

Minutes of the Canada-U.S. Consultative Committee on Agriculture

April 5, 2005

1. CCA Business

a) Introductions

The U.S. delegation began by thanking Canada for agreeing to a videoconference meeting and for the use of the Canadian Embassy videoconference facilities. Both delegations then proceeded to introduce their members. List of participants (Annex 1) is attached.

2. Livestock/Meat Issues

a) BSE

i. Canadian access to the United States (U.S. rule-making process)

Both the United States and Canada expressed disappointment with the injunction granted to R-CALF, which prevented implementation of the U.S. rule that should have increased Canadian access to the United States. Disappointment was also expressed with the U.S. Senate initiative, which also sought to restrict Canadian access. The United States said it had filed an appeal of the injunction and gave assurances that the Administration will work to prevent passage of the Senate measure in the House. The United States agreed to harmonize its BSE standards with OIE guidelines, and expressed confidence in the measures Canada has taken to ensure public health. In response to a question about rulemaking for the entry of older animals and meat, the United States indicated that this would be a priority following resolution of the court case. Both countries acknowledged the good working relationship between Secretary Johanns and Minister Mitchell.

ii. U.S. position on Canadian access to Mexico

Canada indicated that progress on Canadian access to Mexico for breeding cattle and other live animals will depend on the U.S. position on how this will affect Mexico's BSE status and asked for U.S. support. The United States indicated it was bound by current regulations regarding in-transit shipment of Canadian live cattle to Mexico, and is working on separate rules to address imports of older animals and of breeding animals.

iii. Regulatory amendment updates (including for feed)

Canada provided an update on proposed new ruminant feed ban regulations, and indicated that it is in the process of reviewing comments received and consulting with provinces and industry concerning disposal methods and that it is difficult to estimate an implementation date. Canada also provided information regarding proposed import regulations for U.S. ruminant and ruminant products, which reflect international market standards related to BSE. Canada indicated that a broader international import policy is being developed and should shortly be made available for public comment. The United States also provided a short update on its rule-making concerning animal feed and indicated that the comment period is now closed and comments were being reviewed.

iv. Third country market access

Both countries provided updates on their access to third country markets as a result of the BSE outbreaks in both countries, and agreed to share information directly and continue to work towards an integrated North American market.

v. Canadian government support for its beef industry

Canada provided a written brief on Canadian government support for its beef industry. The United States asked how the \$50 million legacy fund support will be applied and whether Canada plans to notify this support to the WTO. Canada indicated the details of the legacy fund support are still being worked out, and that everything done will be consistent with Canada's WTO and NAFTA obligations. The United States questioned how Canadian packing plants will maintain capacity once the U.S. market opens up, and asked if any new markets were being targeted. Canada indicated that Canadian industry believes the potential for growth in existing and new markets will sustain its capacity even after the U.S. market reopens.

b) Canadian dairy producers' proposal to impose new restrictions on selected dairy imports

The United States stated its opposition to the Canadian dairy producers' proposal to impose new restrictions on selected dairy imports, such as casein and caseinates, butteroil/sugar blends, and milk protein isolates, through use of WTO Article XXVIII. The United States argued that this would send a negative signal to other countries involved in the WTO agricultural negotiations, particularly at this stage of the Round. The United States welcomed Canada's response that Canada has advised its dairy producers that it would not proceed with new restrictions under Article XXVIII at this time. The United States indicated that it too faces domestic producer interest for similar action on milk protein concentrate and casein.

c) Bilateral collaboration on animal health issues

The United States thanked Canada for its March 28, 2005, announcement, which restored access for U.S. feeder cattle under thirty months of age into Canada. The United States noted that there has been good cooperation between the regulatory agencies on animal health issues and indicated that a number of U.S. states are free of bovine tuberculosis and brucellosis as well as swine pseudorabies. The United States stated that it will soon be completely free of swine pseudorabies, and that the United States is almost free of swine brucellosis. As a result of this progress, the United States indicated that there should be allowance for increased movement of swine. There was renewed commitment to meet on outstanding issues and recognize each other's programs.

d) Hog and pork discussions

The United States had sent a letter to Canada requesting a meeting to discuss bilateral hog and pork trade. It was agreed that this meeting would be planned for the middle of May in Canada, and would encompass discussion on agenda item 3(a).

3. Plant Issues

a) Bulk produce restrictions

It was agreed that this issue would be discussed at a bilateral meeting in Canada in mid-May during discussions of item 2(d). Canada indicated that it was looking forward to the mutual resolution of this issue, and that it had been working closely with Canadian industry.

b) Seed tag

The United States expressed interest in the quick resolution of this issue and noted that the CFIA and APHIS recently studied the U.S. request that Canada allows shipments of U.S. wheat and barley seeds accompanied by a seed tag instead of phytosanitary certificates. Canada replied that a number of concerns remain and that tagging the seed does not provide assurances of complying with the phytosanitary requirements. As well, it is possible to commingle seeds from different States. CFIA agreed to provide its concerns in writing to APHIS. The United States reiterated the need to mutually resolve this longstanding issue, as it is one of the original CCA agenda items.

c) Wheat/barley exports to Canada

The United States said that it was pleased with the progress on using certificates of origin for multiple shipments of wheat and barley, in lieu of phytosanitary certificates. The United States also indicated that it looked forward to the pilot project proposed for early fall. Canada replied that this issue affects grains originating from North Dakota and parts of Montana, and stressed that Canada did not want to compromise plant health. Canada noted that the pilot project was based upon the In-Transit Program under the 1998 Record of Understanding (ROU). CFIA indicated that the draft pilot project had been sent to APHIS, and that consultations were underway with Canadian industry with the aim of having the pilot project in place by early fall.

d) Seed certification laboratory accreditation

Canada indicated that the technical review conducted by CFIA determined that the Accredited U.S. Seed Laboratory (ASL) Program is essentially equivalent to the Canadian Seed Laboratory Accreditation and Audit Protocol. This means that seed testing laboratories accredited by USDA-AMS pursuant to the ASL program can officially be recognized by CFIA. Furthermore, seed test results from these laboratories may be used to grade and label seed with a Canada pedigreed grade name by accredited graders.

Canada and the United States remain committed to establishing procedures that will allow persons in the United States to grade and label certified seed for shipment into Canada.

e) Canada's implementation of WTO ruling regarding Canadian wheat regulations

The United States noted the proposed changes made by Canada to the *Canada Grains Act* and the *Canada Transportation Act*. Canada explained the expected process for the proposed legislation and noted that implementation of the legislation would be on time to meet the August 1, 2005, deadline to come into compliance with the WTO ruling. The United States raised several questions about which provisions of the *Canada Grains Act* were going to be repealed, and Canada replied that it would only make the changes required to bring Canada into compliance with the WTO ruling. In regards to changes made to the *Canada Transportation Act*, Canada noted that the only change would be to the definition of grain eligible for the revenue cap.

f) Harmonization of pesticides

Canada reiterated its position that the goal of harmonization of pesticides is to have as few trade barriers as possible while maintaining protection of health and the environment. Canada expressed the need for continued collaboration with the U.S. Environmental Protection Agency (EPA), and stressed the need

for mutual sharing and completion of joint pesticide registration and reviews. Canada also noted that new issues were identified during meetings held in Washington, D.C., during the last week of March, 2005, which included a trilateral meeting with Mexico. Canada noted that the U.S. EPA has implemented the *Pesticide Registration Improvement Act*, and that it was working closely with the EPA and will not reduce the pace on any joint review work. The United States replied that it appreciated the cooperation on pesticide registration harmonization and noted that the minutes of the last NAFTA Technical Working Group on Pesticides were available. The United States suggested that, if Canada was in agreement, the NAFTA summary report be presented to the Canada-U.S. Province States Advisory Group. Canada and the United States will work in a coordinated way to implement the Globally Harmonized System of Classification and Labeling of Chemicals.

g) Proposed changes to Canada's maximum residue limits (MRLs)

The United States requested an update on the proposed changes to Canada's MRLs, specifically to eliminate the one part per million default limit and asked if work had been done to analyze the effect of this elimination. The United States indicated that the U.S. industry is very concerned with this proposed change. Canada replied that this was a concern for Canadian industry as well, and noted that a number of comments had been received from the United States, Mexico, European Union, and Canadian industry. Canada acknowledged that it intends to ensure that additional trade irritants are not caused when the changes are implemented. In the interim, Canada noted that it is considering adopting U.S. tolerances in some cases, among other approaches recommended. However, Canada cautioned that the process of setting MRLs is not equivalent to the process of revocation. Canada remarked that modeling U.S. EPA's process for setting MRLs has resulted in decreased time to set Canadian MRLs. Canada also noted that a second series of consultations would be conducted before the end of 2005, and that it would take three to five years to implement the revocation of Canadian general MRLs. The United States encouraged Canada to continue to work with the U.S. EPA, and stressed that equivalency be maintained in a North American environment. Canada concluded by encouraging continued joint pesticide reviews.

4. Processed Food Product Issues

a) Canadian access to U.S. refined sugar tariff-rate quota (TRQ)

Canada thanked the United States for agreeing to establish the Certificate of Quota Eligibility (CQE) for refined sugar entering from Canada. Canada

asked the United States for an update on the CQE implementation date. The United States responded that in order for the CQE to be issued for Canada, it would have to be published in the U.S. *Federal Register*, but noted that this is a high priority for the U.S. government. The United States indicated that it would continue working with Canada to resolve problems encountered with past shipments.

b) British Columbia ban on U.S. wines

The United States thanked Canada for not including U.S. wines on the retaliation list established in response for the United States' failure to repeal the *Continued Dumping and Subsidy Offset Act of 2000*. Canada questioned the United States on the status on repealing the Byrd Amendment, to which the United States replied that repealing the Byrd Amendment would require Congressional action.

c) Nutritional labeling

The United States encouraged Health Canada and the U.S. Food and Drug Administration (FDA) to jointly establish harmonized nutritional labeling and requested an update on Canadian nutritional labeling. Canada replied that the amendments to the *Food and Drug Regulations* that were published in the *Canada Gazette*, Part II, January 1, 2003, will require mandatory nutrition labeling on most prepackaged foods sold in Canada by December 2005. The mandated "Nutrition Facts" table requires declaration of the content of energy and 13 nutrients. Nutrients are declared in absolute amounts as well as a percentage of the Daily Value, except for vitamins and minerals which are only declared as percentage of a Daily Value, per stated serving size of the food. The Daily Values for vitamins and mineral nutrients used as the basis for declarations in the Nutrition Facts table are in some cases different from those used in the U.S. Nutrition Facts table. The United States indicated that it is interested in revitalizing the NAFTA Technical Working Group (TWG) Subcommittee on labels and packaging, noting that U.S. industry is committed to the NAFTA TWG. The United States commented that it was in agreement with Canada's view of getting the NAFTA TWG engaged on harmonizing nutritional panels on labels. Canada and the United States agreed that the report of the Institute of Medicine "Guiding Principles for Nutrition Labeling and Fortification" which was commissioned by the two countries, should be the basis for discussions between Canada and the United States with regard to the harmonization of reference values for nutritional labeling. The United States asked if Canada was working with U.S. FDA on trans-fat labeling. Canada responded that the declaration of trans-fat will be required as part of the Nutrition Facts table. Canada noted that the method of declaration of trans-fat is different between Canada and the United States. This is primarily due to Canadian requirements for the declaration of saturated plus trans-fat as

a percentage of a daily value. The United States will require the declaration of trans-fat only as an absolute amount. The United States questioned whether Canada was proposing legislation banning trans-fats. Canada replied that it had established a multi-sectoral Task Force that has been charged with developing recommendations and strategies to effectively eliminate or reduce processed trans-fats in Canadian foods to the lowest level possible. The final recommendations of the Task Force are expected at the end of 2005.

d) Canadian food fortification policies

The United States requested an update on Canada's recent proposed policy on food fortification. Canada replied that the Proposed Policy and Implementation Plan for the addition of vitamins and mineral nutrients to foods had been published in March 2005. Canada indicated that it is expected that regulatory proposals to implement the revised policy would be published in the *Canada Gazette*, Part I, by end of 2005. Canada encouraged all interested parties to submit comments on the regulatory proposals at that time.

Final regulations could take up to 18 months to be published from the date of the policy announcement. Canada noted that under the proposed changes, there would be an expansion of discretionary fortification, but with restrictions on which vitamins and minerals could be added and on the amounts that could be added. The United States replied that its industry is reviewing the proposed changes, but generally is pleased with the increased flexibility.

e) Canadian highlighted ingredients policies

The United States asked for an update on the status of Canada's highlighted ingredients and flavours policy. Canada replied that its proposed regulatory amendments remain on hold.

f) Container sizes for processed infant food in Canada

The United States restated its concerns on the rationale for the maintenance of restrictions and regulations on container sizes. Canada replied that focused stakeholder consultations were just completed and that a final report from these focused consultations is expected later in April, 2005. The United States asked if the proposed regulations are still open for comment. Canada replied the proposed amendments are still on the website for consultation and that all comments will be considered before finalizing the regulations.

5. Other Bilateral/ Plurilateral Issues

a) FDA *Bioterrorism Act* implementation

Canada stated that it is supportive of the *Bioterrorism Act*'s objectives, noting that it has worked closely with the U.S. FDA. Canada requested an update on finalization of the rules. The United States replied that on the Interim Final Rule on Prior Notification, the process was not yet where the United States would like it to be. There is no date for a proposed Final Rule. The United States is still working on the Registration Final Rule. The United States noted that information regarding establishments, maintenance records, and compliance materials are available on the (U.S. FDA) web site. Canada asked if the Registration Final Rule was on track for implementation on June 1, 2005, and the United States replied that it was.

b) Proposed CFIA *Enforcement Act*

The CFIA provided an update on the proposed CFIA *Enforcement Act*. Bill C-27 was introduced in the House of Commons on November 26, 2004. This proposed Act is intended to provide a more consistent and comprehensive overall approach to inspection, enforcement and compliance activities, thus contributing to the enhanced safety and security of Canada's food supply, and animal and plant resource base.

c) U.S. Country of Origin Labeling (COOL)

Canada asked the United States for an update on the status of its COOL regulations. The United States replied that it implemented the provisions applying to fish and shellfish in April 2005. The United States noted that it is undertaking an industry outreach and education program concerning the provisions and requirements of this rule. The United States said that it plans to issue the Final Rule for the other covered commodities within the next six months with the aim of having the Final Rule on labeling provisions in place by fall of 2006. Canada asked whether there were significant U.S. industry interests opposed to the rule. The United States replied that U.S. industry is currently facing labeling provisions that are now law, but that the United States wants to implement the law in a fair manner.

d) GOC negotiations with the farmer rail car coalition

The United States asked for information regarding the Transport Canada negotiations with the Farmer Rail Car Coalition (FRCC) for the sale of Government of Canada owned hopper cars. The United States indicated that it had concerns with the provision of loans to the Canadian Wheat Board (CWB), noting that the U.S. International Trade Commission (ITC) had found Canada's provision of hopper cars to be a countervailable subsidy. The United States expressed its desire that Canada's action on the hopper car fleet would respect its trade obligations. Canada responded by saying that it is committed to moving towards a more commercial, efficient and competitive grain

transportation system that meets the needs of producers and other stakeholders, while meeting Canada's trade obligations.

6. CCA Next Steps

- a) Report to PSAG at the next Tri-National Agricultural Accord meeting scheduled for April 13-16, 2005, in Sacramento, CA.
- b) Next CCA meeting: United States to host on October 6, 2005, in Washington, D.C.

ANNEX 1

U.S. Delegation List

U.S. Trade Representative

John Melle – Co-Chair, Deputy Assistant USTR/Americas
Sage Chandler, Director, Canadian Affairs
Marney Cheek, Assistant General Counsel, Office of General Counsel

U.S. Department of Agriculture

Foreign Agricultural Service

Patricia R. Sheikh – Co-Chair, Deputy Administrator , International Trade Policy/ITP
Roger Mireles/ITP, Senior Advisor, Asia and Americas Division
Pauline Simmons/ITP, International Economist, Asia & the Americas Division, Canada Desk
Audrey Talley/ITP, Deputy Director, Food Safety and Technical Services
Kristin Kezar, International Trade Specialist, Food Safety and Technical Services
Ron Lord, Import Policies and Programs Division
Larry Deaton/Deputy Director, Commodity & Marketing Programs/Horticultural and Tropical Products Division
Mike Woolsey, Commodity & Marketing Programs, Dairy Livestock & Poultry Division
Debbie Seidband, International Economist, Commodity and Marketing Programs, Grain & Feed Division

Agricultural Marketing Service

Randall Jones, Deputy Administrator, Livestock and Seed Programs

APHIS

Dr. Bob Bokma, Regional Coordinator for the Americas
Catherine S. Fulton, Trade Director, International Services & Trade
Russell Duncan, Associate Trade Specialist, International Services & Trade

U.S. Department of Agriculture, U.S. Embassy, Ottawa
Gary Groves, Agricultural Minister Counselor
Hugh Maginnis, Senior Agricultural Attache
Peter Grosser, APHIS Attache

Food and Drug Administration (FDA)

Robin Woo, Team Leader/International Policy and Technical Assistance, Office of Constituent Operations, Center for Food Safety and Applied Nutrition (CFSAN)

Environmental Protection Agency

Mary Francis Lowe, Office of Pesticide Programs

Canadian Delegation List

Agriculture and Agri-Food Canada

Blair Coomber, Director General
Ian Thomson, Western Hemisphere Trade Policy
Chris Leggett, Western Hemisphere Trade Policy
Matthew Cahoon, Western Hemisphere Trade Policy
Todd Hunter, Multilateral Trade Policy
Raphael Sauve, Multilateral Trade Policy

International Trade Canada

Andrea Lyon, Director General
Geoff Adams, Technical Barriers and Regulations
Rouben Khatchadourian, Technical Barriers and Regulations
Kathy Knorr, Technical Barriers and Regulations
Nathalie Durand, Trade Controls Policy
Sylvie Tabet, Trade Law
Nancy Segal, Tariffs and Market Access

Canadian Food Inspection Agency

Sharon Flack, International Affairs
Darlene Blair, Preparedness and Policy Coordination
Steve Cote, Grains and Field Crops Section, OVPPR
Michael Scheffel, Seed Standards

Health Canada

Kelly Butler, Pest Management Regulatory Agency
Chris Palmer, International Program Food Directorate
Christina Zehaluk, Nutritional Sciences Food Directorate

Transport Canada

John Doran, Rail Policy

Canadian Embassy, Washington, D.C.

Ron Krystynak, Counsellor, Agriculture

Fred Gorrell, Counsellor - Agriculture and Fisheries