

Bilateral Agenda for U.S.-Canada Consultative Committee on Agriculture (CCA)
May 31, 2007
Ottawa, Canada
Room 165, Sir John Carling Building, 930 Carling Avenue

1. CCA business

a) Introductions and opening remarks

The Canadian co-chairs welcomed the U.S. delegation to the meeting, and noted that at the last CCA meeting on November 17, 2006, progress was made on some important issues. The U.S. co-chairs thanked Canada for hosting the meeting. The Canadian and U.S. co-chairs expressed their eagerness to make progress on some long-standing items on the agenda.

b) Provinces - States Advisory Group's (PSAG) issues review

Canada noted the State of Nuevo Leon hosted the 17th annual meeting of the Tri-national Agricultural Accord in Monterrey, Mexico from April 18 to 21, 2007, and provided an update on key issues under discussion, including pesticide harmonization, potato cyst nematode, seed tags, the removal of import restrictions regarding bluetongue, and ministerial exemptions. Canada informed the CCA that the PSAG identified two issues on which it wants an update from the CCA: current efforts to address differences in veterinary drug usage and approval, and Canadian Ministerial exemptions and U.S. marketing orders. Canada noted that both of these items would in fact be discussed in some capacity during the current meeting.

2. Livestock/meat issues

a) Status on carbadox

The U.S. noted their appreciation of the persistence of Canadian and U.S. officials in working on the technical level to understand each others' approaches to carbadox. The U.S. stated that they hope to keep working on a long-term approach to regulating carbadox, which could benefit from a study that the U.S. Food and Drug Administration (FDA) is awaiting from the manufacturer. In the interim, the U.S. affirmed its willingness to work with Canada to develop measures that meet Health Canada's concerns.

Canada agreed on the need to continue technical work, and noted that if no acceptable solution is found, Canada will need to take further measures to ensure there are no desoxycarbadox residues in the food supply. Canada noted its disappointment in this respect with the timeline for when the manufacturer's study would be available. Both Canada and the U.S. stated that they were looking forward to further discussion during the upcoming conference call to be held on June 11, 2007.

b) BSE

i) Update on Canada's May 2, 2007 BSE case

Canada provided an update on the CFIA's investigation into the detection of BSE in a purebred Holstein cow from the Fraser Valley in British Columbia. The animal was non-ambulatory, thus targeted for Canada's BSE surveillance testing. The animal was born and raised on the same farm, and lived in a closed herd. The investigation identified three feed rations from one commercial supplier, one of which was fed to the cow in its first year of life, and noted that there were opportunities for cross-contamination. Canada noted that finding a small number of BSE cases is not unexpected, and that it has full confidence in the ability of the feed ban to reduce and eradicate the disease in the Canadian cattle population.

Canada also noted that recent enhancements to its feedban, to be implemented this summer, will further accelerate the eradication of BSE in Canada.

ii) Canadian access to the U.S. (U.S. rulemaking process)

Canada requested an update on the status of the U.S. BSE second rule. The U.S. responded that it expects the rule to be submitted to the White House Office of Management and Budget (OMB) for review by the summer, and is looking to publish a final rule in the Federal Register by the end of the summer. As with all U.S. regulations of economic significance, there will be a 60 day delay subsequent to publication before the rule can be implemented.

Canada noted its understanding that work is underway on a third, comprehensive BSE rule that would include import certification requirements for small ruminants, and requested a status update. The U.S. informed the CCA that this issue had recently been discussed at the North American Animal Health Committee meeting in San Francisco. The U.S. confirmed that the rule is in development, but not imminent, and is not expected to be finalized before the end of 2008. The U.S. noted that the comprehensive rule will incorporate OIE guidelines and BSE classifications. The U.S. offered to follow-up with more information on how small ruminants will be addressed in such a rule.

iii) Canadian access to Mexico

Canada underscored the Canadian industry's ongoing concern that Mexico cannot import Canadian breeding cattle as a result of current U.S. requirements, while U.S. breeding cattle have access to the Mexican market. Canada noted the importance of resolving this issue, and the importance of the prompt implementation of the U.S. BSE second rule in this regard. The U.S. noted that it understood the importance of this issue to Canada, and would work to resolve the issue as quickly as possible.

iv) Bilateral update of Canadian and U.S. feed ban initiatives

Canada provided an update of its engagement with the provinces and industry to assist them in preparing for the July 12, 2007 implementation of Canada's enhanced feed ban, which will prohibit the use of specified risk material (SRM) in all animal feed (livestock and pet food), and fertilizers. Canada noted that it had provided approximately CDN \$130 million in support of implementation, in particular to assist with disposal requirements. Canada indicated it has agreements with five provinces on SRM disposal and expected to complete agreements with the remaining provinces shortly. Officials were working closely with industry to standardize procedures for disposing and transporting SRM.

The U.S. noted it has concerns with respect to how Canada's enhanced feed ban will affect Canada-U.S. trade in pet food, which is a highly integrated market, with trade of approximately \$400 million annually. In particular, the U.S. expressed concern regarding the ability of U.S. exporters to meet the new import permit requirements. Canada and the U.S. recognized progress made during recent bilateral meetings to develop a questionnaire for exporters, and noted their commitment to work together to address concerns regarding pet food import permit requirements.

v) Third country market access

The U.S. noted that Canada had recently reached agreement with Indonesia and Russia, and expressed concern regarding acceptance of agreements that are less than consistent with OIE guidelines. The U.S. noted that it is seeking the full access entitled to it under OIE standards, and that it hopes that Canada and the U.S. are pursuing similar policies.

Canada indicated that it has always sought full access in line with OIE guidelines, and that the central thrust of its strategy remains to seek full access for all beef and all cattle. Canada and Russia agreed in October 2006, on certification requirements, but Canada is still waiting for the review of its plants by Russian experts. Similarly, with respect to Indonesia, the agreement recently reached is the conclusion of a process that had been underway for several years, the result of which is that Canada now has access for boneless beef of all ages.

Canada noted that on May 22, 2007, both Canada and the U.S. were designated as "controlled BSE risk" countries by the OIE. Canada's strategy now is to go back to all of its trading partners to secure the full access entitled to it in accordance with this OIE status. Canada noted that the U.S. has access to Taiwan for boneless beef under 30 months, and that Canada is now close to getting similar access, following which, Canada plans to take this access and build upon it, in line with OIE guidelines. The U.S. noted it was reassured by Canada's response, and took the opportunity to reinforce the importance of following the same approach with respect to third markets.

Canada circulated a list of its market access openings to date, and noted that it had regained access to four new markets since the last CCA meeting. In particular Canada has now shipped 2000 cattle to Russia. The U.S. noted it is working on regaining access in China, and that it was encouraged by its ongoing dialog with Korea and Japan.

Similarly, Canada stated that it is also encouraged by its discussions with Korea and Japan. Canada noted, however, that Korea has been a real struggle for Canada. While the U.S. has access for boneless beef from animals under 30 months of age, Korea suspended discussions with Canada in January, 2006. Canada noted that it has sent a letter to Korea requesting access in line with OIE guidelines, and with Korea's commitments under the WTO SPS Agreement.

Both countries agreed on the importance of continuing to work together in advocating access to third country markets based on OIE guidelines.

vi) Harmonization of bovine small intestine regulations

The U.S. asked Canada for an update on a timeframe for changes to Chapter 10 of the Meat Hygiene Manual of Procedure, and noted its concern that the U.S. cannot achieve access to Mexico until Canada and the U.S. have harmonized their requirements. Canada noted that work on changes to Chapter 10 is underway, and that it will be publishing something soon.

c) Bilateral update on collaboration on livestock health issues (swine pseudorabies and brucellosis and bluetongue restrictions for feeder/breeder sheep and goats)

With respect to brucellosis, Canada referred to the prior CCA meeting, during which it noted that, while the CFIA was prepared to consider progress, it was lacking information regarding the management of diseases in the U.S. As a follow-up, the CFIA sent a letter to USDA's APHIS in December 2006 requesting more details on its eradication programs for swine brucellosis and pseudorabies. The U.S. confirmed that APHIS is in receipt of the CFIA's questions, and will be responding shortly.

d) Access for U.S. cattle into Western Canada (bluetongue and anaplasmosis restrictions)

Canada informed the CCA that on February 2, 2007, new import regulations were announced that allow greater access for cattle, sheep, goats and other ruminant animals from the U.S. These regulations removed bluetongue-related import requirements, reduced testing requirements for anaplasmosis, and enable the importation of small ruminants for breeding purposes under certain conditions. Canada noted that it had also made changes to its import requirements for semen and embryos, and that imports from the U.S. are increasing as a result of these changes.

The U.S. confirmed that Canada's report was consistent with their veterinary services understanding of the situation. On sheep and goats, the U.S. noted that APHIS is close to publishing a final rule that will remove some restrictions on exports of Canadian sheep and goat embryos and semen to the US. The U.S. will keep Canada updated on the publication of a final rule. Both countries noted that these were positive developments for bilateral trade.

e) Listeria testing in the U.S. and Canada

Canada noted the issue of testing for listeria monocytogenes was raised at the November 17, 2006, CCA meeting at the request of industry on both sides of the border. At that meeting, the issue was referred to the NAFTA Technical Working Group on meat and poultry.

The U.S. noted its view that the testing protocol was fair, and that current testing levels (representing less than one percent of shipments from Canada) are not oppressive. The U.S. noted it was comfortable removing the issue from the agenda, subject to any future references by the industry on this matter. Canada stated that it would be consulting further with industry on whether there were any outstanding concerns that needed to be addressed by the CCA, and would subsequently indicate whether the item could be removed from the CCA agenda.

3. Plant issues

a) Negotiations for an arrangement to facilitate bilateral trade in potatoes

The U.S. notified the CCA that Canada and the U.S. had reached agreement on all substantive elements of an arrangement to facilitate bilateral trade in potatoes, and that the text was now undergoing final review. The U.S. noted that the key issue now is ensuring communication between CFIA and AMS related to implementation. The U.S. noted its hope that the arrangement can be implemented as soon as possible, given that potato producers are entering into harvest and shipping season. Canada and the U.S. stated that they looked forward to further discussion on this issue during a bilateral meeting scheduled for the following day.

b) Update on potato cyst and golden nematode in the U.S. and Canada

The U.S. noted that one long-term issue being looked at is how to move land and ensure that certain areas are pest-free. The U.S. mentioned that officials are currently meeting to discuss further surveillance.

c) Seed certification grader accreditation

The U.S. noted that in December 2006, a seed grader training session was held in Saskatoon Saskatchewan, and that a seed grader training program would be held in Cody, Wyoming the following week, which CFIA officials would be attending. Canada confirmed that the CFIA had recently submitted a draft agreement to its legal services, which will formally set out roles and responsibilities of the Canadian and U.S. organizations. The U.S. noted that the USDA and CFIA worked very closely on an almost weekly basis to put in place this structure. Canada noted that there are two outstanding issues that remain to be resolved, following which this issue will be concluded. Firstly, final approval of a program is necessary, and secondly, a memorandum of understanding remains to be agreed between USDA and CFIA. Canada noted its anticipation that these issues will be resolved within the next couple of months. Both countries agreed they hope to report this issue as resolved at the next meeting.

d) End-use certificates

The U.S. noted that both the U.S. and Canada require end-use certificates for imports of wheat, but that they are not essentially being used in Canada. The U.S. stated that if Canada were to remove the requirements for end-use certificates, it would reciprocate.

Canada noted the roles of the *Canada Grain Act* and *Canadian Wheat Board Act* as they relate to end-use certificates, and indicated that statutory changes would be required for their removal. Canada stated that it would keep the issue of end-use certificates under advisement in the event of statutory changes to the respective legislation.

e) Bilateral update on harmonization of pesticides

Canada provided an update on harmonization activities that are underway in the NAFTA and other fora. Since the last CCA, there have been two meetings of the NAFTA Technical Working Group on pesticides. Canada outlined some of the joint review and work sharing initiatives underway, including the review of six new pesticides with the U.S. Environmental Protection Agency and another six under review internationally. Canada noted that progress is continuing to evolve as agencies and stakeholders gain more experience with these initiatives.

Regarding NAFTA pesticide labeling, Canada reported that two labels have been approved, and many more are under development. The success of these efforts has served as an example from which other labeling initiatives are trying to learn.

Canada noted that the five-year strategy of the NAFTA Technical Working Group expires next year, and that consideration of the new strategy has begun, with the expectation that a draft strategy will be ready in time for the November 2007 meeting of the NAFTA Technical Working Group in Mexico. The draft strategy will be made publicly available.

Both chairs congratulated the Technical Working Group on progress achieved to date, in particular with respect to NAFTA labels.

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

Canada provided an update on its proposal to revoke the 0.1 parts per million (ppm) general Maximum Residue Limit (GMRL) in the Food and Drug Regulations (FDR). Currently, any food for which an MRL has not been established in Table II of the FDR and contains residues in excess of 0.1 ppm is considered adulterated. The intent of revocation of the 0.1 ppm MRL is to take a more preventative approach, by replacing the GMRL with specific MRLs. Canada noted that the 0.1 ppm level is potentially higher than necessary for some products. As a first step, US tolerances at or below 0.1 ppm, that have been recently established, will guide the establishment of Canadian MRLs. Registrants requesting that MRLs be established above 0.1 ppm will have to submit

supporting documentation. Canada informed the CCA that a discussion document will be published shortly. Canada is now in the process of identifying all replacement MRLs needed to revoke the GMRL, and anticipates that proposed amendments to the FDR will be published for comment in late 2008 or early 2009. The process will take seven years to complete. In response to a question by the U.S., Canada confirmed that there will be an opportunity for comment on the discussion document.

g) LLRice 601 update

The U.S. provided background on the detection last year of an unapproved strain of rice, "LLRice 601." The U.S. noted that, following the detection, officials consulted on what the finding meant and how to handle it. The U.S. recalled that both the U.S. and Canada determined that there was not a food safety risk, and developed a process to deal with the issue. The U.S. noted that the situation represented a good example of working through an issue cooperatively. Both countries noted their appreciation of the level of communication on the issue.

Canada noted that the CFIA had tested 202 samples for LLRice 601, and that as of April 19, 2007, there had been no detections. Canada confirmed, therefore, that the CFIA will be reducing its testing. The CFIA will publish guidelines for industry informing them that it will no longer test for the product, but will remind them that the product remains unapproved. Canada noted that strain LL604 had been detected, but it was determined as unlikely to have a health risk. As such, the CFIA confirmed that it is not going to test for the product. CFIA will, however, contact the U.S. Government and industry at harvest time for a report on the situation.

h) Update on the Food and Drug Administration's (FDA) guidelines for produce, including an update on U.S. fresh spinach recalls and Canadian import protocol for U.S. spinach

The U.S. stated its view that issues surrounding the recall of spinach last fall have been resolved. With respect to exports of spinach to Canada, requirements for certification of the origin of U.S. spinach are in place. Canada noted the constructive engagement with U.S. officials that has occurred on this issue since the outbreak in September 2006, and noted that its import requirements are based on California's Leafy Green Products Handler Marketing Agreement. The U.S. noted that nearly all California handlers have signed the agreement. The U.S. also noted its appreciation for Canada and the U.S. working together on this issue. More generally, the U.S. noted the increasing interest among U.S. fruit and vegetable growers in good agricultural practices (GAPs) audits.

i) Official recognition by the USDA of Canada's cut flower export certification program

Canada noted the uniqueness of the cut flowers export certification program, which had been developed by industry to facilitate the export of cut flowers to the U.S. by tracking the identity of the product. It noted that the CFIA, along with third parties, had been

involved as auditors of the program and thanked the U.S. for considering the program. Canada noted there will be a review of the program by USDA and CFIA in the next couple of months. Canada indicated its desire for joint efforts at further harmonization, and to be involved in third country monitoring of high-risk items, such as chrysanthemums. Canada noted that the CFIA is in the process of reviewing greenhouse pests in Canada, and proposed that USDA and CFIA work towards harmonized approach to pests that could affect the greenhouse industry.

The U.S. stated that it is looking at a North American approach to cut-flowers. The U.S. noted, however, that some issues have arisen with respect to the pilot program. The U.S. stated that in Canada, there are no regulations for flowers imported from offshore, and that there is a risk of pests entering the U.S. from third country products imported through Canada, including those that have been placed in greenhouses. The U.S. indicated that the USDA would be working towards a review of the pilot program, but noted there were some concerns. In particular, the U.S. noted that the pilot project is not a signed agreement to which the Canadian Government is a participant, but only an agreement by an association that covers part of the Canadian flower industry. Cost recovery is also an issue for the U.S., as a final project would need to be run by USDA-APHIS on a cost-recovery basis. The U.S. noted the concern of border delays, and that harmonization would help facilitate quicker movement of trade. The U.S. stated that it looks forward to further discussion on this issue. Canada noted that U.S. concerns have been clearly identified, and stated that it is glad discussions are underway to move this issue forward.

4. Processed food product issues

a) Update on sugar beet thick juice

Canada noted its concerns with the two notices that were published in the U.S. Federal Register in September 2006 that would restrict exports of sugar beet thick juice from Canada. Canada confirmed that it had submitted comments on both notices, which reflect its concern with these measures. Canada further expressed its concern that it had not heard any new developments on the issue, and asked the U.S. for an update. The U.S. noted that no rule has been published, only notices. Furthermore, the U.S. confirmed that since the notices were published, there have been no new developments, and no movement towards rulemaking in response to the industry petition. The U.S. confirmed that if it intended to move forward and consider a regulatory change, this would be announced in some form, but that it doesn't anticipate any developments on the issue in the near future.

b) Bilateral update on nutritional labeling

The U.S. requested an update on Canada's implementation of new nutritional labeling regulations. Canada stated that the requirements came into force on December 12, 2005 (with the exception of companies with less than \$1 million in gross revenues from the sale of food in Canada, for which the deadline is December 12, 2007), and that it is taking

a staged approach to compliance. The first year was focused on educational initiatives in order to assist the industry in understanding the requirements and providing the needed tools to comply. Pursuant to a risk management approach, Canada noted that the focus so far has been with respect to bakery and cereal products.

The U.S. stated that it hasn't heard of any problems from industry regarding the requirements, but that it would be helpful to have an update on the status of the issue at the next CCA meeting. The U.S. further noted that it is also working on this issue, and would like to work towards a harmonized approach in order to bridge remaining differences. In this respect, Canada and the U.S. pointed out the constructive efforts that are underway in the NAFTA technical working group, including the development of a comparison table to identify differences between each country's regulations. The next meeting of the NAFTA technical working group is scheduled for March 2008.

c) Bilateral update on allergen labeling regulations

Canada noted the U.S. interest at the last CCA in knowing when a regulatory proposal would be published. Canada anticipated that a regulatory proposal could be published in the Canada Gazette, Part I, by October, 2007 at the earliest, and that a 90 day comment period would likely be provided. Canada would also notify the WTO. Canada noted that there has been ongoing discussion on this issue between officials of the Food Directorate of Health Canada and their counterparts in the FDA. The U.S. asked if Canada's assessment is that its proposal will be aligned with U.S. rules. Canada replied that it is currently reviewing this issue, and that its expectation is that any differences between U.S. and Canadian requirements will likely be quite minimal.

d) Bilateral update on food fortification policies, considering IOM recommendations

Canada noted the complexity of the preparation of its proposed regulatory amendments, and the effort undertaken to ensure the amendments will be as clear as possible when published. Canada stated its anticipation that the regulatory proposals will be published in the Canada Gazette, Part I, in September, 2007, at the earliest.

e) Canadian highlighted ingredients policies

The U.S. stated its understanding that Canada's highlighted ingredients policies will closely resemble U.S. regulations, and requested an update from Canada. Canada noted that it is continuing to work towards publishing a comprehensive policy document, but this is not yet available. Canada is undertaking efforts to educate the industry in understanding current regulatory requirements. The U.S. noted that, once a comprehensive policy document becomes available, it may be useful to revisit this issue and continue bilateral discussions.

f) Proposed changes to Canadian cheese compositional standards

The U.S. stated its interest in receiving more information on the regulatory process related to proposed changes to Canadian compositional standards for cheese, and

conveyed the level of concern expressed by U.S. industry with these proposed changes. The U.S. stated its understanding that Canada intends to publish proposed regulations in the Canada Gazette Part I in June, 2007, and inquired as to whether there would be a process for consulting with Canada's trading partners. The U.S. stated that their producers and processors have expressed concerns that the regulatory change would likely represent a technical barrier to trade. Furthermore, the U.S. indicated that it is undertaking analysis of the potential impact of the proposed changes on trade in dairy products.

Canada indicated that publication of the proposed regulations remains a priority for the CFIA, and noted that, once published in the Canada Gazette, there will be a comment period provided of at least 75 days, which will serve as an opportunity for interested parties, including Canada's trading partners, to submit comments. Canada will take into consideration the comments and concerns submitted through this process prior to proceeding with final publication. Canada noted that in drafting the proposed regulatory amendments, it is taking into account international standards and those of its trading partners. The U.S. noted that it is watching this process closely and will continue to do so.

- g) Processed products regulations
- i) Container sizes

The U.S. stated that it continues to be concerned with Canada's standard container sizes for infant food, and noted that this is a long-standing issue on the CCA agenda. The U.S. stated that although Canada is proposing to amend its regulations, U.S. industry is disappointed that they could not import through the current test marketing authorization procedure in Canada. Specifically, the U.S. noted that one company's application for test market authorization was denied. Canada stated that it reviews applications for test markets on a case-by-case basis, and cannot comment on particular applications. With respect to the proposed amendments to Canada's Processed Products Regulations, including those pertaining to standard container sizes. Canada informed the CCA that the regulations remain under review by Justice Canada, in preparation for publication.

- ii) Standards of identity for baked beans

The U.S. noted its understanding that there is a provision in the proposed Processed Products Regulations rewrite regarding baked beans that would result in a trade barrier for one particular U.S. company, given that the proposed standards are based on technology that is no longer in use. The U.S. noted that its standards are voluntary to allow for technological change. In this respect, the U.S. inquired as to why Canada is proposing mandatory standards for baked beans. Canada replied that it has tried to harmonize with the U.S. definitions, and that the wording was identical in this respect to the USDA AMS voluntary grade standards. Canada stated that if U.S. companies have concerns, they can contact the CFIA, which would be willing to consider amendments to the definition of "baked." With respect to a question asked by the U.S. as to why the standards will be mandatory, Canada responded that, unlike in the U.S., all such

Canadian standards in regulations are mandatory. The U.S. noted its appreciation for Canada's offer to review the proposed standards, and offered to work with Canada on this issue. The U.S. also requested that Canada consider making the standard voluntary.

h) Update on Canadian and U.S. organic regulations

Canada provided an update on its organic products regulations, which were published in Canada Gazette on December 21, 2006 and will come into force on December 13, 2008. Canada noted that the CFIA's Canada Organic Office has started to receive applications from accreditation bodies. A manual to accompany the regulations will be published by June 23, 2007. Canada noted that it would be sending a letter of intent for equivalency with the U.S. later this summer.

The U.S. noted that Canada is the most important market for U.S. organic products, and therefore equivalency discussions with Canada are a top priority. The U.S. noted in this respect that there are some substances that the U.S. standards permit, but that the Canadian standards do not, and offered to share a comparison document that their industry is working on. With respect to differences in Canadian and U.S. organic standards, Canada stated its view that both countries are working from the same definition of equivalency. Standards don't need to be identical, so long as controls are in place and objectives are met.

5. Other bilateral/plurilateral issues

a) U.S. APHIS border inspection fees

Canada noted its disappointment with the U.S. decision to proceed with full implementation of the APHIS interim rule on June 1, 2007, and stated its position that the rule should be withdrawn, as Canadian agricultural exports continue to be low risk. Canada noted its disagreement with the manner in which a USDA May 30, 2007 press release, as well as other U.S. correspondence, had characterized the risks of pests being introduced to the U.S. from Canada.

Canada recalled that a bilateral working group had been established in the fall of 2006, and that as a result of these bilateral efforts, Canada had proposed a package of alternative measures that represented a superior approach to addressing the phytosanitary risks that both countries face, and was designed to enhance measures to effectively manage risks at the source instead of adding more costs and layers of control at the border. Canada remains convinced that this remains the best approach, and that a valuable opportunity for bilateral cooperation has been missed.

The U.S. noted Canada's disappointment, and stated its view that this is unfortunately an issue on which the two countries could not reach agreement. Nevertheless, the U.S. stated its view that the two countries should keep discussing this issue, although it is not sure there will be any positive developments. The U.S. noted the importance of continuing to work cooperatively where possible, such as in the area of smuggling

interdiction, and in this respect noted the recent bilateral meeting of officials to develop cooperative mechanisms of detection. The U.S. further noted that this issue is an exception rather than the rule in terms of bilateral cooperation.

Canada welcomed opportunities to work together with the U.S. to look at alternative measures in a forward looking, innovative way that don't tie up cross-border trade.

b) Canadian personal duty exemptions

The U.S. noted that it requested inclusion of this issue on the CCA agenda as a result of inquiries received in the past several months from Congress, the State of New York, and industry regarding Canada's personal duty exemption for wine. New York State wineries are concerned that Canadian tourists face significant duties when bringing back U.S. wine into Canada, and are of the view that Canada's personal duty exemptions are a barrier to trade in wine. As such, the U.S. asked Canada to consider harmonizing its personal duty exemptions for wine with those of the U.S.

Canada stated its understanding that Canada's personal duty exemption permits two bottles of wine, while the U.S. personal exemption is only one bottle. The real difference in Canadian and U.S. requirements, therefore, is related to taxation. The U.S. stated that the U.S. personal duty exemption is four bottles, and that the applicable duty is much lower than that of Canada's. Canada stated that it would pass on the U.S. concerns to Finance Canada, which is responsible for taxation policy.

c) Canada's request for Article XXVIII negotiations on milk protein concentrates

Canada informed the CCA that on February 8, 2007, the Minister of Agriculture and Agri-Food and Minister of International Trade announced Canada's intention to initiate negotiations under Article XXVIII of the General Agreement on Tariffs and Trade (GATT) of a new tariff on milk protein concentrates. On April 11, 2007, Canada provided notification to the WTO. The 90-day period to submit a claim of interest in the process ends on July 18, 2007. Canada noted that the European Union, New Zealand, Switzerland and the U.S. are Canada's main trading partners with respect to milk protein concentrates. Canada confirmed that this action under GATT Article XXVIII process will not apply to the United States.

The U.S. noted its concern that Canada's Article XXVIII action conflicts with the priorities of the Doha Development Round of negotiations at the WTO. Canada replied that the right to take an Article XXVIII action is longstanding under the WTO, and does not believe it is incompatible with the overall objectives of the Doha Development Round.

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

Canada reiterated its strong opposition to mandatory country of origin labeling provisions of the 2002 U.S. Farm Bill. Canada noted that COOL is not a human or animal health or

safety measure, and does not provide consumers with any health or safety information. Canada is concerned with the significant cost to industry the requirements will impose, and asked how the U.S. sees this issue moving forward.

The U.S. stated that it appreciates Canada's position on the matter, and that its goal is to implement the requirements in the least trade restrictive manner possible. The U.S. noted that the red meat industry has expressed strong concerns with further implementation of the requirements. The U.S. noted the mandatory COOL requirements for fish and shellfish are currently in effect, and that other commodities are scheduled for implementation in the Fall of 2008. The U.S. noted that there will be another opportunity to provide formal comments on the proposed rule, likely in the summer or early fall. The U.S. hopes to publish a final rule in spring 2008, so as to provide advance notice to industry in advance of the September, 2008 implementation date. Canada indicated that it will likely submit comments into the USDA's rulemaking process.

e) North American Biotech Initiative (NABI)

Canada noted that the NABI is a useful forum for informal, high-level policy dialog between U.S., Mexican, and Canadian government officials on issues related to agricultural biotechnology. Canada noted that it looks forward to a productive and successful meeting in Hawaii in June, 2007. Canada noted that it was developing a paper on how countries can deal with biotech issues in a manner that also minimizes potential trade impacts, which will be put forward in the NABI. Canada noted that adventitious presence and non-health and non-safety issues would be discussed at the June meeting. The U.S. expressed its appreciation for how well the U.S. and Canada are working together on these issues, and also noted the benefits of the NABI forum for further developing trilateral dialogue on issues related to agricultural biotechnology.

f) Release of U.S. FDA Draft Risk Assessment on the Safety of Animal Clones

Canada requested an update on the U.S. FDA's draft risk assessment on the safety of animal clones, which was released on December 28, 2006, and on the status of FDA's decision-making process. The U.S. provided an overview of the FDA's risk assessment, and noted that the assessment considers the risks that cloning may pose to the health of the animal, as well as the safety of feed and food from those animals. The assessment does not address transgenic issues. The U.S. noted that there was insufficient information at this time regarding sheep. The U.S. noted that the comment period on the draft risk assessment had been extended to May 3, 2007. An inter-agency meeting will occur after all received comments have been compiled. The U.S. also indicated that it continues to request that producers withhold from the market products from cloned animals.

The U.S. noted its understanding that under Canada's current policy, food derived from cloned animals would be considered "novel foods", and enquired as to how Canada arrived at this determination. Canada offered to follow up on this question. The U.S. noted the possible adverse implications for trade, particularly in light of the integrated

nature of the North American agri-food industry, if the U.S. and Canada adopt differing regulatory approaches to cloning. In this light, both countries agreed on the importance of continuing dialogue and working closely together on this issue.

g) Security and Prosperity Partnership (SPP)

i) Food and Agriculture Working Group status report – Food and Agriculture Regulatory Systems/Food Safety Task Force/Good Agricultural Practices (GAPs)

Canada provided an update on the SPP, noting that a trilateral ministers' meeting was held in Ottawa on February 23, 2007, at which ministers took stock of progress and discussed next steps. Regarding food and agriculture-related initiatives of the SPP, Canada noted that a trilateral working group had undertaken further work in December 2006 and April 2007 to further the comparison of Good Agricultural Practices (GAPs) for the production of fresh fruits and vegetables that had begun in September 2006. The working group agreed each country will review its guidelines and will address, as appropriate, the differences identified during the comparison exercise. With respect to labeling, Canada noted that the NAFTA Technical Working Group on Food Packaging, Labeling, and Food Standards was identified as the appropriate trilateral mechanism to pursue common approaches to labeling, and that the group met in March 2007 to develop a better understanding of the specific requirements of each country with respect to labeling, and to identify areas of compatibility. The U.S. noted that initiatives such as the GAPs comparison represented a good example of how the U.S. and Canada work well together, and facilitate responses to incidents such as the 2006 spinach e-coli outbreak. Canada indicated that the next SPP leaders' summit had been tentatively planned for August in Canada.

iii) North American Plan for Avian and Pandemic Influenza report

Canada indicated that the North American Plan for Avian and Pandemic Influenza aims to mitigate the risks of avian influenza, a disease that cannot be contained by borders. At the SPP trilateral ministers' meeting on February 23, 2007, ministers directed their officials to finalize the North American Plan for Avian and Pandemic Influenza, and that the Plan had been circulated in all three countries for final review and approval, with the objective of publicly releasing it in the summer of 2007.

iii) Update on North American Competitiveness Council (NACC)

Canada noted that at the SPP ministers' meeting in February 2007, the NACC presented its trilateral report on strengthening competitiveness, which includes four food and agriculture-related recommendations. The U.S. noted that at the February SPP ministers' meeting, the three governments committed to review the NACC recommendations in preparation for the next SPP leaders' meeting in August, 2007. The U.S. indicated that its review of the NACC recommendations is currently underway.

h) Update on marketing arrangements for western Canadian barley

Canada provided an update on its proposed amendments to the regulations of the *Canadian Wheat Board Act*, which were published in the Canada Gazette on April 1, 2007, for a 30-day comment period. Canada indicated that under the proposed amendments, barley and barley product exports from Canada would no longer be subject to CWB control (CWB export licenses would no longer be required). Canada indicated that it intends to proceed with the regulatory changes, which would take effect August 1, 2007.

i) Update on Canada's Next Generation of Agriculture and Agri-Food Policy

Canada provided an update on the development of its next generation of agriculture and agri-food policy, indicating that consultations that have taken place over the past six months have involved approximately 3,000 participants. Canada distributed to the CCA some of the consultation documents that were prepared as part of this process, which are also publicly available online. Canada also noted that the results of the first phase of consultations will be published on AAFC's website shortly. Canada noted that consultations with stakeholders will continue, with the objective of undertaking decisions in advance of next March.

j) Update on U.S. 2007 Farm Bill

The U.S. provided an update on the 2007 Farm Bill development process, including an overview of the Administration proposal that was announced on January 31, 2007. The U.S. noted that the Congressional Budget Office budget baseline, released in March, was lower than that of the current farm bill due to higher commodity prices, and therefore budget offsets will need to be identified if higher spending levels are desired. The U.S. noted that Congressional sub-committees had begun to draft Farm Bill mark-ups, and that it expected House and Senate bills to go to conference in the summer, with the objective of having a final bill ready by September 30th.

Canada thanked the U.S. for the update and noted that it was carefully observing the Farm Bill development process, including the possibility that the current farm bill could be extended for another two years and how mandatory country-of-origin labeling would be dealt with in this scenario.

k) Update on pet food recalls

The U.S. and Canada provided an update on their respective actions taken in response to the detection of pet food made from ingredients imported from China that were contaminated with the chemical melamine. Canada noted it has a border lookout in place on certain vegetable protein concentrates from China, and indicated that, effective June 4, 2007, it would be expanding it to all imported vegetable protein concentrates, including imports from the U.S. Canada indicated that, in implementing the enhanced measures, it will be following a phased approach, beginning with a period of enhanced testing of some duration to detect the scope of potential melamine contamination. Based on the findings from these tests, the CFIA will develop a longer-term strategy. Canada noted it

will make more information available, including updates, on the CFIA website. The U.S. asked how long the period will be of the phased approach, to which Canada responded that it would be on a provisional basis, and only for as long as necessary to provide a better understanding of the situation.

Canada noted the detection the previous day by FDA of melamine in feed additives where melamine was added to the products within the U.S., and that Canada understands action was taken by the FDA. Canada noted that it was working with FDA and would be taking additional measures as well.

l) Border delays as a result of CBP melamine testing

Canada noted the border disruptions and confusion that occurred when U.S. Customs and Border Protection (CBP) introduced new melamine-related inspection measures in early May, 2007, which were in addition to the FDA measures already in place. Canada expressed its disappointment at the absence of any advance notice provided to Canadian officials or industry about the CBP measures, and noted that the lack of transparency and coordination at the border caused serious disruptions in trade. Canada noted its concerns that the normal process for bilateral communications in this event appeared to break down. The U.S. indicated that the measures appear to have been the result of differences in interpretation among the U.S. agencies of their mandates, and stated its interest in engaging with the U.S. agencies to improve coordination of activities and communications with U.S. trading partners. The U.S. offered to follow-up with more information.

m) NAFTA/Trilateral Committees - info items

- i) NAFTA implementation
- ii) NAFTA SPS Committee meeting
- iii) Canada/Mexico and U.S./Mexico CCAs

The U.S. noted that the NAFTA SPS Committee was serving as a useful forum to bring together all three countries to discuss SPS issues, and provides a key umbrella structure to help avoid duplication of efforts. The U.S. noted that it hoped to have minutes of the most recent meeting of the NAFTA SPS Committee ready shortly. Canada noted that the Tri-National Deputy Ministers' meeting forum had been rejuvenated last year, when a meeting was held May 18, 2006, in Ottawa. Canada noted that Mexico had indicated an interest in hosting the next meeting of deputy ministers, but that it had not heard anything further regarding a potential date. The U.S. noted that it also had not received any further information.

n) EU issues

- i) WTO case regarding the EU's biotechnology moratorium

Canada and the U.S. discussed the current state of play in the EU's efforts to comply with the WTO Panel report, which was adopted November 21, 2006. Canada expressed its view that, although it was positive that there have been two recent approvals, problems with the EU system remain. The U.S. agreed with Canada's characterization and provided Canada with an update of its latest discussions with the EU regarding this issue.

- ii) EU's new rules on traceability and labeling of GMOs (EC Regulation 1820/2003)

The U.S. informed the CCA that its processor and exporters continue to express concerns about the EU's rules on traceability and labeling of GMOs. Canada noted that Canadian industry has not specifically voiced concerns. The U.S. identified the work that is taking place in the Codex Alimentarius Commission on biotech labeling, and the work with Canada to draft a document in support of the view that current labeling is sufficient.

- iii) EU's hormones ban

Canada stated that the current round of WTO litigation is in its final stages, and that Canada is awaiting a decision. Canada noted that, just prior to the last CCA meeting, it had been approached by the European Commission to enter into compensation discussions. Since then, Canada has had compensation discussions. Canada stated that it remains very firm with the European Commission with respect to its expectations regarding the outcome of such discussions. The European Commission has stated its preference for reaching an agreement with the U.S. and Canada at the same time. In this respect, Canada asked if the U.S. had suspended discussions.

The U.S. responded that it had not stopped discussions, but confirmed that they had slowed-down. The U.S. noted the issue of plant approvals and the use of Anti-Microbial Treatments (AMTs) were a concern. The U.S. noted that it was important to resolve these sanitary and phytosanitary (SPS) issues, or negotiated access is meaningless. The U.S. stated its view that it was going to take a while to resolve these issues. With respect to the actual value of a potential negotiated quota, the U.S. stated that it is still in discussions on numbers, and that it expects these discussions will not move forward until the WTO panel report is released.

- o) Fruit and vegetable industry financial trust protection in Canada

Canada provided an update on the federal-provincial working group that was established to review the Canadian fresh produce industry. Canada noted that considerable work has been undertaken, including a review of banking legislation and a survey of U.S. sellers in the Canadian market. Canada also noted that the working group had benefited from a recent meeting with a U.S. representative to learn more about how the U.S. *Perishable Agricultural Commodities Act* works. Canada indicated that the working group is expected to issue a final report at the end of March, 2008.

- p) Access for U.S. mozzarella cheese sticks

The U.S. re-stated its interest in taking the steps required to restore trade in cheese sticks if Canada were to do so as well. In this respect, the U.S. stated its willingness to reclassify cheese sticks, but its understanding was that Canada is not willing to remove its retaliatory duties. Canada noted its interest over the years in keeping this channel of commerce open, and recalled some of the history of the issue, explaining the tariffication process of 1995 and the initial decision of the Minister of International Trade to issue supplementary import permits in order not to disrupt trade. Canada clarified that its current tariffs are not retaliatory, but instead reflect Canada's in-quota and over-quota tariff rate structure as set out in its WTO schedule of commitments. Canada noted that we remain interested in discussions on this subject, though we would have to consult all stakeholders and would face questions as to the steps the U.S. is taking to create the conditions to return to a pre-1999 trade situation. The U.S. reminded Canada that in 2002, it provided a letter indicating its willingness to resolve the issue by way of Presidential proclamation. Canada took note of this, and indicated it would take these points into consideration.

6. CCA wrap-up

The Canadian and U.S. co-chairs noted that since the last CCA meeting, some progress had been made on several challenging issues, and that they look forward to continuing to work through them. The U.S. thanked Canada for hosting the meeting. The next meeting will be held in the United States.