

**Report of the United States-Canada Consultative Committee on Agriculture  
November 20, 2008  
Washington, D.C.**

**CONSULTATIVE COMMITTEE ON AGRICULTURE BUSINESS**

The United States and Canada reviewed the agenda and agreed that the new procedures of the Consultative Committee on Agriculture (CCA) are working well.

**PRIORITY ISSUES FOR TECHNICAL DISCUSSION**

**2007 Canada – United States Potato Arrangement**

The United States Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) noted that USDA is continuing to phase down the spot inspection program for potatoes. However, the United States will maintain the authority to conduct random monitoring inspections on imported Canadian potatoes. AMS also noted that the rule-making process remains underway for domestic marketing orders and import regulations for potatoes. The import regulations will allow for potatoes as small as one inch in diameter to be imported into the United States.

Both sides noted constructive discussions in regard to the quality management program review on the Canadian Food Inspection Agency (CFIA) potato export certification in order to explore more efficient options that would achieve the same objective as the current monitoring inspections. Canada said it was encouraged by the United States' willingness to work toward a systems approach rather than truck-by-truck inspections, expressing concern that border delays can lead to potato degradation. Canada requested that in the meantime, AMS consider allowing loads to proceed to destination while the paperwork is being processed.

The United States indicated that it would send Canada its questions on annual averaging, and both sides agreed that a conference call would be subsequently scheduled to discuss this matter.

**Potato Cyst Nematode**

Canada informed the Committee of the state of progress for soil sample testing of the seed potato fields in the affected regions of Alberta, noting that up to the day of the meeting, all results were negative. Canada also noted that no phytos would be issued for a given seed lot until all soil samples collected from each respective farm had been tested with negative results for PCN. Canada updated the Committee on the recent tentative agreement for re-establishing exports of seed potatoes from Alberta, Saskatchewan, and Manitoba. Following completion of sampling, the United States would agree to provide access for seed potatoes from all unaffected fields. Full implementation of this agreement would be pending the results of a scientific review of the PCN Guidelines which were updated in May 2008 in consultation with respective stakeholders. USDA's Animal and Plant Health Inspection Service (APHIS) suggested

that the PCN issue be further discussed at the technical level. Canada underlined that work was continuing on a process leading to a revised set of PCN Guidelines early in 2009 and stressed the importance of ensuring a common and synchronized approach for briefing respective stakeholders.

Canada asked the United States what would occur (under this new agreement) in the event of a new case. Canada indicated its concern about a potential blanket policy, which could result in farms not even remotely connected epidemiologically to a given event being affected by a province-wide ban.

Canada also raised the issue of the number of untested potato fields in Idaho. Canada expressed concern as it appears that Idaho producers are receiving more favourable treatment than Canadian producers. It was noted that even though there is a ban on imports into the U.S., interstate trade is still occurring. Canada requested an explanation of U.S. domestic controls. The United States acknowledged that there appears to be some “national treatment” issues, and has undertaken to get back to Canada with a further explanation.

### **Canadian Cheese Compositional Standards**

The United States stated that implementation of Canada’s new cheese compositional standards are of great concern to its industry and expressed frustration that Canada’s distribution of its compliance guidance, only three weeks in advance of the regulation’s entry into force, provided inadequate notice. Canada indicated that delays were the result of the recent call for federal elections and that it was not prepared to delay implementation. Canada also noted that it anticipated that the majority of imported cheese was already consistent with the regulations, adding that the initial administration of the regulations would be flexible as inspectors are currently being trained, and any issue would be addressed according to priorities and risk. Both countries agreed to a technical meeting to discuss documentation and enforcement issues.

### **Lacey Act Amendment**

Canada submitted comments to the United States prior to the World Trade Organization (WTO) notification and indicated it was pleased to see that the comments had been well-received. Canada further indicated it was pleased by the U.S. plan (announced in the Federal Register) to delay and phase in enforcement of the declaration requirement. Canada encouraged the United States to target only the goods at high risk of being associated with illegal logging practices. The United States noted that this is the intention of the legislation, and welcomed the fact that combating illegal logging is a concern shared by Canada. Canada inquired if the amendments allow for the scope to be narrowed in 2 years. The United States responded that the statute provides for a review, to be completed within the next 18 months, with changes in some aspects of implementation based on this review. Both parties agreed to continue technical discussions.

## **Bovine Spongiform Encephalopathy (BSE) Issues**

### **September 18 Federal Register Notice on the Delay of Applicability**

Canada noted that it submitted comments to APHIS on the Federal Notice of September 18, 2008, on the delay of applicability for the rule that lifted age restrictions on Canadian beef and beef products entering the U.S. market. This Notice was the result of a court order. The comment period closed on November 17, 2008. Canada's comments place strong emphasis on the science backing its claims regarding SRM removal, the feed ban, and Health Canada's risk assessments. The comments stress the importance of Canadian beef to U.S. importers.

### **BSE Comprehensive Rule**

The United States explained that it was required to delay the comprehensive BSE proposed rule due to a court order related to the delay of applicability notice. Canada inquired as to how the rule will parallel the World Organization for Animal Health (OIE) guidelines of the United States' and Canada's determined risk status and if there would be a rulemaking process for every country. APHIS explained that a country's OIE risk determination will weigh heavily on its ability to ship to the United States.

### **Small Ruminants Rule**

Canada inquired if the new comprehensive rule would permit small ruminants of all ages to transit the United States. APHIS explained that the nature of the transmissible spongiform encephalopathy risk for small ruminants requires separate rule-making. Canada noted the importance of rule-making for small ruminants access to the United States being implemented as soon as possible.

The United States is considering Canada's proposal for alternative methods of identification for small ruminants to be "deemed as acceptable" in accordance with the BSE Minimal Risk Rule. This proposal was set out in a letter dated November 20, 2008, sent to the APHIS Administrator from Canada's Animal Welfare Coordination Committee.

## **PRIORITY ISSUES FOR TRADE POLICY DISCUSSION**

### **Third Country Market Access (BSE Issues Continued)**

The United States and Canada exchanged updates on negotiations to liberalize beef and cattle access to third countries and agreed to share new developments. Canada indicated that it faced pressure from its industry as a result of its position to negotiate agreements that are OIE-consistent. Many in the Canadian industry are pressing Canada to take a phased approach in certain markets. The United States noted that it had received strong industry pressure to negotiate partial openings but that it had insisted on seeking OIE-consistent access as non-OIE based deals have been difficult to comply with.

## **Genetically Engineered Animals**

Both countries expressed the importance of discussing new technologies issues as they evolve. Canada cited the good cooperation between the U.S. Food and Drug Administration (FDA) and Health Canada on nanotechnology. The United States indicated that it will continue to reach out to key trading partners on its approach to regulate genetically engineered (GE) animals. The United States thanked Canada for providing comments on the FDA's recent "Guidance to Industry on the Regulation of GE Animals," and noted that Canada appeared to be in agreement with the U.S. approach. Canada explained that its regulation of GE animals is covered by its Novel Foods legislation and regulations (the same approach used in Canada for regulating GE plants) and that it did not anticipate legislative changes for the regulation of GE animals.

## **Animal Cloning Issues**

The United States and Canada discussed their respective regulatory processes with regard to animal cloning.

## **Country of Origin Labeling (COOL) Issues**

Canada expressed its strong opposition to mandatory COOL and highlighted the concerns contained in its comments submitted on September 5, 2008, to AMS in response to the publication of the interim final rule in the Federal Register on August 1, 2008.

Canada reiterated its disappointment with the legislation, particularly with the co-mingling guidance published on September 26th. Canadian industry has reported that they are already feeling the negative impacts of COOL, and the Canadian Government is working with industry on monitoring the impacts of COOL, specifically as it affects the cattle and hog sectors. Canada stated that economic consequences can be expected on both sides of the border and that the Canadian Government is receiving increased pressure from industry to take action.

## **Codex Committee on Food Labeling Issues**

The United States described its position on the *Codex Alimentarius* (Codex) Committee on Food Labelling's (CCFL) consideration of the labeling of biotechnology products. The U.S. position is: 1) all work on this topic in CCFL should cease; 2) sufficient guidance related to this topic already exists elsewhere in Codex; and 3) Codex should focus its time and energies on other, more important priorities. The United States requested that the two countries continue to cooperate on this issue.

## **European Union (EU) Issues**

### **The EU Hormones Case**

Canada commented that the lawyers in the capitals and Geneva have been working well on the EU hormones case. With respect to settlement negotiations with the EU for additional access, Canada would like to share with its industry the definition of beef (under a new tariff rate quota (TRQ)) the United States proposed to the EU. Regarding

the EU's argument that any U.S. actions to rotate the products subject to withdrawal of concessions is not consistent with WTO agreements, the United States stated that it considers modifications to the list of EU products subject to additional duties to be consistent with WTO rules.

### **The WTO Case against the EU on the Regulation of Biotechnology Products**

Canada indicated that its reasonable period of time expires December 21, 2008 and that no decision has been made on how to proceed after December 21st. The United States said that EU "improvements" represent slight changes to the regulatory process and that it does not foresee positive results emerging from EU changes currently underway.

### **Organic Equivalency Issues**

The United States indicated it would like to complete equivalence discussions before the June 2009 implementation of new Canadian organic requirements. Canada indicated that it would provide the United States a response on the analysis it submitted shortly. The United States indicated that organic equivalence discussions were a priority. Canada replied that it also feels that equivalency (where possible) with the United States and other partners is important and that it looks forward to a third meeting on the subject. Canada said it had not been able to confirm that technical discussions were to take place in December as the United States indicated.

### **Common Approaches for Ensuring Safety of Food Imports**

Canada said that both Canada and the United States face enormous challenges regulating imports from third countries. Canada noted that the CFIA is working well with FDA on these issues. The United States responded that it expects the close cooperation between regulatory agencies to continue.

### **Border Issues**

Canada proposed a strategy for the CCA to move forward on border issues. The basis for this proposal is growing concern regarding the uncertainty and wait times at the border, accumulating regulatory issues and the threat to competitiveness of the North American market. The first step of the proposed strategy is a review of existing research and analysis, as well a discussion on how respective parties can work cooperatively on these matters. Canada indicated that Agriculture and Agri-Food Canada is in the process of commissioning a study on Canadian exporters' issues concerning the border. This project is still in the proposal stage, however, completion is targeted for March 2009.

In response to U.S. questions about the CCA's role in the strategy, Canada replied that both Canada and the U.S. would identify issues and work together to develop approaches to address them proactively. Canada explained that a number of elements might be considered in the future for CCA to address. This group could address crucial border issues or perhaps direct its attention toward issues identification. This would be an opportunity for the CCA to work proactively on issues.

The United States noted that limited resources need to be kept in mind. However, the United States is willing to maintain dialogue on some of the more significant issues, noting that the CCA's agenda items have been reduced in number.

### **Next meeting**

It was agreed that the next Canada-U.S. CCA would take place in Ottawa, in May 2009.

### **ANNEX I**

#### **Agenda**

### **ANNEX II**

#### **List of Participants**

Jocelyn Brown – USDA, U.S. co-chair

Mike Yost – USDA

Jonn Slette – USDA

Howard Wetzel – USDA

Sharynne Nenon – USDA

James Murphy – USTR

Anne Heilman-Dahl – USTR

Mary Sullivan – USTR

Eric Nichols – APHIS

Robin Tilsworth – FAS, Embassy of the United States to Canada

Lisa Anderson – FAS, Embassy of the United States to Canada

Stephen Lavergne – AAFC, Canadian co-chair

Denise Climenhage – AAFC

Amy Thomson – AAFC

Daniel Burgoyne – CFIA

Paul Robertson – DFAIT, Canadian co-chair

Kathleen Mackay – DFAIT

Guillaume Cliche – DFAIT

Jean-François Marion – DFAIT

Kevin Tunney – DFAIT

Pam Simpson – Embassy of Canada to the United States

Lynn McDonald – Embassy of Canada to the United States