

**Report of the United States-Canada Consultative Committee on
Agriculture (CCA)
Ottawa, Ontario
111 Sussex Drive, Canada Room
29 May 2008**

CCA Business

Introductory remarks and introductions

Canada indicated that it hoped to have its comments for the December 2007 report finalized very soon. Recognizing that the report needs to be published in a timely manner in order to be of use to stakeholders, both sides committed to producing a more concise report than in the past, one that will focus on outcomes and next steps. To that end, Canada and the U.S. committed to a process that would see the report finalized by June 30th.

Deliverables/Successes

Harmonization of Mexico's post-BSE import approach for cattle with Canada and U.S.

Canada indicated that its first shipments of breeding cattle to Mexico since 2003 commenced on May 2, 2008. Both Canada and the U.S. have OIE-consistent access to Mexico for cattle and access to Mexico for beef produced from cattle less than thirty months of age. Canada and the U.S. both expressed their desire for access to Mexico that is consistent with our OIE status. Canada and the U.S. indicated that having full access within North America should be a goal for NAFTA partners and indicated their desire to work together to see this happen. Canada and the U.S. discussed options for technical meetings with Mexico on restoring access for beef and beef products from animals over thirty months.

Priority Issues – For Discussion

Processed Products & Technical Regulations

Canada/U.S. organic equivalency determinations

Both sides expressed satisfaction with the amount of progress on this issue and restated that both seem to have similar philosophies and objectives on this issue. The U.S. asked whether Canada would be able to meet the September 2008 objective for finalization of negotiations intended to recognize the equivalency of standards in Canada and the U.S. and the December 2008 objective for implementation of regulations. Canada indicated that internal discussions are taking place that may delay implementation of the regulations, but that regardless of the delay negotiations could still be finalized by September 2008. The U.S.

reiterated its desire to have negotiations continue, and conclude, on schedule in advance of implementation so as to not impede trade.

Canadian cheese compositional standards

The U.S. stated that this is an issue of great concern to U.S. industry. Canada indicated that it would have an enforcement strategy by the end of the summer. U.S. enquired about a methodology for enforcement, asked how U.S. exporters would prove compliance, and indicated that the U.S. would like to have the opportunity to comment on the proposed methodology.

Container size regulations

The U.S. stated that it has raised concerns on Canadian container size proposed regulations both bilaterally and multilaterally on different occasions. Canada assured the U.S. that any new regulations would be compliant with Canada's international obligations. However, Canada indicated that it could not speculate on a timeline for finalizing these regulations, which are currently before Justice Canada for review. The U.S. requested bilateral talks after the regulations have been reviewed by Justice Canada. Canada agreed, and also requested that the U.S. provide formal comments at that time.

Plant Issues

Potato cyst nematode 2008 Guidelines – next steps

Canada provided an update on the agreement and reiterated its commitment to comply. Both sides agreed that this had been a successful collaboration between the two countries. Canada also noted that part of the agreement was for the setting-up of a group of international experts. The U.S. replied that they would convey the urgency of establishing this group and indicated that they expected that this was the intention of APHIS/PPQ. The U.S. asked to be informed if this issue was not progressing to Canada's satisfaction.

Implementation of monitoring provisions of the 2007 Canada-U.S. Potato Arrangement

Both sides reiterated their commitment to the arrangement. Canada indicated that it had concerns with the present inspection regime as the USDA Agricultural Marketing Service (AMS) office responsible for approving the required import documentation is only open Monday to Friday from 7am to 3:30p.m, which causes problems when trucks cannot arrive at the border crossing before 3:30 PM (particularly before the weekend). The U.S. emphasized AMS' commitment to minimizing any border delays caused by USDA office hours and stressed that it will not allow the monitoring inspection program to restrain truck movement. The U.S. explained that the AMS inspection office in Philadelphia will soon become the "clearing-house" for all "Stamp & Fax" documents by initially

receiving all “Stamped & Faxed” documents and forwarding them to the appropriate field offices. The U.S. believes that this will reduce wait time caused by lesser-staffed offices. The U.S. stressed that AMS continues to work with CBP liaisons to minimize confusion at the border, streamline the “Stamp & Fax” procedure and expedite processing of loads. The U.S. asked Canada for details on when and where trucks are being delayed at the border and agreed to follow-up once it had specific information.

Canada indicated that it had concerns with the types of inspections as they feel that the U.S. is inspecting for progressive quality factors that evolve over time at destination. As Canada understood the arrangement, only permanent factors were to be tested at destination and that progressive factors like grading were to be tested at origin. The U.S. replied that AMS will continue to treat all imported commodities regulated by Section 8e similarly by using shipping point factors and tolerances for inspections. The U.S. then asked what steps Canada was taking to meet its year 2 and year 3 obligations under the arrangement. The U.S. suggested that a conference call should be scheduled between technical experts of both countries, preferably before the end of June, as these issues need to be resolved before August, and Canada agreed.

Livestock/Meat Issues

BSE issues

Comprehensive BSE rule and third rule on non-bovine ruminants (MRR3)

Canada indicated that it was looking forward to the Comprehensive BSE rule but reiterated its disappointment that small ruminants would not be included in the next rule. Canada indicated that it had serious concerns for its sheep and goat industry and asked for timelines. The U.S. replied that it is on target for publication of its Comprehensive rule in the Federal Register by the end of August and that the rulemaking process will utilize the OIE classification system. The rulemaking process applicable to small ruminants will be separate from the comprehensive rule since it involves distinct disease concerns (e.g. scrapie and TSE). The U.S. indicated that it would provide Canada with a timeline for the development of this rule and invited Canada to submit its views on the Comprehensive BSE rule during the prescribed comment period.

Third country market access

Canada and the U.S. discussed their respective efforts in various markets. Canada highlighted that it has been very consistent in its representation with all trading partners in requesting full access for beef and cattle based on its OIE BSE controlled risk status. In addition, Canada has also been pointing out to its trading partners that as both Canada and the U.S. are controlled risk status, Canada expects foreign markets to treat Canada no less favorably. Canada

noted, however, that many in the Canadian industry are pressuring Canada to take a phased approach in certain markets. The U.S. strongly urged Canada to only accept agreements that are OIE consistent. The U.S. explained that since it was classified as a BSE controlled risk country, it has insisted that trading partners open their markets to all beef products and asked for reassurance that Canada is making similar market access requests. The U.S. stated that it was also receiving strong industry pressure to negotiate partial openings but that it had insisted on seeking OIE-consistent access as non-OIE based deals have been shown difficult to comply with.

In negotiations with third countries, Canada and the U.S. agreed that their goal is to reach agreements on trade in cattle, beef and beef products consistent with the World Organization for Animal Health (OIE).

Enhanced testing of meat and poultry products

Canada indicated that the highly integrated agricultural industry would greatly benefit from simplified testing procedures at the border. Canada updated the U.S. on the current state of implementation of enhanced testing domestically.

USDA process in dealing with State imposed import requirements on animals

Canada raised the question of state measures that it believes exceed federal measures and asked what role APHIS took in ensuring that State-level measures were in compliance with U.S. international SPS obligations. The U.S. explained that states have the right to enact measures as long as they are consistent with U.S. international trade obligations. The U.S. asked Canada to provide it with any instances where Canada believes states acted outside international trading norms. Canada noted that at the December 2007 CCA, the U.S. had indicated that its chief veterinary officer would follow-up with North Dakota regarding its measures on Canadian cattle. Canada enquired whether North Dakota would be notifying its SPS import measures to the WTO SPS Secretariat. The U.S. indicated that issues like this may be best dealt with through the U.S.-Canada Provinces/States Advisory Group (PSAG).

The U.S. further suggested that should states apply measures that appear to be inconsistent with U.S. international trade obligations that APHIS would be willing to informally contact state officials and address federal regulations. It was also noted that if state actions contravene U.S. federal authority, federal authority prevails.

Biotech Cooperation

Regarding the WTO case against the EU (*European Communities - Measures affecting the approval and marketing of biotech products*), the U.S. stated that while it has suspended WTO compliance proceedings for the time being, it is leaving the right to retaliate open and the U.S. noted that it continues to pursue this vigorously. The U.S. has given the EU benchmarks and timelines with respect to GM product approvals, and will be reviewing progress made on these approvals at their June 18th -19th meeting with the European Commission. Canada agreed that the EU was not in full compliance with the Panel's rulings, but recognized that the EU is taking steps to bring itself into compliance. Canada most recently raised this issue with the EU at the May 28th TISC. Canada and the EU have agreed to extend the reasonable period of time for implementation of the Panel's recommendations until July 30, 2008. Canada is now consulting interdepartmentally to determine next steps.

Canada and the U.S. agreed that they were on the same page on the CODEX issues and were concerned by recent EU actions on process based labeling. Both sides discussed potential strategies to address this challenge and agreed to collaborate closely.

Canada and the U.S. discussed the inclusion of the mandatory labelling of GM Foods as an agenda item in the Codex Committee on Food Labelling (CCFL). The U.S. indicated that it believes that mandatory labelling requirements based on methods of production are outside the scope of the CCFL, and that this item should be removed from the agenda. Canada and the U.S. discussed the commonalities and the differences in their approaches to this issue and agreed to continue discussing this issue at a later date.

Other Bilateral / Plurilateral Issues

U.S. Farm Bill

Canada stated that it was disappointed in the lack of reform in the Farm Bill that was recently passed. The U.S. took note of these concerns and encouraged Canada to deal with the relevant decision makers.

i COOL

Canada stated that it was disappointed with the COOL provisions and indicated their expectation that USDA would implement the requirements to ensure that they are the least trade distortive possible. Canada also undertook to comment on the proposed regulations when published. The U.S. indicated that it expected to implement COOL by the September 30, 2008, implementation deadline. Canada stressed that a six month grace period would be important, but the U.S.

could not comment on any grace or adjustment period. The U.S. took note of these concerns.

ii Sugar

The U.S. took note of Canadian concerns that the sugar provisions contained in the Farm Bill had the potential to severely impact Canadian sugar beet farmers.

iii. Food Aid

Canada stated that it was disappointed that the Farm Bill did not untie food aid. The U.S. took note of these concerns.

iv Cotton

Canada stated that it was concerned that the subsidies to domestic users of upland cotton contained in the Farm Bill would be detrimental to Canadian producers of cotton textiles. The U.S. took note of these concerns.

v ACRE Program

In response to Canadian questions about how the new Average Crop Revenue Election (ACRE) program would operate and co-exist with crop insurance, the U.S. indicated that they would provide information when it became available.

vi Softwood Lumber

Canada indicated that softwood provisions contained in the Farm Bill will be onerous for Canada and committed to continue to fulfill its responsibilities under the terms of the Softwood Lumber Agreement. The U.S. replied that it would also fulfill its responsibilities.

NAFTA/Trilateral Committees

NAFTA swine sectoral initiative; 'NAFTA deputies' request to revive the NAFTA Committee on Agriculture

Both sides agreed that the SPS issues set forth in the NAFTA swine sectoral initiative would be best addressed in the NAFTA SPS committee.

NAFTA SPS Committee: pending 2007 minutes

The U.S. indicated that it would provide Canada a draft of the minutes for the 2007 Meeting of the NAFTA SPS Committee within a few days.

Other Trilateral

CCA report to and engagement with the Tri-National Accord

The Canadian contact person for organizing the presentation on the CCA meetings was identified. The U.S. indicated that they would identify their representative to the next Accord meeting.

EU issues

Hormones (including WTO panel reports on Canada' & U.S.'s retaliation, as well as discussions on compensation with the E.U.)

Both sides noted that the EU had appealed. The U.S. informed Canada that it had already cross-appealed. Canada indicated that it would be doing the same. Both sides provided updates and noted the good collaboration between the two countries on this issue.

Food Safety

FDA Food Protection Plan

Canada noted that it continues to monitor the progress of legislative proposals in both Houses of the U.S. Congress, noting that there would be concern with provisions that would implement inspection fees and user fees. It was further elaborated that these fee schemes would impact Canada more than other trading partners given Canada's pattern of trade (smaller companies with high volume transactions) with the U.S. The U.S. noted that there would be outreach and education on any new requirements and policies to ensure transparency in all of its actions. FDA is currently accepting comments on FDA's Food Protection Plan. Canada noted its preference for a risk-based approach and suggested that flexible measures that recognize the varying levels of safety amongst countries would be a more effective approach.

U.S. Legislative draft bills (Dingell, Pallone, Durbin)

Canada raised concerns with the draft bills and stated that, despite some improvements from earlier attempts, these bills would unfairly target Canada based upon the fact that its trade includes many small shipments while other countries are more likely to send larger shipments. Canada clarified that it is not asking for preferential treatment only flexibility with the approach the U.S. takes in order to account for the transactional nature of its trade. Also, Canada asked that the reliability of a given country's food safety system should also be taken into account. The U.S. recommended that Canada contact the drafters of the relevant bills and took note of Canadian concerns.

Food & Consumer Safety Action Plan

Both sides indicated that our respective food safety plans have much in common. The U.S. indicated that they were looking forward to seeing the roll out of Canada's plan after the completion of the consultation process.

Improving Trade through Confidence Building and Collaboration

Canada noted that the CCA had made progress in taking a more strategic approach and reducing the amount of transactional items on the agenda to allow for more in-depth discussion. It was agreed that the CCA must continue to examine how, within its mandate, it can leverage other bodies and fora in order to prevent border thickening and improve trade. Both sides noted that better coordination of other committees needed to take place in order to prevent duplication and maximize resources.

North American Perimeter Approach (NAPA)

Canada gave a presentation of the NAPA (the presentation was a joint CFIA – APHIS document) and outlined how this was an effective model of how Canada and the U.S. can work together on their approach with third markets. Both sides agreed to keep each other informed of the progress on this file.

U.S. Fish and Wildlife Import/Export Inspection Fees

Canada indicated that the new inspections fees outlined by Fish and Wildlife Service (FWS) is another example of the thickening of the U.S.-Canada border. The U.S. noted that its relevant agency, the Department of the Interior, was not present to comment on this issue. Canada indicated that it included FWS fees on the agenda as it has an impact on Canadian agricultural exports and that it was concerned that there was duplication of requirements applicable on farmed cervids, for example, which are being inspected by both USDA-APHIS and FWS. Farmed cervids, as an agricultural product, should not be subject to FWS inspections. The U.S. indicated that they would follow-up with APHIS and FWS to clarify coverage under the respective purview of the USDA and the Department of the Interior. Canada indicated that if there was double regulating of any of these industries then it would want this addressed.

Wrap-up:

The following papers were exchanged:

Almond PPO expedited review
Distillers dried grains for livestock feed
FDA/CFIA Collaborative discussions in July 2008

Both sides committed to exploring late October for the next CCA and agreed that this was a very productive meeting.

The U.S. proposed exchanging draft agenda items in advance of committing to a date for the next CCA to ensure that key players will be available to attend the meeting.

Canada suggested that a bilateral conference call be re-instated prior to the meeting to finalize the agenda