

**Minutes of the U.S. -Canada Consultative Committee on Agriculture
October 6, 2005
Washington, D.C.**

1. CCA Business

a) Introductions

The U.S. co-chairs welcomed Canadian officials and other USG participants to the meeting. The Canadian co-chairs expressed their gratitude to the United States for hosting the CCA meeting. Both countries reinforced the close working relationship between the United States and Canadian governments, as well as representatives from the agricultural sectors of both countries.

List of participants (Annex 1) and Agenda (Annex 2) are attached.

b) Provinces – States Advisory Group’s (PSAG) issues review

The United States reviewed the PSAG's 2004-2005 work plan, noting that the CCA addressed several of the PSAG's interests. On dairy, both countries agreed to contact the PSAG for more information regarding their interests on this issue. With regards to softwood lumber, co-chairs agreed to facilitate an update, if needed, to the PSAG on this issue.

2) Livestock/Meat Issues

a) Update on Canada’s proposed ban on the use of carbadox in swine production

Canada updated the CCA on progress since the last meeting on the proposed regulatory amendment to ban Carbadox. Canada noted that wide stakeholder consultations had taken place, and that a Stop Sale had been in place since 2001. In addition, Drug Identification Numbers (DINs) had been withdrawn in 2004. The Joint FAO/WHO Expert Committee on Food Additives (JECFA) had also withdrawn the maximum residue limits (MRLs) for Carbadox, since both carbadox and desoxycarbadox are genotoxic carcinogens and it is therefore not possible to establish an Acceptable Daily Intake (ADI). Canada responded to the U.S. query about the marker residue, that the CFIA would be testing for desoxycarbadox rather than quinoxaline-2-carboxylic acid (CQA), which is the metabolite being monitored by the United States. Canada agreed to share its testing methodology for desoxycarbadox with the United States. The United States requested that Canada provide sufficient time for the United States to react prior to implementation of the ban and Canada agreed to work with the United States on this following publication of the proposed regulatory amendment to ban Carbadox in the *Canada Gazette*, Part I, by 2006.

b) Bilateral collaboration on animal health issues

Both countries reiterated their good working relationship. According to the United States, significant movement has been made on bluetongue and anaplasmosis for feeder cattle, but access for breeding cattle as well as access for swine due to pseudorabies and brucellosis concerns were still outstanding. On swine, the United States said both countries should work towards the resolution of issues related to disease equivalency. The United States informed Canada that rulemaking to consider equivalence for bovine tuberculosis was being developed and that if Canada does not engage the United States on this disease, Canada would not be included in the review for rulemaking. Canada responded that further discussions on these issues were anticipated as time demands relative to BSE decrease. In response specifically to the U.S request for a review of the bovine TB program, Canada agreed to apprise the relevant contacts in CFIA of the United State's desire for engagement on this issue. The United States stressed the importance of forward movement on animal health issues now that the U.S. market is open to selected Canadian animal products.

c) BSE

i. Canadian access to the United States (U.S. rulemaking process)

Canada was grateful to the U.S. Secretary of Agriculture and other U.S. government officials and stakeholders for their support on this issue, and urged the United States to move forward expeditiously with a single, comprehensive rule that includes live breeding animals. In response, the United States said that it is working on rulemaking that would propose to allow imports of animals, including breeding cattle, older than 30 months of age.

ii. Canadian access to Mexico

Canada asked for a quick resolution to its request on transshipments of cattle to Mexico and on the U.S. position that Mexico's BSE status would be lowered should it permit the importation of breeding livestock from Canada. On the latter, Canada noted that protocols to address U.S. technical concerns regarding Mexico's importation of breeding animals from Canada had been agreed to previously by the relevant authorities in all three countries.

iii. Regulatory update on feed ban

Canada noted that since the comment period ended on February 24, 2005 for the Canadian proposed feed ban regulations, over 200 written submissions have been reviewed. As well, consultations with both provinces and industry have taken place concerning disposal methods of certain bovine tissues and dead stock which may no longer be used for animal food or fertilizer. A series of risk assessments concerning the potential for BSE transmission from the use of a variety of different disposal methods will be completed this fall. Canada noted that officials will review the U.S. proposed feed ban rule which was published October 5, 2005, and agreed to provide a copy of Canada's comments to the CCA. Canada also advised that the proposed U.S.

feed ban rule did differ from Canada's. The United States promised to take Canada's comments into consideration as the final rule is drafted.

iv. Third country market access

Both countries provided updates on their access to third-country markets.

3. Plant Issues

a) Bulk produce restrictions

The United States provided an update on the on-going bilateral discussions regarding U.S.-Canada potato trade, noting it will respond to Canada's draft proposal within the next few days. Canada noted the bilateral efforts and collaboration during the discussions and looks forward to a mutually satisfactory resolution of this issue.

b) Seed tag

The United States noted that the Canadian Food Inspection Agency (CFIA) and the Animal and Plant Health Inspection Service (APHIS) have exchanged additional information regarding Canada's concern that seed tags do not provide assurances of complying with phytosanitary requirements. The United States said it will soon submit a formal proposal that will address Canada's concerns. Canada indicated that it was looking forward to reviewing this proposal. The United States indicated that it would like to pilot this proposal before the spring 2006 harvest. Canada responded that once the proposal was received, a quick turn around regarding its feasibility would be provided. However, if feasible, more time would be required to develop the program.

c) Wheat/barley exports to Canada

As done at previous CCA meetings, the United States requested that Canada accept a "Certificate of Origin" in lieu of a phytosanitary certificate for multiple shipments of U.S. wheat and barley grain. Canada noted that since the last meeting, additional consultation with stakeholders in Canada was completed and the policy is currently being finalized and prepared for sign off. The goal is to implement the pilot program in the upcoming weeks. The pilot program will be in place for two years at which time it will be reassessed and discussions held as to whether the program should remain permanently.

d) Seed certification laboratory accreditation

The United States said that based on assurances from CFIA, the CCA co-chairs informed the PSAG during their April 2005 meeting that AMS and CFIA remain committed to establishing procedures that will allow persons in the United States to grade and label certified seed for shipment into Canada. The United States was disappointed that this could not be achieved due

to Canada's delay in accrediting personnel in the United States for the purpose of applying Canadian grades for seed sale in Canada. Canada thanked the United States for helping move this issue forward to allow for the recognition by Canada of seed testing laboratories accredited by USDA-AMS and said the delay in the accreditation of U.S. residents as graders, was due to legal and logistical issues as well as regulatory amendments which are currently being prepared. Canada noted that a bilateral meeting on this issue is scheduled for November 2005. Based on a U.S. request, Canada promised to verify if the amendment to the Seed Regulations is part of the overall seed sector review.

e) Harmonization of pesticides

The United States reported on the most recent bi-annual meeting of the NAFTA Technical Working Group (TWG) on pesticides, which was held from May 2-3, 2005, in Ottawa, Canada. Both countries expressed appreciation to the Environmental Protection Agency (EPA) and the Pest Management and Regulatory Agency (PMRA) for progress made towards the harmonization of pesticides among the three NAFTA countries. The United States said the CCA co-chairs will formally request the NAFTA TWG to report on their activities during the next Tri-national Accord meeting, scheduled for August 2006 in Alberta, Canada.

f) Update on proposed changes to Canada's maximum residue limits (MRLs)

In response to U.S. questions on the status of Canada's proposed changes to its maximum residue limits, Canada responded that a consultation document, aimed at harmonizing with U.S. MRLs, would be available in early 2006 and that Canada is still looking at a 3-5 year implementation timeframe. Both countries agreed to continue working together to prevent any trade irritants.

g) Update on anti-dumping and countervail cases on grain

The United States expressed disappointment at the Canadian Border Services Agency's (CBSA's) decision to initiate formal anti-dumping and countervailing duty investigations on imports of U.S. corn. The United States stated that it did not believe the petition submitted by the Canadian corn industry contained sufficient evidence of injury to Canadian corn producers to initiate an investigation. The U.S. government will actively engage with the Canadian investigative agencies during the investigation to defend the interests of U.S. corn producers and exporters. The United States reiterated the importance of our bilateral trade in corn, noting that Canada is one of the top 10 markets for U.S. corn, particularly to its livestock sector. Canada responded that it will take the U.S. statement under advisement as this case moves forward, though this is a quasi-judicial process in which Agriculture and Agri-Food Canada and International Trade Canada had no role to play. Canada also restated the U.S. International Trade Commission's finding that Canadian wheat does not injure U.S. producers and said it looked forward to the United States rescinding the anti-dumping and countervailing duties imposed on Canadian wheat and a refund of the duties collected.

h) Possible Canadian anti-dumping case against U.S. apples

The United States requested an update on a possible Canadian anti-dumping and countervailing case against U.S. apples. Canada responded that its government officials are not aware of any anti-dumping investigation against U.S. apples. The United States stressed the need for industries from both countries to work together to avert any future trade action.

4. Processed Food Product Issues

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

The United States informed Canada that per Canada's request, effective October 1, 2005, U.S. Customs requires Certificates of Quota Eligibility (CQE) as a condition of entry against Canada's refined sugar country. USDA also announced an increase in the global fiscal year 2006 refined sugar quota of 75,000 short tons (68,039 metric tonnes) and noted that Canada is eligible to enter under this global refined sugar TRQ. The United States said since this issue has been resolved, it should be taken off the CCA agenda. Canada concurred and thanked the United States for its quick response and for establishing the CQE requirement.

b) Nutritional labeling

The United States requested an update on the final implementation/enforcement of Canada's mandatory nutrition labeling on most prepackaged foods sold in Canada, which is scheduled to go into effect on December 12, 2005. Canada responded that it has set up a multi-sector Task Force on trans-fat, charged with developing recommendations and strategies to effectively eliminate or reduce processed trans-fats in Canadian foods to the lowest level possible and that the final recommendations of the Task Force are expected by the end of 2005. Canada also said that the final implementation of Canada's mandatory nutrition label is on target to become effective on December 12, 2005. The United States agreed to co-host the next NAFTA TWG on Food labeling next year in order to move this issue forward and assess the impact of the new regulations on trade. The United States also agreed to provide Canada in writing with any remaining questions so that they may be addressed prior to implementation.

c) Canadian food fortification policies

The United States requested an update on Health Canada's long-standing restrictions on marketing of breakfast cereals or other products fortified with vitamins and/or minerals at U.S. levels. Canada responded that its revised policy on the addition of vitamins and mineral nutrients to foods (published in March 2005, http://hc-sc.gc.ca/fn-an/nutrition/vitamin/fortification_final_doc_1_e.html), partially based on the U.S. Institute of Medicine's (IOM) Guiding Principles for Nutrition Labeling and Fortification, retained the current fortification policies, except that discretionary fortification will be broader. Canada said the proposed regulations implementing the revised policy will be pre-published by mid 2006 and

made available on Health Canada's website for comment by interested stakeholders. The draft proposals will also be available for comment when notified to the World Trade Organization.

d) Canadian highlighted ingredients policies

The United States requested an update on the status of Canada's proposed highlighted ingredients policy. Canada noted that there has been no change in status since the November 2004 CCA meeting and that the development of regulatory amendment policies to clarify the labeling of highlighted ingredients and flavours, initially discussed during the November 2003 CCA meeting, remains on hold. Although Canada has indicated to stakeholders that it is willing to consider alternative proposals, none have been received.

e) Container sizes for processed infant food in Canada

The United States requested an update on CFIA's container size policies that limit baby food container sizes. Canada responded that the amendment of the processed products regulations is being dealt with on a comprehensive basis, and any proposed amendments to the section dealing with container sizes for baby food are being dealt with in this process. A consultant's report on the impact of the proposed regulations is expected by the end of fall 2005. Canada said that it is awaiting this report before publication of the proposed regulations for public comment. The United States requested a copy of the terms of reference for the consultant's report.

f) Update on Canadian organic regulation

The United States asked Canada for an update on Canada's soon to be published organic standard. In response, Canada said that CFIA and Agriculture and Agri-Food Canada established an organic task force, which has conducted extensive meetings with stakeholders and other government departments. The task force is drafting proposed regulations. Canada promised to continue working with the United States with the aim that trade in organic goods between the United States and Canada continues uninterrupted. Also, discussions on equivalence will be addressed after finalization of the proposal; however, neither country foresees any major hurdles. On accreditation and certification, Canada said it will work towards mutual recognition through acceptance of USDA's Agricultural Marketing Service accreditation system of U.S. certifiers. Both countries reported on their respective status with the EU on this issue.

g) Ontario Legislation on wine distribution

The United States requested an update on the Ontario provincial legislature's Bill 7 that would authorize the province to establish more stores in which only Canadian wine could be sold. The United States also noted that the proposed legislation appears to violate Canada's international obligations under the NAFTA agreement. Canada responded that it was aware of the contents of the Bill and that Ontario government officials have been informed of Canada's trade obligations. Canada further noted that it understands that the Bill is currently being examined by a

committee of the Ontario legislature, and that a report of a recent meeting of that committee indicates that the Ontario government is aware of Canada's trade obligations in this area.

h) U.S. requirements for certification of imported natural wines

Canada requested information on new wine certification procedures required by the U.S. *Miscellaneous Trade and Technical Corrections Act* of 2004, particularly with regards to “natural wine” made from fruit other than grapes, cider and low alcohol grape wines. Canada also sought an exemption for these products from the requirement for certification. The new regulation stipulates that wine originating in a country with which the United States has an established agreement on the acceptance of wine-making will be exempted. The United States noted that Canadian grape wine covered by the World Wine Trade Group Mutual Acceptance Agreement is exempt from certification and that comments on the rulemaking will be accepted until October 24, 2005. The United States also said that this issue will be discussed during the next wine meeting in Brussels and promised to provide Canada with a list of approved labels for Canadian ciders or fruit wines. Depending on how it is produced, the United States indicated that Canadian cider may not be affected by the new regulations. Canada thanked the United States for its cooperation on this issue and hoped both countries will continue to work together to prevent any trade ramifications for Canadian wines.

i) U.S. Marketing Order regulating shipping oranges grown in Florida

Canada requested information on how Canada could import U.S. No. 2 oranges from Florida for “fresh squeezed orange juice”. The United States responded that Florida oranges may be exempt from marketing order requirements if they are used for processing. According to the United States, fresh oranges for export must grade at least U.S. No. 1 or U.S. No. 1 Golden, depending on variety. Exemptions to these requirements include shipments “destined for a commercial processor for conversion into canned or frozen products or into a beverage base”. Such changes would need to be recommended by the Citrus Administration Committee for USDA’s approval under the informal rulemaking process. The United States advised that the Committee would want to ensure that Canadian buyer is, in fact, using them directly for processing and not reselling. The United States advised that the Canadian businesses should work through Florida suppliers, handlers or shippers, to determine feasibility of importing U.S. No. 2 oranges. The United States also indicated that shipping unpasteurized, fresh orange juice is prohibited.

5. Other Bilateral/ Plurilateral Issues

a) EU Issues

- i) WTO case regarding the European Union’s biotechnology moratorium

The United States welcomed the EU’s approval of four new biotech products, but noted that four approvals in seven years does not constitute an end to the moratorium, nor does it restore market access for U.S. corn producers. The United States also said it had been notified that the Panel’s

report will be delayed until January 2006. Both countries appreciated their continued cooperation on this issue.

ii) EU's new rules on traceability and labeling

Both countries said they were awaiting the Commission's report and that they were still assessing the impact of the EC's regulations. They also encouraged continued bilateral cooperation on this issue.

iii) EU's hormones ban

The United States said it is looking for ways to restart discussions on this issue. Both countries agreed to continue working closely together on the Panel's proceedings.

b) Biotechnology

i) Update on U.S.-Canada cooperation on biotechnology

Both countries were appreciative of their close working relationship on this issue and look forward to working on documentation with Mexico.

ii) Update on the North American Biotech Initiative (NABI)

The United States said it appreciates the close collaboration between the two countries on this issue. Canada provided an update on the just ended NABI meeting held in Puerto Rico, saying the discussions were very fruitful and that progress was made on documentation. The United States requested Canada's cooperation in working with the Inter-American Institute for Cooperation on Agriculture (IICA) and other southern cone countries.

c) The Perishable Agricultural Commodities Act (PACA)

At the request of the U.S. fruit and vegetable industry, the United States approached the Government of Canada to encourage the development of statutory trust provisions that will protect fruit and vegetable suppliers selling to Canadian buyers. The United States explained that the U.S. *Perishable Agricultural Commodities Act* (PACA) trust provisions have been very successful in the United States and allowed unpaid sellers in both countries to quickly recover hundreds of millions of dollars. The United States indicated that this process does not impose any burden on the federal government as the sellers trust rights are self-enforced through U.S. District Courts. In response, Canada said it has discussed the creation of PACA-like provisions in Canada with the North American Trade Task Force and existing mechanisms were being reviewed to find out if they could be used effectively.

d) Update on the Government of Canada's negotiations with the Farmer Rail Car Coalition

The United States requested an update on Canada's negotiations with the Farmer Rail Car Coalition (FRCC) for the sale of Government of Canada (GOC) owned hopper cars. Canada responded that the negotiations, aimed at a competitive grain system that meets Canada's international obligations, were ongoing.

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

Canada reiterated its opposition to USDA's mandatory country of origin labeling requirements and requested an update on the issue. The United States provided an update on Congressional actions related to COOL. Requirements for wild and farm-raised fish and shellfish became effective on April 4, 2005. The United States also made certain changes to the interim final rule covering fish and shellfish that address some of Canada's concerns. Canada expressed its appreciation for the U. S. efforts to remind various U.S. states of U.S. international trade obligations as they pursue their own COOL requirements. The United States responded that the federal government continues to use various channels to inform states about U.S. trade obligations.

f) FDA Bioterrorism Act registration and prior notice

In response to Canada's request for an update on this issue, the United States said that on September 28, 2005, the U.S. Department of Health and Human Services and the Department of Homeland Security issued a final rule implementing the food facilities registration provision of the Bio-terrorism Act. The United States noted that the final rule does not make any changes to the regulatory requirements established by the interim final rule, which was designed to increase the safety and security of the U.S. human and animal food supply. The United States also said that the issuance of the final rule on Prior Notice has been delayed. Canada expressed concern with the Prior Notice final rule and requested that this issue remain on the CCA agenda.

g) Update on CFIA Enforcement Act, Bill C-27

The United States requested an update on the CFIA's Enforcement Act of November 26, 2004, which is intended to provide a more consistent and comprehensive overall approach to inspection, enforcement and compliance activities. Canada responded that the Bill was still undergoing legislative proceedings and that licensing regulations in the Bill are unchanged.

h) Update on proposed amendment to dairy labeling in Canada (Bill C-27)

The United States expressed concerns about the proposed amendment to Bill C-27 regarding dairy labeling in Canada, noting that if implemented, the legislation could have significant implications for domestic and imported dairy products. The United States also mentioned Under

Secretary Penn's and Ambassador Johnson's letters to the Canadian government on this issue, requesting that the amendment not be pursued. Canada responded that the amendment was added during a clause-by-clause review of the Bill by the Standing Committee on Agriculture and Agri-Food (SCAAF). The amendment was not made by the federal government. The Bill has been reported by the SCAAF to the House of Commons, but has not yet entered Report / Second Reading stage. At that stage, there will be an opportunity for Members of Parliament to make additional amendments to the Bill. The Government is aware of the potential, unintended effects of the proposed provision.

6. CCA Wrap Up

a) Next meeting - Canada to host

Annex 1 U.S. Delegation List

U.S. Department of Agriculture

U.S. Trade Representative

Foreign Agricultural Service (FAS)

Patricia R. Sheikh – Co-Chair
Deputy Administrator
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Sharon Bomer – Co-Chair
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Robin Woo, Senior Policy Analyst
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Hugh Maginnis
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Dairy Livestock & Poultry Division

Animal & Plant Health Inspection
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Catherine S. Fulton
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Randall Jones
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Bruce Summers
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Michael Durando
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Marketing Order Administration Branch
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Rita Kishore
Senior Chemist
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Gary Groves, Ag. Min. Counselor

Canadian Delegation List

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Geoff Adams
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Ron Krystynak
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Sharon Flack
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Darlene Blair *
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Joe Southall *
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Dr. Jean Kamanzi *
Director
Food Microbiology and Chemical Evaluation

Dr. Frédérique Moulin *
National Manager, International Programs
Food of Animal Origin Division

* By teleconference

Annex 2 Agenda

1. CCA Business

- a) Introductions
- b) Provinces – States Advisory Group’s (PSAG) issues review

2. Livestock/Meat Issues

- a) Update on Canada’s proposed ban on the use of carbadox in swine production
- b) Bilateral collaboration on animal health issues
- c) BSE
 - v. Canadian access to the United States (U.S. rule-making process)
 - vi. Canadian access to Mexico
 - vii. Regulatory update on feed ban
 - viii. Third country market access

3. Plant Issues

- a) Bulk produce restrictions
- b) Seed tag
- c) Wheat/barley exports to Canada
- d) Seed certification laboratory accreditation
- e) Harmonization of pesticides
- f) Update on proposed changes to Canada’s maximum residue limits (MRLs)
- g) Update on anti-dumping and countervail cases on grain
- h) Possible Canadian anti-dumping case against U.S. apples

4. Processed Food Product Issues

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

- b) Nutritional labeling
- c) Canadian food fortification policies
- d) Canadian highlighted ingredients policies
- e) Container sizes for processed infant food in Canada
- f) Update on Canadian organic regulation
- g) Ontario Legislation on wine distribution
- h) U.S. requirements for certification of imported natural wines
- i) U.S. Marketing Order regulating shipping oranges grown in Florida

5. Other Bilateral/ Plurilateral Issues

- a) EU Issues
 - i) WTO case regarding the European Union's biotechnology moratorium
 - ii) EU's new rules on traceability and labeling
 - iii) EU's hormones ban
- b) Biotechnology
 - i) Update on U.S.-Canada cooperation on biotechnology
 - ii) Update on the North American Biotech Initiative (NABI)
- c) The Perishable Agricultural Commodities Act (PACA)
- d) Update on the Government of Canada's negotiations with the Farmer Rail Car Coalition
- e) U.S. Country of Origin Labeling (COOL)
- f) FDA Bio-terrorism Act registration and prior notice
- g) Update on CFIA Enforcement Act, Bill C-27
- h) Update on proposed amendment to dairy labeling in Canada (Bill C-27)

6. CCA Wrap Up

- a) Next meeting - Canada to host