

LEVELING THE PLAYING FIELD

Kelvin Goertzen*

I. INTRODUCTION

FEW INDUSTRIES IN CANADA or around the world carry the symbolic, political and sociological complexities as that of agriculture. The production of food represents more than an economic endeavor for those nations engaged. In many cases, agriculture is said to define the values of a nation and form a pillar of national sovereignty and independence.

For individual farmers, agriculture has always been a challenging occupation. Natural risks, from weather to disease, have historically made the practice of farming an uncertain pursuit. Yet, most farmers were able to withstand these cyclical and uncontrollable occurrences and accepted them as an inevitable trade-off of commodity based production.

Despite technological advances, today's modern farmer is not immune to the historical challenges of agricultural life. However, a relatively new challenge has emerged that, while man made, has the potential to impact individual farmers and nations with a speed and severity that nature has yet to match. Today, international agricultural subsidies have reached out across the world and have touched the fields and farmyards of producers around the globe.

Every aspect of agriculture, from the commodities grown and the prices received in developed countries, to the ability of under developed countries to produce their own food, is impacted by agricultural subsidies. Instead of casting their eyes to the sky to determine the success of their yearly crop, farmers from virtually every nation look to the negotiation rooms in places such as Uruguay and Doha to find a perspective on their individual future and that of their industry.

This essay is dedicated to examining the impact and response to international and domestic agricultural subsidies in Manitoba, Canada and around the world. Following the introduction, Part II and III set out the nature and importance of agriculture in Canada and Manitoba

* B.A. (Economics) (UM); B Comm. (Honours) (UM); LL.B. (UM). Mr. Goertzen was elected as the Member for the Legislative Assembly of Manitoba representing the Steinbach Constituency in June of 2003. He currently serves as the Critic for Conservation and Water Stewardship and is the Deputy Critic of Justice.

respectively. Part IV introduces the reader to the most common types of subsidies that arise in relation to agriculture, followed by a brief examination of their overarching impact in Part V. Part VI considers the WTO's attempts to control the use of agricultural subsidies through multilateral agreements and negotiations, while Parts VII to IX examine the response to these efforts by three of the leading agricultural producers, the United States of America, the European Union (EU) and Canada. The substantive part of the examination ends with a look at the impact of agricultural subsidies in Manitoba over the past decade and closing analysis.

II. AGRICULTURE IN CANADA

SINCE ITS EARLIEST DAYS AS A NATION, a significant part of Canada's economic strength has been derived from agriculture. While Canada has become less dependent on agriculture to drive its economy over the past decades, it remains the nation's third largest employer and within its top five industries.¹

Despite its continued importance, there is little doubt that the nature of farming in Canada is changing rapidly. Recent census data indicates that the number of farms in Canada declined by 11% between 1996 and 2001.² While two-thirds of Canada's farms are still smaller operations, the declining numbers are a result of the farm industry becoming more consolidated.³

Existing as a country with a relatively large landmass in comparison to its population, Canada is left with little choice but to look for export opportunities for the agricultural products it produces.⁴ In this regard, the Canadian story has been one of success. In just seven years, between 1989 and 1996, Canada was able to double its agriculture exports from \$10 billion to \$20 billion.⁵ In 2001, Canada exported \$26.6 billion worth of agri-food products, nearly half of its production. The agriculture indus-

¹ "Trade Policy Review Canada" World Trade Organization Secretariat (February 12, 2002) at para. 8.

² L. Ward, "Agriculture Census" *CBC News* (May 15, 2002) Online: <http://www.cbc.ca/news/features/stats_agriculture020515.html>.

³ The most significant decline occurred among farm operations which showed less than \$100,000 in gross farm receipts. *Supra* note 1 at paragraph 10.

⁴ Speech by the Honourable Lyle Vanclief to the Oxford Farming Conference (January 4, 2001) Online: <<http://www.agr.ca/cb/speeches/s010104e.html>>.

⁵ D. Qualman, N. Wiebe, "The Structural Adjustment of Canadian Agriculture" Canadian Centre for Policy Alternatives (November, 2002) at 4. Online: www.policyalternatives.ca/publications/agriculture.pdf.

try alone provides an annual trade surplus of more than \$7 billion.⁶

While Canada's agriculture industry is clearly significant in national terms, it is also significant on the international market. Canada's international agri-food exports accounted for 3.5% of global food exports in 1999, ranking behind only the export capacity of the United States and Europe.⁷

Among field crops in Canada, wheat remains dominant, accounting for approximately one third of the total crop grown in the country.⁸ Yet, as a result of the increase of international subsidies and the reduction of domestic aides, vast acres of land are increasingly being dedicated to crops such as oilseeds and pulse crops such as lentils and beans, which are less affected by subsidies.⁹ As well, many farmers are moving to other areas of production such as livestock, with Canada recording record levels of both cattle and hogs in 2001.¹⁰

Despite the growing export power of Canadian agriculture, few farmers in traditional sectors have benefited over the past decade. Farm debt is increasing and census data indicates that 80% of Canadian farmers are working off the farm as a means of keeping their operations going.¹¹

Some of the blame for the reduced number of farmers and poor incomes can be attributed to traditional factors. Producers in the three prairie provinces, which account for 82% of Canada's cropland, suffered through severe drought in the first years of the new millennium.¹² As well, higher costs for inputs such as gas, fertilizer and feed, have put the squeeze on potential farm profits. Yet, these factors account only partially for the difficulties some Canadian farmers currently face. As will be examined in Part IX, the imposition of foreign subsidies and the reduction of national support has contributed greatly to the difficulties faced by crop producers.

⁶ Agriculture and Agri-food Canada, *An Update on the WTO Agriculture Negotiations; Introduction*, Online: <http://www.agr.gc.ca/itpd-dpci/english/consultations/introduction_e.htm>.

⁷ "An Update on the WTO Agriculture Negotiations; Toward a Level International Playing Field" Agriculture and Agri-food Canada, online: <http://www.agr.gc.ca/itpd-dpci/english/consultations/section1_e.htm>.

⁸ *Supra* note 1 at paragraph 2.

⁹ "Subsidies and the Grain Trade" *The Western Producer*, online: <http://www.producer.com/standing_editorial/farm_crisis/non_farmers/subsidies.html>.

¹⁰ *Supra* note 1 at paragraph 11.

¹¹ M. O'Malley, L. Ward, "Battling foreign farm subsidies" *CBC News* (19 June 2002), online: <<http://www.cbc.ca/news>>.

¹² *Supra* note 9.

III. AGRICULTURE IN MANITOBA

FOLLOWING THE NATIONAL TREND, Manitoba has seen a reduction of numbers in farming operations and agriculture profitability over the past decade. Between 1996 and 2001, the number of farms in Manitoba decreased by 13.6% as the average farm size increased from 784 acres to 891 acres.¹³ Consolidation was not simply driven by the benefits of economics of scale; many farmers were forced from the land during unprofitable production years. For example, farm income dropped in Manitoba between 1997 and 1998 from \$428 million¹⁴ to \$132 million. This decline was largely experienced in the field crop sector where commodity prices have been low over the past decade.

However, higher prices and livestock production helped Manitoba rebound to reach a record cash flow of \$668 million for agriculture in 2001, showing not only the volatility of agriculture income, but also the effect of a shift in production activity in Manitoba's agriculture sector. This phenomenon will be more fully examined in Part X.

Today in Manitoba, 49.3% of farm cash receipts come from livestock production with only 40.3% as a result of crop production.¹⁵

Despite its declining impact, agriculture remains a significant part of the Manitoba economy. In 2001, nearly 50,000 Manitobans were either directly or indirectly employed as a result of the agriculture industry, making it accountable for nearly one in every eleven jobs in the province.¹⁶

Manitoba contributes heavily to Canada's agricultural exports. In 2001, Manitoba exported \$2,804 million worth of agri-food products. While Manitoba made agriculture exports to 119 different countries in 2001, the United States continued to be the most significant consumer of the province's agricultural products.¹⁷

IV. TYPES OF AGRICULTURAL SUBSIDIES AND TRADE BARRIERS

THE NUMBER AND TYPES of agricultural subsidies and trade barriers utilized by countries is only limited by the creativity of the officials who seek to implement them. Yet, there are three broad cate-

¹³ "Manitoba Agriculture" *Manitoba Agricultural Review* (October 2002), online <<http://www.gov.mb.ca/agriculture/statistics/aac01s01.html>>.

¹⁴ *Supra* note 11.

¹⁵ *Supra* note 13.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

gories that are generally discussed and which have been the subject of multilateral agreements.

A. Market Access Barriers

A number of trade distorting methods exist that limit the ability of trading nations to import their products into those countries that apply them. The most traditional market access barrier is a tariff, a direct tax on the importation of goods which make them less price competitive than domestic products.¹⁸ Other barriers that limit the import of agricultural products include quotas (limiting the amount of imports), outright import bans and discretionary licensing fees for importers.¹⁹

B. Domestic Support Subsidies

While market access subsidies prevent or limit outside importers from competing fully against local producers, domestic support subsidies are a government's effort to provide direct support to local producers. These can include payments that directly support the income of farmers. They may also include the provision of government services such as research, disease control or infrastructure. Domestic support subsidies, while not exclusive to the agriculture industry, are often more prevalent there than in other private industries.²⁰

C. Export Subsidies

Among the most controversial of subsidies, export subsidies serve to reduce the price of a nation's exported goods below what their natural cost of production would dictate, thereby making them cheaper for the importing country. Export subsidies would include the subsidization of transportation, marketing, or the specific disposal of government agricultural stocks below domestic prices.

¹⁸ D. Crane, *A Dictionary of Canadian Economics*, (Edmonton: Hurtig Publishers, 1980) at 328.

¹⁹ "U.S. Proposal for Global Trade Reform" *FASonline*, online: <<http://www.fas.usda.gov/info/factsheets/wto.html>>.

²⁰ "Trading into the Future-agreements-agriculture" World Trade Organization, online: <http://www.wto.org/english/thewto_e/tif_e/agrm3_e.htm>.

V. THE EFFECT OF SUBSIDIES

LIKE MANY ISSUES WITH AN INTERNATIONAL FLAVOR, the effect of a certain policy depends largely on the vantage point from which it is viewed.

Countries that employ, either individually or in combination, the types of subsidy measures described in the previous sections generally do so to protect the domestic production of a particular product. The motivation for offering protection varies from nation to nation and will be examined in the context of Canada, the United States and the European Union in subsequent parts of this analysis.

From the standpoint of nations other than the subsidy host, the effect of the subsidy is to create a trade distortion that potentially reduces the ability of its producers to conduct trade. For developed and diversified nations such as Canada, facing trade subsidies and barriers can impact on the growth and development of a particular sector. It can also inflict economic hardship on traditional forms of production forcing those producers to leave the industry all together or move into a less trade distorted form of agriculture. For developing countries, critics argue that the impact is much more significant.

While it could be argued that all subsidies have the same effect, export subsidies are generally considered the most trade distorting and therefore are the target of the greatest amount of criticism. In particular, the government practice of purchasing agricultural commodities from domestic producers at prices above world market levels has the effect, critics suggest, of pushing down world prices by creating an artificially high supply.²¹ This can be compounded by governments who simultaneously "dump" those same commodities at prices below what they paid or through the guise of food aid programs.

American and European governments are most often cited for these practices. For example, some reports suggest that American wheat is often sold for prices that represent only 60% of its cost of production.²²

Intuitively, an observer may consider low prices and an excess supply of food to be beneficial for developing countries whose populations often battle chronic malnutrition. Critics suggest however that below-cost exports prevent developing countries from entering the market and prevent national production since food can be imported at prices cheaper than it costs to produce domestically. This can be particularly trouble-

²¹ C. Godfrey, "Stop the Dumping!" Oxfam Briefing Paper (October, 2002) at 7.

²² "Dumping of U.S. Ag Commodities Hurting Farmers in U.S. and Around World" Institute for Agriculture and Trade Policy, (February 11, 2003).

some in counties whose governments choose not to make international food acquisition and distribution a priority.

Through this analysis, it is clear that agricultural subsidies can impact current and potential producers in both developed and developing countries.

VI. AGRICULTURE SUBSIDIES AND THE WORLD TRADE ORGANIZATION

A. GATT

PRIOR TO THE FORMATION of the World Trade Organization (WTO) in 1995, successive rounds of multi-lateral trade negotiations occurred under the General Agreement on Tariffs and Trade (GATT), which now forms one of the agreements under the WTO. While the GATT contained numerous trade liberalizing initiatives, a number of "loopholes" had developed through successive negotiations that essentially exempted the agricultural sector from the general trade policies under the agreement.²³ As a result, few restraints on agriculture subsidies existed under the GATT agreement.

B. The Uruguay Round of Negotiations and the Agreement on Agriculture

The final round of multi-lateral trade negotiations under the GATT structure occurred from 1986-1993. These discussions, known as the Uruguay Round, contained for the first time comprehensive negotiations on agricultural subsidies and trade. Negotiations resulted in the Agreement on Agriculture (AoA) which came into effect in January of 1995.²⁴ The Agreement on Agriculture dealt with the three main categories of agriculture trade barriers:

1. Market Access (tariffs)- Article 4
2. Domestic Support (national subsidies)- Article 6
3. Export Competition (export subsidies)- Article 9

These have come to be known as the "three pillars" of the Agreement on Agriculture.²⁵

²³ "Trade Negotiations and Agreements" Ministry of Agriculture, Food & Fisheries, Government of British Columbia, Online: <<http://www.agf.gov.bc.ca/trade>>.

²⁴ *Supra* note 7.

²⁵ *Ibid.*

1. Market Access

Under the pillar of market access, the AoA dictated that non-tariff barriers of all participating countries (such as import quotas) be converted into tariffs. This process, known as tariffication, was to provide for consistent measurement of tariff levels between nations.²⁶ These tariff levels were then capped, often referred to as being bound, with the agreement requiring developed countries to reduce these bound levels by 36% over a six year period, between 1995-2000. Developing countries were required to reduce tariffs by 24% over a 10-year period, beginning in 1995.²⁷

2. Domestic Support Subsidies

The Agreement on Agriculture's provision for domestic support subsidies is perhaps the most complex and, therefore, the most open for manipulation by motivated WTO members. Domestic support subsidies were categorized into one of three "boxes" which were each designated by a colour.²⁸

Amber Box supports are considered to be the most trade distorting of domestic subsidies.²⁹ These are generally subsidies that are directly tied to production levels. The greater the level of production, the greater the aggregate subsidy provided by the sponsoring government. This, in effect, acts as a price support for the producer and as an incentive, quite apart from market forces, to reach certain levels of production for specific products. The major exporting countries of the WTO agreed under the AoA to keep these Amber Box subsidies below a capped amount. Each country was assigned an Aggregate Measurement of Support (AMS) figure which represented its cap and which was established through a calculation of a nation's Amber Box subsidy support relative to production and prices.³⁰ AMS figures were arrived at using a base calculation period of 1986-1988. The AoA also provided that AMS levels were to be reduced by 20% for

²⁶ Ibid.

²⁷ "Numerical targets for cutting subsidies and protection" World Trade Organization, Online: <www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm>.

²⁸ *Negotiations on Agriculture, Committee on Agriculture Special Session*, World Trade Organizations (December 18, 2002) at para 41.

²⁹ *Agriculture and Agri-food Canada, An Update on the WTO Agriculture Negotiations; Key Results of the Uruguay Round*, Online: <http://www.agr.gc.ca/itpd-dpci/english/consultations/annexa_e.htm>.

³⁰ Ibid.

developed countries and 13% for developing countries over the same six year span that tariff reduction was to occur.³¹ Reduction levels were on aggregate support, not on a product-by-product basis, allowing countries to maintain stronger support for some products over others.

A second category of domestic support subsidies is classified as Blue Box measures. These subsidies are considered trade distorting in their effect but are not restricted. These include direct payments related to production but only when the payments are a result of production *limiting* policies.³² They also include programs in developing countries that promote rural development and programs that provide very minimal support to the overall value of the product.³³

The final category for domestic support measures is the most controversial. Green Box subsidies are not subject to any limitation or reduction as they are not considered to be more than minimally trade distorting.³⁴ As such, WTO countries that wish to have programs not subject to reduction schedules work to classify new and expanding programs as Green Box initiatives.³⁵ Green Box programs would include government services related to research, infrastructure and disease control. More controversially, they also include direct payments to producers for income support, structural adjustment assistance or regional assistance programs. Direct payments must be 'decoupled' in that they cannot be tied to production levels thereby providing price support to producers.³⁶ As will be examined in following sections, critics do not consider the stated minimal effect of Green Box programs to be an accurate reflection of their real market impact.

3. *Export Subsidies*

Export subsidies, long favored by European nations, are considered by critics the most trade distorting of agricultural subsidies because they

³¹ "Global Trade Negotiations-Agriculture" Centre for International Development at Harvard University, Online: <<http://www.cid.harvard.edu/cidtrade/issues/agriculture.html>>.

³² *Supra* note 19.

³³ "Agriculture: fairer markets for farmers" World Trade Organization, Online: <http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm3_e.htm>.

³⁴ *Supra* note 29.

³⁵ A. Kwa, "WTO Agriculture Negotiations: A Sorry Tale of American Arrogance, European Hypocrisy and Developing Countries in Disarray, Focus on Trade, Number 65, Part 1 (August 2001). Online: <<http://www.focusweb.org/popups/articleswindow.php?id=240>>.

³⁶ *Supra* note 19.

displace competitive producers in the world trading market. These subsidies include payments for transportation, marketing or selling government stock below market price. Under the Agreement on Agriculture, export subsidies were ostensibly eliminated.³⁷ However, 25 nations, including Canada, were permitted to maintain export subsidies in exchange for a commitment to schedule reductions. Using the average annual level of support provided between 1986-1990 as a base, developed countries among the qualifying 25 nations were required to reduce expenditures on export subsidies by 36 % between 1995-2000, as well as reduce the number of subsidized exports by 21%. Targets for developing countries were set at two-thirds of that of developed nations over a 10-year span.³⁸

One important element of the AoA related to export subsidies is a "peace clause". While the AoA set out reductions in the trade barriers, it allowed the majority of them to remain. European producers insisted that those remaining subsidies not become the target of attack from countervailing measures. The peace clause provided the assurance that those remaining subsidies would not be the subject of attack during the course of the agreement.³⁹

On December 31, 2003 the peace clause expired. For those countries that rely heavily on agriculture subsidies, such as the United States and those in Europe, it is a significant loss as it exposes these subsidies to challenges through the WTO. Poorer nations and those dedicated to the reduction of subsidies can be expected to use the absence of a peace clause and the ability to challenge subsidies as a powerful bargaining tool in advancing their trade positions. However, the number of challenges brought forth may very well be dependent on the success of subsequent negotiations.

C. The Doha Round of Negotiations

The Agreement on Agriculture was not intended to be the end point of negotiations on agriculture subsidies, but rather the beginning. The agreement specifically contemplated, in Article 20, long-term progressive reductions in subsidies. To facilitate this objective, Article 20 dictates that new negotiations on reduced subsidies begin one year prior to the end of the agreement.⁴⁰

³⁷ *Ibid.*

³⁸ *Supra* note 29.

³⁹ "An Update on the WTO Agriculture Negotiations; Key Results of the Uruguay Round, Agriculture" and Agri-food Canada, Online: <http://www.agr.gc.ca/itpd-dpci/english/consultations/annexa_e.htm>.

⁴⁰ "Agreement on Agriculture" World Trade Organizations, Part XII, Article 20. Online: <http://www.wto.org/english/docs_e/legal_e/14-ag_02_e.htm>.

In compliance with this provision, WTO countries began new discussions in March of 2000 on the continued reform of agricultural barriers. In November of 2001, the Fourth Ministerial Conference of the World Trade Organization commenced in Doha, Qatar. This conference launched a new round of broad multi-lateral negotiations, the Doha Round, on a variety of trade issues. Member countries agreed to incorporate previous negotiations on agriculture and established objectives to further reduce all forms of export subsidies and trade distorting domestic support.⁴¹ New timeframes were established with commitments on new subsidy reductions to be presented by March 31, 2003; comprehensive plans on a country by country basis for reduction of trade distorting subsidies and barriers for the fifth Ministerial Conference in Mexico in 2003; and a January 1, 2005 deadline for the conclusion of negotiations.⁴²

VII. THE UNITED STATES AND AGRICULTURE SUBSIDIES

BECAUSE THE UNITED STATES is one of the world's largest exporters of agricultural products, its nation's position regarding subsidies sets the global tone for negotiations. For example, while Canada exported \$26.6 billion worth of agri-food products in all of 2001 (see note 6), the United States exported approximately \$19.8 billion in agri-food products in the first four months of 2002 alone.⁴³ America exports approximately 25% of its total agricultural production.⁴⁴ In terms of customers, Canada is second only to Japan for U.S. agricultural exports.⁴⁵

From a global perspective, the United States' position on trade-distorting subsidies is, at best, confused. While the U.S. has been a leader in promoting open trading zones and agreements such as the North American Free Trade Agreement (NAFTA), it is also a leader in providing domestic support to its farmers, which critics consider trade distorting.

World events illustrate the duplicity that seems apparent in the U.S. position regarding trade barriers and subsidies.

During the 2000 presidential election, both candidates, Al Gore and

⁴¹ *Supra* note 23.

⁴² "Agriculture Negotiations: Backgrounder World Trade Organization", Online: <http://www.wto.org/english/tratop_e/agric_e/negs_bkgrnd01_nutshell_e.htm>.

⁴³ "U.S. Agricultural Trade Update" United States Department of Agriculture (March 13, 2003).

⁴⁴ "Historic Opportunity for U.S. Farmers as New Agenda for Trade Negotiations are Launched in Qatar, United States Department of Agriculture, (November 14, 2001). Online: <<http://www.usda.gov/news/releases/2001/11/0230.htm>>.

⁴⁵ United States Department of Agriculture, Economic Research Service—Canada, Online: <www.ers.usda.gov/briefing/canada>.

George W. Bush, promised to support additional subsidies for American farmers. At the same time as promising to support domestic subsidies, each candidate expressed their dedication to working toward the reduction of subsidies provided by other nations.⁴⁶

Shortly thereafter, in 2001, the U.S. government produced a policy paper, *Food and Agriculture: Taking Stock for the New Century*, which seemed to suggest that the American government was prepared to move away from its traditional subsidy programs.⁴⁷

On the heels of this policy paper and at the commencement of the Doha Round of negotiations, President Bush praised the new round of multi-lateral negotiations and emphasized the United States' agenda to liberalize world trade".⁴⁸

Despite this proclamation, President Bush signed into law on May 14, 2002 a new U.S. Farm Bill to provide American farmers with \$190 billion dollars over a 10-year period.⁴⁹

Proclamations of greater trade liberalization coupled with increased domestic subsidies appear to be a contradiction of policy and a violation of the WTO Agreement. It is neither from the American perspective. American subsidies are generally in the nature of direct payments to farmers, Green Box provisions under the AoA, and therefore unrestricted. The American position is that these are not trade-distorting subsidies as they are not tied to production—a position stated by the Agreement itself. In this way, the U.S. provides permissible support to their producers while calling for an end to trade distorting subsidies internationally—particularly its favorite target, export subsidies.

However, critics state that the American position is ideologically inconsistent and that the AoA Green Box provisions are not reflective of reality. Canada's Minister of Agriculture suggests that direct payments are in fact trade distorting in that they provide guaranteed income, stimulate production apart from market forces, and push down commodity prices. The Minister suggests that the U.S. has created a cycle of depend-

⁴⁶ D. Sharma, "U.S. Pledges More Farm Subsidies" Third World Network, (December, 2000).

Online: <<http://www.twinside.org.sg/title/2126.htm>>.

⁴⁷ Speech by the Honourable Lyle Vanclief to the John F. Kennedy School of Government, Harvard University (November 12, 2002),

Online: <http://www.agr.ca/cb/speeches/s021112_ephtml>.

⁴⁸ "President Supportive of New Round of Global Negotiations" *White House* (November 20, 2001), Online: <<http://www.whitehouse.gov/news/release/2001/11/20011114-8.html>>.

⁴⁹ "U.S. farm subsidies now law" *CBC News* (May 14, 2002), Online: <http://www.cbc.ca/stories/2002/05/13/farm_020513>.

ency partially because much of American farmers' wealth is a result of inflated farmland values which are tied directly to the subsidies the land "produces".⁵⁰

Others, such as Manitoba Premier Gary Doer, allege that the American subsidy policy is not stimulated by farm economics but rather by politics, noting that promised subsidies arose during both the presidential election and mid-term Senate elections.

It is only there for political patronage reasons — and not because of good economics.⁵¹

Many Canadian observers concede that the Americans have followed the letter of the law while criticizing them for ignoring the spirit of the AoA.⁵² While this argument may be appealing, from the standpoint of international agreements, it is not realistic and simply ignores a failure in negotiation by objecting nations.

Several countries, including Canada, have taken aim at direct payments to producers under the Green Box category and want them examined in the Doha round of negotiations.⁵³ It will be the task of negotiators to introduce into the Agreement the spirit by which they feel it should be governed.

VIII. EUROPE AND AGRICULTURE SUBSIDIES

EUROPE IS PERHAPS THE LARGEST PLAYER on the international scene in terms of agricultural subsidies on a per product basis. For example, in relation to wheat, statistics indicate that farmers in Europe receive \$6 per bushel of wheat in government subsidies. In comparison, their counterparts in the United States receive \$2.50 a bushel and Canadian producers received only 40 cents of subsidies per bushel of wheat.⁵⁴

As examined in the previous section, the American government favors the use of direct payments to farmers not tied to production levels as they are classified as Green Box subsidies and thereby protected under the AoA. Europe has relied heavily on export subsidies to support the viabil-

⁵⁰ *Supra* note 47.

⁵¹ D. Kuxhaus, "Feds can combat subsidies: Doer" *Winnipeg Free Press* (May 25, 2002).

⁵² *Supra* note 9.

⁵³ "An Update on the WTO Agriculture Negotiations; Canada's Negotiating Position" Agriculture and Agri-food Canada, Annex C, Online: <http://www.agr.gc.ca/itpd-dpci/english/consultations/annexc_e.htm>.

⁵⁴ *Supra* note 11.

ity of their farmers. Some commentators suggest that the European Union accounts for upwards of 90% of world wide export subsidies, with governments purchasing agricultural product from local producers at higher than market value and selling it at lower than market value.⁵⁵

While the U.S. and Canada have lined up strongly in favor of the complete elimination of export subsidies, the European Union has made it clear that the Doha round should do little more than trim export subsidies below their current levels. Europe defends this position by noting that they consider export subsidies to be the least trade distorting measure, next to tariffs and domestic support subsidies.⁵⁶

Still, the EU has had to make some adjustments to its export subsidy program as a result of the AoA. However, this reduction has not resulted in the straight elimination of support for farmers. The EU governments openly admit to transferring this support to direct payments to farmers and payments not linked to production, similar to the United States.⁵⁷ Perhaps this explains the insistence by the EU that the current domestic support structure for agriculture (with the three support "boxes") remain unchanged.⁵⁸

Overall, the EU is the most consistent of major trading nations on their position regarding subsidies. They believe that the reductions should be slow and that the overall mandate of Doha is not the elimination of subsidies, but rather their reduction.⁵⁹ This position is defended, not as a matter of trade policy, but rather as one of domestic security and national identity.

European countries are seemingly content to maintain their rural development based on small agricultural production and not experience the consolidation seen in the United States and Canada. Subsidies have provided Europeans with small country farms, high rural population and strong rural communities.⁶⁰ Commentators also note that Europeans are simply not as orientated to the market as North Americans and are much more concerned with issues of land and environmental stewardship.⁶¹

⁵⁵ *Supra* note 21 at 7.

⁵⁶ "New WTO Agriculture Trade Text Reveals Wide Differences" Institute for Agriculture and Trade Policy (December 18, 2002).

⁵⁷ *Supra* note 21 at 7.

⁵⁸ A. Kwa, "WTO Agriculture Negotiations: Lineup of Positions, Focus on Trade" (October 2002), Online: <<http://www.urfig.org/agri-eng-Kwa-wto-positions-pt.htm>>.

⁵⁹ *Ibid.*

⁶⁰ T. Scarth, "To subsidize or not?", *Winnipeg Free Press* (March 22, 2001).

⁶¹ *Supra* note 9.

As well, European governments argue that the production of food is a matter of self-sufficiency. European citizens have the memory of wars on their homeland which affected the supply of food, making domestic production a priority. While critics suggest that this is simply a convenient excuse put forward to defend the use of pervasive subsidies, it is a political reality that maintains popular support.⁶² As one official of the Japanese Agricultural Ministry, which supports the European position, stated, "This is a philosophical battle over the question of food".⁶³

IX. CANADA AND AGRICULTURE SUBSIDIES

UP UNTIL THE LATE 1980s the Canadian government matched, on a per-capita basis, the subsidy support that was provided to farmers in Europe and America.⁶⁴ Since that time however, Canada has been among the most aggressive countries in the world in reducing subsidy support.

Over the past decade, the Canadian government has reduced its spending on agriculture by 48%, dropping from a high \$6.1 billion in 1991/92 to \$3.3 billion in 2001/02.⁶⁵ Canada is virtually alone among OECD countries in the degree to which it has reduced agriculture subsidies. In 2002, Canada's support to agriculture was at 0.7% of Gross Domestic Product, about half the OECD average support.⁶⁶

The virtually unilateral disarmament undertaken by Canada occurred on a wide array of agricultural programs. Included in the measures taken over the past decade are:

- a) *Elimination of the Crow Benefit*- Provided transportation subsidies for grain producers.
- b) *Elimination of the Feed Freight Assistance Program*- Subsidized feed grain transportation to the Maritimes and B.C.
- c) *Elimination of the Tripartite Stabilization*- Subsidized the prices of hogs, cattle and other livestock along with some crops.

⁶² Ibid.

⁶³ Y. Kageyama, "Trade Officials Argue Over Farm Subsidies" *The Washington Post*, (February 14, 2003).

⁶⁴ I. Boyens, "Ottawa must fast-track long-term agriculture policy—before it's too late" *Winnipeg Free Press*, (August 18, 2002).

⁶⁵ *Supra* note 5 at 6.

⁶⁶ *Supra* note 1 at paragraph 15.

- d) *Elimination of the Western Grain Stabilization Program*-Stabilized the price of grain for western producers.
- e) *Elimination of the Gross Revenue Insurance Program*-Insured prices for grain farmers as a percentage of historical averages.⁶⁷

These cuts came at a time when other countries were maintaining relatively high subsidy levels and while input costs for farmers were increasing. Inevitably, a number of farmers left the occupation, either voluntarily or through financial distress (see Section II for statistics).

There are several explanations for Canada's significant reduction in agricultural subsidies. Government officials note that reductions were done in compliance with the AoA. However, in the area of domestic support subsidies, Canada has gone much further than what was required under the agreement. Canada was committed under the AoA to reducing its Aggregate Measurement of Support to \$4.3 billion by 2000. By 1999, Canada had already reduced its support to \$3.8 billion.⁶⁸

During the mid 1990s, the government also pointed to the need to balance the national budget and begin eliminating the accumulated debt as justification for reducing farm support.⁶⁹ Unlike the United States, which has a powerful farm lobby group owing to equal state power in the national Senate, Canada's political power is far from the farming communities. In Canada, the reduction of farm support programs can and have been undertaken with little political risk. Yet, not all of the cuts can be attributed solely to cost cutting. Some initiatives, such as less government control over rail branchline abandonments, were basically regulatory and not cost prohibitive.⁷⁰

The other explanation for Canada's reduced agriculture subsidies is that it is simply being consistent in its trade position. Canada is a member of the Cairns group. The Cairns group is made up of 17 small and medium sized agriculture exporting countries that account for about a third of the world's agricultural exports. Cairns is dedicated to "deep cuts to all tariffs" as well as "the elimination of all trade-distorting domestic subsidies [and] the elimination of export subsidies".⁷¹ Individually and together with Cairns, Canada has been a strong international supporter

⁶⁷ *Supra* note 5 at 7.

⁶⁸ *Supra* note 1 at paragraph 14.

⁶⁹ *Supra* note 5 at 8.

⁷⁰ *Ibid.*

⁷¹ "An Introduction" The Cairns Group, Online: <<http://www.cairnsgroup.org/introduction.html>>.

of the reduction of subsidies. As part of the recent Doha round of negotiations, Canada has called for, among other things, the complete elimination of export subsidies within three years for developed nations;⁷² maximum possible reduction or elimination of domestic support subsidies in both Amber and Blue Box categories; and a review of the criteria of Green Box programs, presumably to try to eliminate those payments favored by the United States.⁷³

The Canadian position is not without apparent contradictions however. While there has been a general trend to the reduction of government support for farmers in Canada, there is disparity between the individual sectors of agriculture and how they operate. In particular, both Canada's dairy industry and the grain industry have come under significant scrutiny from the international community. Commentators suggest that Canada's dairy industry represents its most highly supported agri-food industry.⁷⁴ It operates under a supply management system through which government attempts to match domestic supply with domestic demand. Only those dairy farmers who have "quota" rights are able to enter the market and then only to the limit of their quota. In this way, dairy producers are guaranteed a domestic market for their product, as supply is restricted to demand.⁷⁵ In fact, much of the value dairy producers hold in their operations is attributed to the value of the intangible quota. The quota system is only maintained however through the limitation of imports. Prior to the 1995 Agreement on Agriculture, this was done through import controls. Following tariffication, import controls were replaced with tariffs, in the 200-300% range for most dairy products.⁷⁶ Canada has also had to declare export subsidies under its dairy program following a WTO ruling in 1999. The Canadian system controls the prices of milk domestically while providing permits to provincial marketing boards for the export of milk at lower than national prices.⁷⁷ While commodity producers have seen their support fall, the dairy industry remains largely protected and successful.

Both the tariff figures and export subsidies are subject to reduction under the AoA. However, aggregate reduction levels allow government to shelter some commodities over that of others. To date, Canada has given

⁷² "Canada and Cairns Group Call for Complete Elimination of Export Subsidies" Agriculture and Agri-food Canada, (November 26, 2002).

⁷³ *Supra* note 53.

⁷⁴ *Supra* note 1 at paragraph 23.

⁷⁵ For a more complete description of the system see *Supra* note 5 at 11.

⁷⁶ *Supra* note 1 at paragraph 27.

⁷⁷ *Ibid* at paragraph 34.

no indication that it intends to dismantle the current quota management system in its dairy sector— perhaps recognizing the economic difficulties it would cause those who own the valuable quota.

The second area in which Canada has come under significant attack is its policy toward wheat marketing. In Canada, the Canadian Wheat Board (CWB) has exclusive authority to export all wheat, durum wheat, and barley. Producers are free to grow these products at the volume they choose, but they cannot export them directly.

The CWB has come under particular attack from our American neighbors whose transnational wheat exporters are excluded from the Canadian market as a result of the CWB. This has resulted in the U.S. launching nine grievances against the CWB since 1990, all of which have failed.

The AoA is premised on the notion of reducing trade distorting activities but is not targeted at particular types of institutions. The position of the Canadian government is that the CWB simply facilitates trade and assists producers but does not amount to an export subsidy as the export price is reflective of the cost of production and the world market.⁷⁸ Critics of organizations with exclusive exporting rights, such as the United States, suggest that there is limited transparency of acquisition costs and other related costs to determine if an export subsidy is being provided. The existence of state trading enterprises like the CWB will undoubtedly remain a target for dispute and form part of the continuing discussions within the Doha round of negotiations.

X. THE MANITOBA ADJUSTMENT

THE PROVINCE OF MANITOBA provides an example of the adjustment that can be made in the face of subsidies that are decreasing domestically and increasing internationally. Nearly 40% of total cash receipts in Manitoba during the early 1980s were a result of wheat and barley production. By 2001, that figure had decreased to 18%.⁷⁹

Much of the decline can be attributed to the two-pronged effect of depressed grain prices, spurred on partially as a result of international subsidies, and the elimination of the Crow Benefit, which subsidized the transportation of Manitoba wheat to port.

⁷⁸ "Negotiating Objectives of Other Key Countries in the Negotiations" Agriculture and Agri-food Canada, online: <[http:// www.agr.gc.ca/itpd-dpci/english/ consultations/annexa_e.htm](http://www.agr.gc.ca/itpd-dpci/english/consultations/annexa_e.htm)>.

⁷⁹ *Supra* note 13.

As a result, agriculture in Manitoba underwent significant changes in the 1990s. The most dramatic was in relation to increased livestock production, particularly in the area of hogs. In Manitoba, the amount of livestock nearly doubled in the 1990s with the number of hogs increasing 37%.⁸⁰ A combination of low tariffs on hogs and a low Canadian dollar has led Manitoba to become a major exporter of hogs to Japan, Mexico and the United States.⁸¹

Mixed farm operations also arose as farmers began using their fields not for the production of export crops but for the production of feed for local livestock. Other adjustments took place as producers began to go into specialty crops in Manitoba such as lentils and beans.

While the resulting changes have kept Manitoba agriculture and the provincial economy strong, they have not come without their criticisms. Some Manitobans have been vocal with their concern over possible environmental damage associated with increased livestock production and the quality of the province's water supply. As well, many of the specialty crops that Manitoba farmers began producing to escape subsidy battles are now being subsidized domestically by competing nations, resulting in lower prices and a diminished market.

For example, the previously discussed U.S. farm bill applies to pulse crops such as peas and lentils, which had not normally been subsidized in America.⁸² According to Manitoba Premier Gary Doer, these types of subsidies end up costing Manitoba farmers approximately \$345 million annually.⁸³

Manitoba is proof that jurisdictions can successfully, in the short-term, make adjustments to minimize the impact of a reduction of subsidies nationally and the expansion of subsidies internationally. Yet, the long-term effects of a greater reliance on certain types of agriculture, such as livestock, is still unknown.

⁸⁰ "Agricultural Outlook, Canada's Agriculture: 5 years after the end of transportation subsidies" Economic Research Service, United States Department of Agriculture, at 17. Online: <<http://www.ers.usda.gov/publications/agoutlook/May2001/AO281.pdf>>.

⁸¹ *Supra* note 11.

⁸² P. Dalla-Vicenza, "Wowchuk wants help with subsidies" *Brandon Sun*, (May 09, 2002).

⁸³ D. Kuxhaus, "Doer to lead delegation to farming summit" *Winnipeg Free Press* (May 24, 2002).

XI. ANALYSIS AND CONCLUSION

THE WORLD TRADE ORGANIZATION'S AGREEMENT on Agriculture stated in its pre-ambble the following objective:

(the) long-term objective is to provide for substantial progressive reductions in agricultural support and protection sustained over an agreed period of time, resulting in correcting and preventing restrictions and distortions in world agricultural markets.⁸⁴

Subsidy levels in many nations have not been reduced dramatically. Further, those nations that have reduced subsidies have often done so, not as a result of the Agreement on Agriculture, but for other unrelated reasons. In the short-term, it is easy to consider that the Agreement has failed to achieve its main objective.

In addition to examining the importance of agriculture and its international negotiation, this paper considered the experience of three nations as well as the province of Manitoba in relation to subsidies.

In America, direct payment subsidies have continued and in some cases have increased under the protection of the AoA while government officials declare the need for open markets. Strong political pressure has created a separation between what is seen as desirable from a policy perspective and what is politically expedient.

In Europe, governments also face political pressure to maintain significant export subsidy levels in a culture that values smaller agricultural production and food security. Their position is perhaps the most consistent as subsidy reductions are only agreed to reluctantly with little rhetoric for the need to eliminate all trade distortions in agriculture.

Canada has undergone the most significant reductions in agriculture subsidies partially due to the lack of political clout of the nation's farm community. Canada's unilateral elimination of subsidies was likely driven more by a desire to reduce national spending than the enhancement of open markets or compliance with international agreements. Whatever the motivation, it has forced provinces like Manitoba to adapt and diversify into markets that are not as impacted or dependent on subsidies. It has resulted in many farmers leaving the occupation as well as the consolidation of the industry.

While Canada has generally reduced subsidies, certain institutions and sectors remain protected. The nation's monopoly wheat exporter and

⁸⁴ *Supra* note 40 in preamble

dairy marketing system have been the subject of international criticism. Both these endeavors are not particularly burdensome on the Canadian taxpayer but have resulted in critics referring to the Canadian subsidy position as an attempt to have it both ways.⁸⁵ Within Canada, there are both fierce defenders and opponents of the marketing board and quota systems.

The greatest achievement of the AoA is not that it has reduced trade distortion but that an agreement was ever reached at all. While the AoA found creative ways to deal with the three major forms of subsidies and trade barriers, it allowed enough flexibility through its aggregate reductions and classification schemes to permit ongoing subsidies for farmers in regions such as the United States and Europe while providing a justification for Canada to reduce subsidies.

The long-term goal of the AoA was the substantial progressive reduction in agricultural support and protection. The real experience of the AoA has not been one of substantial reductions to trade barriers, but it may yet provide the framework for progressive reductions as negotiations continue within the Doha round. Its drafters were able to establish a creative, although certainly not watertight, mechanism on which countries with greatly different political and economic realities were able to agree. Measured over the course of time, it may yet be seen as a successful pioneer. However, for today's farmer, the goal of an entirely open market or an entirely level playing field remains unfulfilled and some distance away.

⁸⁵ "Market Access not Farm Subsidies" Frontier Centre for Public Policy, (May 24, 2002), Online: <http://www.fcpp.org/publication_detail.php?PubID=135>.