry has shown its readiness to electronic certification and transmission of documents.”*

#### **4. Improve and expand its rule-making function**

*WTO reforms should address and improve the decision-making processes so the organization can deliver more effectively.*

- Multilateral solutions based on consensus remain the ultimate and primary goal.
- WTO members should further explore flexible approaches to prevent one country from holding back a deal accepted by an obvious majority.
- And when a multilateral consensus is unattainable, WTO members should consider pursuing flexible approaches where it can help to build consensus that will allow to move expeditiously on strategic issues.

#### **5. Launch a structured agri-food exporter’s advisory committee**

*It is suggested that the WTO establishes a permanent structured contact between relevant WTO Committees and key industry stakeholders, particularly with the exporters’ community.*

- WTO members should maintain a two-way dialogue with exporters to better inform, anticipate the complex challenges of global trade policy making in the modern world.
- A number of straightforward steps could be taken to improve the provision of more timely and relevant information to and from industry in a proactive, constructive manner.
- More broadly, there is an opportunity to work with industry to help build confidence in the trading system

CAFTA is ready to continue to play an active role and bring suggestions to the table.

*CAFTA is the voice of Canadian agri-food exporters, representing the 90% of farmers who depend on trade and the ranchers, producers, processors and agri-food exporters who want to grow the economy through better access to international markets.*

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<sup>i</sup> Like Canada, trading partners regulate to ensure food safety and plant and animal health. This often creates restrictions to trade and result in the prohibition of Canadian agri-food exports to key foreign markets. The main concern here is that any new regulations and standards are no more trade discriminatory than is necessary to satisfy the regulatory objective and thus do not risk provoking a trade challenge under either a free trade agreement or through the WTO.

<sup>ii</sup> The Ottawa Group is a group of like-minded countries that has been focused on finding ways to modernize the body that oversees the multilateral trading system. Specifically, the Ottawa Group is focused on reforming the dispute resolution processes to ensure ongoing functionality, revitalizing the multilateral negotiation process and restructuring the overall governance of the WTO. The Ottawa Group is led by Canada and comprised of Australia, Brazil, Canada, Chile, the European Union, Japan, Kenya, South Korea, Mexico, New Zealand, Norway, Singapore and Switzerland

<sup>iii</sup> The WTO Committee on Sanitary and Phytosanitary measures (SPS Committee) is established by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) to provide a forum to raise concerns with food safety and animal and plant life and health measures which affect trade. The SPS Committee enhances the implementation of the SPS Agreement to ensure that Members meet their obligations.