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**“Animal Drugs and Sustainable Agriculture: The Unfortunate  
Omission in the Doha Declaration”**

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**ABSTRACT**

The WTO emerged from the Uruguay Round negotiations conducted by the signatory nations to the General Agreement on Tariffs and Trade (GATT). Two of the most significant features of the Uruguay Round are the treatment it affords to agricultural issues and its appreciation of the role agriculture plays in international trade policy; and the provisions affording minimum standards of protection for intellectual property rights and leveraging enforcement. Coupling these with the first objective of the eradication of extreme poverty and achieving food security in the Millennium Development Goals delivered by the UN, it becomes important to understand the interplay between these two features.

**Agriculture**

Early in the negotiations of the Uruguay Round, GATT member countries expressed “an urgent need to bring more discipline and predictability to world agricultural trade.” (Desta, 2002). As a result, the Uruguay Round saw the formation of the Agreement on Agriculture (AoA), the primary source of authority with respect to agricultural products.

The AoA includes commitments made by the member states to improve market access and reduce trade-distorting subsidies in agriculture. Generally, the commitments apply to market access (trade restrictions on imports); domestic support (subsidies, etc.) and export subsidies (means for making exports artificially competitive). Issues arising under this agreement relate to whether the objectives of ensuring food supply to meet a country’s needs and preserving rural society can be met without distorting trade,

Agriculture play a fundamentally important role in economic growth and development prospects of the vast majority of developing countries. Large industrialized countries and international financial systems have a significant interest in the economic and financial viability of developing countries, specifically in the area of agriculture, which bolsters the

trade and economic performance of many developing countries. Indeed, senior officials in the U.S. government have stressed the importance of developing country agriculture in reducing poverty and achieving food security.

Substantial improvement in agricultural productivity is essential for achieving sustainable food security and reducing chronic rural poverty in many developing countries. Several factors must be considered when attempting to achieve the objectives of ensuring food supply to meet a country's needs and preserving rural society without distorting trade. One such factor is the assurance of animal health by adequate supplies of vaccines and other animal drugs.

### **Intellectual Property**

As mentioned above, the Uruguay Round was also seen as a major achievement for supporters of strong intellectual property rights. The Trade-Related Aspects of Intellectual Property Rights (TRIPs) provided leverage to those countries with strong IP protection mechanisms for enforcing intellectual property rights in all member countries and harmonized, at least minimally, standards of protecting IPRs. One of the primary concerns, however, was access to pharmaceuticals necessary in a public health crisis. The compulsory licensing provisions in Article 31 of TRIPs were seen as inadequate as they limited compulsory licensing for servicing only the domestic market. The problem was that many of the developing or least developed countries needed such patented pharmaceuticals did not have the manufacturing means necessary to produce the drugs for their domestic market. The Doha Declaration addressed this issue and allowed for compulsory licensing for exports to "eligible importing countries." However, this provision is seemingly limited to drugs necessary to protect human health.

### **Agricultural Biotechnology and Patents**

It is indisputable that one of the most important physical inputs towards achieving sustainable animal production and food supply is to ensure that means are available to assure animal health and a supply system for animal drugs and vaccines. Many agricultural experts believe that tools of modern biotechnology can play a role in solving developing countries agronomic problems and increasing productivity. The control of trans-boundary animal diseases in several African states is just one example of the role biotechnology plays in animal health and diagnosis. The U.S.FDA noted that biotechnology products are a growing proportion of animal health product. However, as with pharmaceuticals, access to such products is often limited by patent rights. Further, as noted above, the Doha Declaration does not appear to provide for the compulsory licensing of a patented animal drug for export; only Article 31 provisions, which are limited to satisfying the domestic market, apply.

This paper discusses this omission in the context of both the objectives of the AoA and TRIPs. The paper argues that the current protection mechanism for animal drugs under GATT-TRIPs is inadequate and that the Doha Declaration should be amended to include animal drugs in the scope of compulsory licensing by an exporting nation to assure access to critical animal drugs for achieving sustainable agriculture.