

Agriculture Proceedings
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Co-chair Patrick Kole, VP, Legal & Government Affairs Idaho Potato Commission
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Speakers:

Martin Rice, Canadian Pork Council (CPC)

Bob Ehart, National Association of State Departments of Agriculture (NASDA)

Lyzette Johnston, Director, Domestic Food Safety Systems Division, Canadian Food Inspection Agency (CFIA), via conference phone

Hon. Rob Merrifield, Member of Parliament and Chair of the Committee on International Trade

Frederic Seppey, Chief Agriculture Negotiator and Director General, Trade Negotiations and Agreements, Agriculture, and Agrifoods Canada

Jason Hafemeister, Senior Economist, Office of the Chief Economist, United States Department of Agriculture

Presentation on Country-of-Origin Labeling (COOL): An Update on the State of Play

Martin Rice presented this information, and started by outlining the key elements. Mandatory COOL labeling goes back to 2012 but the final rules were cemented after the Bush administration's interim rules. The requirement is that the animals be born, raised, and slaughtered in single country. This rule only applied to pork that goes into larger super markets and chains, small stores and restaurants are exempt from this rule. This begs the question of why this labeling is important if it is applied equally to all products. Currently there are questions regarding possible flexibility in COOL labeling or perhaps combining the livestock of all three North America countries into a single label. Currently COOL labeling has put a chill into the intentions of many producers, since markets were lost virtually overnight in both pork and beef.

He then broached the subject of the Canadian perspective in regards to the labeling. A lot of production specialization arose from NAFTA. However, the COOL labeling is perceived to be the reverse of the conditions that NAFTA created. Canada is not opposed to COOL as a process, but believes that it should be a voluntary system. It was passed as a Food Bill and is not considered a matter of "food safety" in the United States; it is purely for consumer benefit. There have been significant cost complaints and a loss of opportunity for maximum continental strength within the sector due to the labeling.

There have been some recent developments around COOL labeling. There have been consultations with the WTO by Canada and Mexico, who have both been unable to resolve the dispute with the United States as of yet. In July 2012, COOL was found to result in discrimination against non-US animals yet in May 2013 Canada and Mexico saw further restrictions placed against their livestock. Due to this Canada and Mexico have requested a compliance council. As to date the WTO decision has not been leaked and every one is awaiting the public report.

It will take until September for the remaining WTO process to occur and even then it is still an appeal process so the final decision will most likely not be reached until spring of 2015. If the United States is still found out of compliance, retaliation is allowed in the form of trade concessions from both Canada and Mexico. Both countries would have to put forth the estimated losses that COOL labeling has inflicted upon their economies. Currently this is estimated at \$ 1 million, but it could be much larger. Mexico has put forth a list of trade relation options.

Efforts have also been made outside of the WTO to resolve this dispute. COOL labeling is not just an issue for beef and pork. Other sectors will also be upset if new restrictions are imposed. A legal case has been submitted, with the American Lead Processors Group leading the way. Their legal case is based around the idea that COOL labeling violates freedom of speech, as it compels people to state things on the labels that aren't required for human protection. In a study done by the United States Department of Agriculture COOL has not had any noticeable impact on consumer price. It has brought additional costs without corresponding benefits to the sector. All of these cases have not had a fruitful effect on resolving this conflict. Martin stresses that the resolution should be done through legislation. There should not just be a modification of the rule and tariffs are not beneficial in this situation.

Of the alternatives to the dispute resolution mechanism that have been put forward, the most prominent one that has been put forward is to appeal the Farm Bill. People are not trying to appeal the law in its entirety. On the contrary, most of the components would be left intact. For example there are no challenges to the requirements around fruits and vegetables. The goal is to simply appeal it as it applies to beef and pork. Another alternative is to have a single label for all meat that has been processed in United States approved plants. There is also a discussion of a North American label but there is a fair amount of confusion surrounding that and no clear indication of what such a label would entail. Yet another option is a volunteer labeling arrangement. Regardless of the routes taken to address COOL, the end goal is to eliminate the segregation that it causes. There is a new coalition in Washington that shares concerns about resolving the COOL labeling issue before it moves on to retaliation stage. There has been a movement to suspend regulation until the rule has been changed.

At this stage the floor was allowed to ask questions. One individual in the crowd asked why poultry did not have an issue with COOL. Martin answered that live

poultry did not go across the border and that is why there was a lack of issue from them.

Then Lyzette Johnston, via conference call, presented on the Safe Food for Canadians Act. The first part of her presentation was going over the recent changes that had occurred within the Canadian Food Inspection Agency (CFIA) and why the modernization was necessary. There is a lot more globalization in food than there use to be. The consumer landscape is changing, due both to the demographic aging as well as the increased demand for more products. New regulations are needed to keep up with these changes. There is better detection for diseases but there is still a need to make sure that regulations are managed in the best way. Now it is based upon a system of critical control points. CFIA is now able to talk and align with major trading partners so that every one's modernization is in similar directions. The changes that are occurring in CFIA are very broad. Bring in all the new rules is very similar to hitting a reset button and the restructuring is based around the four components of the Safe Foods for Canadians Action Plan

The Safe Foods for Canadians Act is the principle driver for change currently. CFIA released a regulatory framework paper to encourage discussion and all of the following discussion comes from there. CFIA spoke with industry and consumer representatives and both parties were fairly comfortable with the proposals that were being put forward. Some of the draft texts have been released and are on the website. In regards to the actual document, the Act reads like a very high level tutorial. There are thirteen sets of regulations that are under three acts. When it comes into place it will replace all the other acts completely. The CFIA did not want to be in a situation without any regulations, so the Act comes into place through regulations. It is important to note that even after the implementation of the Safe Food for Canadians Act, the Food and Drug Act continues to apply to all foods sold in Canada.

When engaging with industry and consumer representative CFIA received a lot of great feedback and strong messages of support. Overall it was seen as good to have a single act to consolidate thirteen different regulations. The move to more outcome-based regulations was also well received. There will be areas where specific safety requirements will stay. There was strong support from domestic groups that importers need to meet the same standards as them. Another set of feedback that CFIA received was strong pressure that fruits and vegetables should also be covered by the Act, including their growing. Overall one of the strongest messages received was the need for strong federal-provincial harmonization and the need to spread registration to small businesses.

Licensing was another key element of the Act. Now there is a new single kind of license for all imports and exports, producers now just tick off which activity they do. This is part of CFIA actively reaching out to non-registered sector. Registration allows the CFI to either authorize the purchaser to carry on or to take away that right. The licensing elements include: applications, issue and renewing, is valid for a

2-year period, and allows grounds for suspension and cancellation. All of this information is available on the CFIA on website. Draft regulations are going to be complete at some point in time in May; currently it is still in progress. This gives industry and trading partners a chance to comment. Before people needed a Canadian address need to take regulatory action. CFIA lost a lot of power when they gave that up.

The food safety requirements are basically another area for strengthening the system. There are currently nine regulations and CFIA is looking at manufacturing practices, trying to decide what should be the minimum for them all. The desire is to have an outcome based results system with some sort of control plan, addressing the risks and hazards of any particular product. The Preventive Control Plan would say how they are meeting requirements. This is the section that will say you have to identify risks and critical control points. CFIA does recognize that the Preventive Control Plan is the most burdensome and costly part of the Safe Foods for Canadians Act. To offset this there are allowances for businesses under \$30,000 which helps to provide some cost burden removal. Inspectors can tell if an establishment is under control regardless of size. The number was chosen as a GST point separator

Exports were a bit of a tricky issue. While the content was very clear on the domestic side, the question remained about what to do about food leaving country? The debate was around whether a minimalist approach should be adopted or whether it should be regulated beyond that. It was decided that the food exported out of Canada has to meet Canadian requirements unless another country explicitly asks for more. There are ministerial exemptions that permit flexibility to non-food safety requirements.

Trade stability was another large issue. CFIA had to align with other companies and countries. Every once in a while there is a crisis and gaps in regulations are revealed. To do this there has to be records maintained, one step in each direction that must be able to be turned over within 24 hours. These records need to be maintained for three years. These are the minimum requirements however industry is encouraged to go further than these standards. There are a number of initiatives that do go further. It is quite possible that CFIA will be enhancing these provisions down the road. On the non-food safety side, elements will not be changing that much, rather just cleaning them up. Grain is going into a separate document that stands on its own and can be kept up to date more easily.

Overall the Act, like all others, is only as good as its guidance documents. CFIA had to completely redo these documents. Before redoing them, there were two hundred and fifty manuals, which is not an easy system for anyone to get through. This inspired a complete rewrite. Now it is more like an interpretive guide, linking all guidance to regulatory provisions. Before the manuals were just a mix of info, now they are clearly tied to operations. CFIA is also looking at how to do plain language version of the documents for different audiences.

There are still some issues that need to be addressed in the future. There is a desire to have an opportunity for other provisions to make sense. Food defense and managing that is also another issue. The CFIA is taking the approach that they have not had consultations on some issues so they are not going to put them in, but might go to those places in the future with proper consultation. There is a plan for when the act comes into force. This is just to say that not everything will be brought into place at the same time. Registered and non-registered sectors have different time frames.

At the end of the presentation it was decided that questions would be emailed to Lyzette and she would email responses to the whole group.

United States Food Safety Modernization Act

Bob Ehart presented on the U.S. Food Safety and Modernization Act (FSMA), which was designed for the protection of the future. It is the largest difference to be made in food safety and there is a pressing need to get it right. There were a number of events that happened between 2006 and 2010 that really caused a key interest food safety and the FSMA's formation. Congress had not been responding to these events due to circumstances but fact that these were happening a little too often. The question of "why was it that these things were occurring?" came forward. A lot of foods were coming in as imports so the decision was made to make sure that there was a global food safety system. It was very clear that the results of these events were the loss of farmers and that is not sustainable situation for agriculture.

It should be clear without saying that industry does care about the public and their safety. It just does not make any sense for them not to. There has been a lack of public recognition that there are right ways and wrong ways of doing things. It is having knowledge of the industry makes the difference. This is the way in which the industry stays ahead. There needs to be the communication that not looking out for public health is not a marketing strategy that works.

All the information about the FSMA can be is online and people can hear about everything in proposal on the website. It is a good site but it can be hard to maneuver, and it contains really valuable information.

One of the big questions is where do the U.S. states fit into the picture? It is a federal requirement, but how does that actually work? It has been found that economy of scale works better and provides more knowledge. Currently 20 states have the Department of Agriculture as their primary food safety agency. Industry can develop better standards and propose them most effectively through states. This can be a bottleneck between intelligent industries though. What FSMA requires is what the state department wants of the Food and Drug Association (FDA). We can't just go out and bust, here prevention is the name of the game. Educate before you regulate. Find a problem, correct it, and allow them to get back into the market.

The FSMA is not a new law; it just adds additional requirements to others that were already in place. For example, the Bioterrorism Act (2002) required that all foreign producers of foods being imported into the U.S. needed to be registered. The idea of preventative control is the new aspect. Every one has to comply with this provisions, regardless or domestic or import. Under FSMA authority seven new rules have been proposed but it is unlikely that the draft will be seen until after election. The Produce Safety Rules applies same way in Canada and the United States. They are science and risk based and not commodity specific rules, opting for general guidance instead. The new document attempts to be flexible and to allow variance in certain things. There is additional time provided for farmers to comply with the rules once they come into effect.

There are some concerns with the Product Safety Rules. The whole purpose was to remove farms from regulation like the Bioterrorism Act. If you produce food, exemptions are based off of how much money you make. Another issue is the standards that are in place for irrigations water, much of which is contaminated but not contaminating food. The FDA is trying to find right answer to many issues like that one. The problem is that the standards that are being used are not really standards at all, they are actually guidelines and not used at the federal level. Many problems are associated with mixed-type facilities, the first of which is the very language used. If you produce any products further than harvest then you are mixed type facilities. When getting to the point of food safety concerns in these facilities the way it is written is easy to administer but farmer needs to read hundreds more pages to understand.

Under FSMA there are key new import authorities and mandates. Five areas of significance have been created that are able to comply with food imports. This creates a lot of paper work but maybe not necessarily more safety. Due to the FSMA the U.S. will have to make an investment to help foreign governments comply with new regulations. This is the only actual way to make international marketplace work. Currently there is a Canada-EU pilot projects going on.

At the end of the presentation Bob Ehart shared some of his own personal thoughts on the matter. The first thing he pointed out was that the FDA had not been able to meet implementation dates, so they were being sued. This is not particularly good because they need to get the rules done right. If they are not done right it is just more regulations. Agriculture is experiencing a cultural change lag and has problems with communication. Due to this education is critically important and the FDA has given money to build curriculum. An integrated food safety system has been discussed for 20 years. He believes that the FDA should do imports and states should do domestic. Evening the playing field is critically important. In the end it is easy to talk about this in policy, hard to make the science fit and quality and food safety does not mean the same thing

After the presentations the floor was allowed to ask questions. Geran Tarr asked whom the curriculum that was being developed was for. Bob answered that it was for small and medium sized growers.

Another person asked about GMO labeling. Bob answered that labeling is about manufactured foods, and a lot of labeling has already been done. We are missing out on opportunities to be safe. That is a completely separate issue.

The next speakers were Hon. Rob Merifield, Frederic Seppey, and Jason Seppey with a presentation and discussion of agriculture's role and implications in international trade agreements. Rob started the discussion by talking about trade. He stated that there are differences in talking to the United States citizens and Canadians about trade. NAFTA and its role are of the utmost importance. Canada is the richest middle class country in the world. They came out of the recession without compromised GDP. It is where the #1 financial sector in world is located and is the second best place to do business. During the recession Canada lowered taxes, shrunk size of government, freed up private sector and went after international trade. Now their new trade agreement with Europe, CETA, is the most comprehensive trade agreement in the world. The United States is trying for a Trans-Pacific Partnership (TPP) but it has not got fast tracked through Congress, which will have difficult time nailing it down. He then brought up how important agriculture was yet how it is often the last thing to get negotiated due to sensitivity.

There had been some talk in media that Canada was not part of TPP because they had supply management, and these claims are false. Canada and the United States need their partnership to remain strong. With the additional costs associated with COOL sitting at around \$100 a carcass for beef, this protectionism goes against international rules. It is absolutely critical that we do something today; the issue should have been solved when the Farm Bill went through Congress. Then Gord Brown reminded those present that the association had an event in Ottawa where every one had a chance to sit down and hash out this issue. Initially contact was not made between Canada and the United States because at the time there was no political will. That political will is sure present now. The issue needs to be addressed now before a Minister retaliates and the other side goes in the opposite direction. A potential option is to repeal it and have the rules changed to something more along the lines of when an animal is processed in America it is a product of America, or even the even broader concept of North America labeling. It is critical to seize the opportunity within next 60 days to avoid a messy situation. COOL goes against the rule of law, the WTO, it is ridiculous, and it is hurting America. The supply chains between the two countries are so linked that it is damaging to both of them. The growing markets are in other areas and we need to focus on them. North America can't ruin this opportunity to compete on the international stage. He believes that can the countries can come up with compromise, they have just never sat down and talked about how to fix it. The solution has to come from industry itself. Canada will win with WTO for the third time.

Then there was another opportunity for questions. An unidentified individual asked if they were aware that there was draft resolution from this body last year, and if there were any ways to make it more efficient? Rob replied that the most efficient thing would be not to appeal and get industry to stop dragging its feet. About 5,000 jobs have been compromised and numerous plants have been put at risk, and he asked why don't we put these Americans back to work? It was acknowledged however that this was the first time seeing a Farm Bill that has not been passed with bipartisan support.

Jason Hafemeister was the next one to speak. He began with an overview of U.S. trade agenda from the U.S. trade perspective, starting with agriculture exports and imports. The United States is a big importer and exporter. Everything that is produced is exported. Currently the United States is negotiating with China and the EU and already has agreements in place with Canada and Mexico. In total the United States will have locked up 70% of its exports if these agreements go through. A lot of money is still on the table though. There are many factors that drive agriculture exports: look for mouths, money, and global markets; trade agreements make countries richer; and can also help to open markets. The Developing countries are where the big growth is at right now. In order to conduct a trade agreement it is necessary to have a fast track or trade promotion route through government and all participants need to be trustworthy at the negotiating table. In the United States 215 votes are needed to get through the House. This requires bipartisan support.

The WTO was attempting to address trade agreements but this was not working so nations turned to bilateral trade agreements. When the last WTO negotiations started the United States only had two bilateral agreements but there are many more now. In regards to the United States-Chile FTA situation, they are negotiating with neighboring markets to keep tariffs low. The Trans-Pacific Partnership has unfinished business with NAFTA. Japan's inclusion makes this situation interesting and provides a large market for multiple sectors. The EU used to have a trade surplus in agriculture in 1990. Now they are importing more and more and although Canada and the United States share similar markets, the U.S. has a trade barrier. Trade barriers such as the one between the United States and the EU are a huge issue. The WTO is still out there and has the capacity to solve trade disputes but it isn't working too well right now.

In closing Jason emphasized that this is an issue of the future. There is progress on bringing down tariffs. There is also health, safety and labeling requirements that must also be considered though. Exports are hugely important for U.S. markets and due to this trade agreements are important.

At this point people were allowed to ask questions. Patrick Kole stated that he was a firm believer in free trade, but was wondering about fair trade. He brought up the Mexico-US sugar market as an example.

Another person asked a question on fast track and if after midterms, do it was expected to bring any TPP forward? Jason replied that he was a fast track fundamentalist and that it is hard to even begin negotiations without that authority. The TPP is different. We have an agreement with most of the countries; have shown that we are able to get close to deals without that. But it may not be the best deal. Japan is tricky. There are risks to setting a trade deal without fast track.

Conrad Van Hierden commented on how a skipped slide showed how other countries have subsidies and stated that free trade and fair trade needs to be the same. Jason replied that, speak about fair trade as an economist, export subsidies are unfair. Tariffs are a direct intervention in the marketplace and are clearly a trade impediment. Subsidies are a little murkier. For example do food stamps count as unfair trade subsidies? Really worried about subsidies that encourage production, and want to bring those down over time and are trying to get rid of these things that are clearly market distortions. Have to find subsidies to fit local solutions. What's fair and unfair in trade? There is a whole bunch of things that give other producers advantage.

The last person on the panel to speak was Frederic Seppey and he spoke about Canadian agriculture and international trade negotiations. He started out with seizing growth opportunities and developing a trade policy toolbox, which was described as having four big sections of a toolbox: rule of law, trade negotiations, market access, and international institutions. In trade people are jealous. Trade negotiations are constant especially in agriculture due to constant evolution. When NAFTA was negotiated 20 years ago many it was created not only need to address trade problems of that time but of the future as well. In agriculture you can have best rule of law but there are often barriers in place. There needs to be a way to put resources in support of trade access and there is a need to protect interests. Both Canada and United States have same objectives.

Canada's Free Trade Agreements (FTAs) are an ambitious agenda. Negotiations take place because there is a desire to protect and grow markets. Current agreements only cover 27% of potential markets where as ongoing negotiations cover 75%. Canada's mark in the Asia-Pacific region is the Trans-Pacific Partnership (TPP). This represents a huge potential in terms of increasing market access. For Canada, the TPP is really about developing new trade rules; the logic of TPP is based on set of rules. Agriculture issues under considerations in the TPP as well. Each country has their own sensitivities and that's what makes goods market access so difficult. Negotiations need to take place bilaterally initially. The decision of whether countries will offer all same concessions or varying concessions is a real challenge

Canada is also involved in CETA negotiations. This is the most significant trade agreement for Canada since NAFTA. There is the potential to build new business relationships and to create links that did not exist before. Canada wants to develop new type of business relations. Negotiating with the EU is different than negotiating with any one else. There needs to be an agreement on key outstanding political

issues. Attempts have been made to close the negotiations since October. Once the negotiations are concluded the agreement will still need 18-24 months before coming into force. There are a number of key agricultural issues that are going to be addressed within CETA primarily focused on the removal of tariffs. There will still be tariffs on cheese and milk products as well as certain geographical considerations. Many immigrants brought their techniques with them and the agreement makes sure that Europe has some protection for certain cheeses.

Canada is also currently involved in a FTA with Korea. This is important from a level field perspective. The process started in 2005. Both the United States and the EU started their FTA process with Korea after Canada and have already finished. It is very important to complete those negotiations and it is still on track to come into place as of January 1, 2015. In addition to this ongoing process with Korea there is also a Canada-Japan Economic Partnership Agreement, as to not putting all the eggs in one basket. The WTO is the cornerstone of Canada's trade policy agenda. It is the only place to really deal with issues.

Frederic's final thoughts on this subject were that Canada and United States enjoy a deep-rooted relationship and are stronger when they work together. They share common goals and have the best regulatory regimes but in terms of working together, it should be through some science-based relationship.

After Frederic was done with his presentation there was a final opportunity for questions. There was a comment on subsidies between Canada and the United States, but no further questions.

Action Item

When discussing the Action Item, it was decided that further discussion would be done through a conference call due to a lack of remaining time in the session. The primary action to be discussed was a potential COOL resolution. This needs to be broadened a bit and to include the Canada Food Safety Act as well as food safety systems in both countries. There will be discussions based around safety attempted through different mechanisms, mutual recognition on both sides of the border, the need for identical outcome but not necessarily identical processes, with no additional verifications across the borders.