



July 14th, 2017

Dear Sir or Madam,

RE: Consultations on the Renegotiation and Modernization of the North American Free Trade Agreement

It is my pleasure to submit the following comments on behalf of the Canadian Produce Marketing Association (CPMA) to the Government of Canada regarding the renegotiation of the North American Free Trade Agreement (NAFTA). On behalf of our members, CPMA welcomes this opportunity and hopes the comments below provide some insights for the Government regarding the importance of ongoing free trade within the context of a renegotiated NAFTA and its impact on the fresh fruit and vegetable industry.

As an association, CPMA represents over 840 members across Canada and the world, including a significant number of members based in the U.S. Our membership is comprised of businesses across the entire fresh fruit and vegetable supply chain from farm gate to dinner plate. As such, we are uniquely positioned to comment on the effects of NAFTA throughout the entire supply chain. Within the Canadian context, the fresh fruit and vegetable supply chain contributes \$11.8 billion to Canadian real GDP.

Economic Impact

Since the implementation of NAFTA in 1994, Canadian fresh fruit and vegetable exports to Mexico and the U.S. have increased substantially to a total of \$2,181,299,795 CDN in 2016. This is an increase of approximately 396% when adjusted for inflation. This growth is indicative of the importance of tariff-free trade and the integration of our marketplace within North America and within the fresh produce industry since the inception of NAFTA.

Furthermore, NAFTA has been an important tool in ensuring that Canadian consumers have a consistent and diverse supply of fresh fruit and vegetables year-round, despite a relatively short growing season domestically. By removing tariffs on products, this has allowed Canadian buyers (including grower-shippers in Canada) to purchase fresh produce from the U.S. or Mexico during the off-season to maintain consistent price and quality and continue providing consumers with a diverse variety of fresh and nutritious fruits and vegetables year-round.

That said, Canadian companies have enjoyed significant trade with the U.S. The top Canadian fruit and vegetable exports to the U.S. include:

- Tomatoes (\$368,401,867 CDN)
- Peppers (\$359,767, 018 CDN)

- Potatoes (\$279,240,657 CDN)
- Cucumbers and gherkins (\$239,629,132 CDN)
- Mushrooms (\$194,284,700 CDN)

While total Canadian fresh fruit and vegetable exports to the U.S. are sizeable (over \$2 billion CDN), the estimated impact on U.S. jobs as a result of all U.S. agricultural exports to Canada is estimated at 273,530 jobs (direct, indirect and induced). Clearly, U.S. agricultural trade to Canada has significant positive effects on the U.S. economy as well.

Shrinking the Border

CPMA fully supports a North American perimeter approach to trade in order to shrink the border and ensure a quick and smooth shipment of goods to consumers. CPMA is encouraged to see funding announced in Budget 2017 for the Trade and Transportation Corridors Initiative and is hopeful that this funding will further enhance trading opportunities for Canadian businesses across North America.

As an industry, we are also supportive of the areas of improvement relating to the border outlined in the February 2017 Congressional Research Service report on NAFTA, which recommends improving customs automation procedures, the creation of a single-access window at one point of entry for importers and exporters, and special customs procedures for express shipment. CPMA is committed to being fully engaged with government departments and agencies to help achieve these goals.

Improving Crop Protection Requirements

Given the integration of the North American produce industry, CPMA would welcome all efforts to further standardize sanitary and phytosanitary (SPS) requirements as well as Maximum Residue Limits (MRLs) across all three NAFTA countries. By standardizing SPS requirements, and particularly ensuring common MRLs, Canadian companies will be better positioned to increase export trade in both the Mexican and U.S. markets.

The Government of Canada should also strongly advocate for language within a renewed NAFTA that recognizes sound, science-based information as a fundamental principle upon which NAFTA countries trade. In the advent of misinformation and disinformation relating to food products, sound science is essential in policymaking and establishing NAFTA-wide standards. The Government's renewed focus on sound science in policymaking is encouraging and we hope to see this commitment enshrined in a renegotiated NAFTA.

CPMA is also supportive of recommendations stemming from the previously mentioned Congressional Research Service report regarding improved SPS measures. These include the promotion of science-based and transparent regulator activities, including the use of risk analysis to improve the scientific basis of SPS regulations; notifications to importers and exporters of shipments detained due to an SPS issue, and a consultative mechanism to see speedy resolution of detentions resulting from an SPS issue. Additionally, NAFTA countries must also have the

ability to respond quickly to emerging SPS threats with the facilitation of new chemistries and technologies to address the emergence and introduction of new pests and diseases.

Industry also encourages the Government to advance the establishment of a joint registration system that simultaneously registers pest control products and standardizes pesticide registrations with all NAFTA countries. A joint re-evaluation process and schedule for re-evaluations and special reviews should also be developed and implemented. At present, the Canadian and U.S. cycles are greatly misaligned and present numerous obstacles leading to unnecessary non-tariff trade barriers.

Furthermore, CPMA believes that there should be an enhanced focus on pesticide registration for minor uses. By rallying the minor crop grower communities, the Canadian Pest Management Centre program and the U.S. IR-4 program, NAFTA should enable all three countries to: a) identify pest control gaps that can commonly be addressed, b) follow the established minor joint review procedures to enable joint submissions of registration applications in Canada and the U.S., and c) make simultaneous regulatory decisions in both Canada and the U.S. within a set timeframe and encourage Mexico to create a program that models the Canadian Pest Management Centre and U.S. IR-4 programs.

Regarding biotechnology, as both Canada and the U.S. adhere to a science-based regulatory system, CPMA recommends that both countries better align the regulatory structure around the approval and importation of biotech crops. A policy of mutual acceptance of assessments performed in either country would greatly reduce waste and duplication, allowing farmers faster access to new seed varieties and allowing Canada and the U.S. to work together globally in order to achieve greater acceptance of plant biotechnology and science-based regulations.

Creating a North American Food Safety Authority

CPMA encourages the Government to explore the possibility of further coordinating and integrating North American food safety systems. The European Food Safety Authority (EFSA) is an example of increased coordination of programs, data, monitoring, surveillance and standardization across Europe with buy-in from all European Union (EU) member states. While each NAFTA country would maintain decision-making authority over its food safety standards and inspection practices, a North American food safety authority would ensure a common scientific foundation for assessing and preventing emerging foodborne threats; for recommending food safety risk thresholds for pathogens, residues, and allergens; for approving food safety interventions, technologies and analytical test methods; for validating food safety best practices at all levels of food production, processing, distribution and preparation; for sharing and interpreting food safety testing and surveillance data gathered across North America and globally in relation to imports, and for recommending innovative, outcome-based food safety inspection practices and compliance promotion strategies.

Developing a food safety authority for North America as part of NAFTA would recognize the already deeply integrated agri-food sector and would enable greater collaboration between all

three countries. Such an authority would be able to provide a coordinated response to an outbreak and create science-based benchmarks for food safety across North America which stand to benefit both industry and consumers alike. CPMA recommends that Canada and the U.S. join the authority first, given their mutually recognized food safety systems, and that Mexico join within a prescribed timeframe from the official start of the new agreement.

Ministerial Exemptions and Marketing Orders

For many commodities in the fresh produce industry, Ministerial Exemptions (MEs) play an important role in ensuring there are no shortages of product for Canadian consumers. MEs provide a source of stability and create a level playing field between Canadian and foreign growers engaged in interprovincial trade should they meet the requirements outlined in the *Fresh Fruit and Vegetable Regulations*. The grade requirements stemming from an ME request are also an important tool used by the Government to avoid dumping low-quality products in Canada.

Likewise in the U.S., the Secretary of Agriculture may issue Marketing Orders (MOs) which are designed to stabilize market conditions for certain commodities by regulating their interstate and international trade components. For some Canadian exports such as potatoes, the issuance of an MO has significant impacts on U.S. trade since they must comply with the most stringent MO currently issued in the U.S. for that specific commodity even if they are trading with a state with a less restrictive MO or no MO at all. In many cases, this can be a significant non-tariff trade barrier for Canadian companies.

Given the similarity between the Canadian Ministerial Exemption and U.S. Marketing Order regimes, any discussion of either in a renegotiation must expand to include the similar regime in the other country. Removal or changes to one must be balanced with similar actions to the other to ensure ongoing balanced trade. This will provide a level playing field for industry on both sides of the border.

Financial Risk Mitigation

In October 2014, the Canadian fresh produce industry lost its preferential access to the dispute resolution mechanism established under the U.S. *Perishable Agricultural Commodities Act (PACA)*. Under Canada's former preferential access to PACA, Canadian companies needed only to pay a maximum \$500 USD administration fee in order to file a claim. Since the loss of preferential access, Canadian growers have been required to post a bond worth 200% of their claim in the case of a no-pay or slow-pay situation by a U.S. company. For many Canadian produce companies, the financial cost of tying-up their bond and the claim amount is not feasible, resulting in forfeiture of monies owed. This model is unsustainable and poses a significant financial risk for Canadian produce exporters, particularly as the industry works towards increasing exports in order to achieve the agricultural export goal outlined in Budget 2017.

The lack of a PACA-like deemed trust is also a significant issue for many U.S. produce companies exporting to Canada. The development of a deemed trust provision in Canada would, in cases of insolvency, allow sellers a first priority on cash on-hand, inventory and accounts receivable

related to the sale of fresh produce. Payment protection resulting from the deemed trust is the final component of the American PACA model that requires a Canadian legislative framework in order to achieve a more fully integrated and reciprocal North American fresh produce market. This will ensure that businesses in Canada and the U.S. have the same guarantees and financial risk mitigation measures when trading fresh fruits and vegetables.

In order to regain preferential access to PACA and encourage more small and medium enterprises in the produce industry to export to the U.S., the Government must create a PACA-like deemed trust. Loss of preferential access to PACA has become a serious non-tariff trade barrier for the industry and has impacted our competitive advantage in accessing the U.S. market. Indeed, the idea of creating a PACA-like deemed trust was unanimously supported by all parties of the House of Commons Standing Committee on Agriculture and Agri-Food in June 2016. CPMA urges the Government of Canada to take immediate action on this issue in order to re-establish preferential access for Canadian produce companies under PACA's dispute resolution mechanism.

To conclude, we are proud as an industry of the market integration we have achieved in North America. With a greater focus on healthy eating by consumers, the fresh fruit and vegetable industry only stands to grow in the years to come. NAFTA is an important element of that growth and the recommendations and concerns outlined above will strengthen our trading relationship with Mexico and the U.S. That said, the number one priority for our industry is to maintain tariff-free trade across all three NAFTA countries. We are hopeful that the Government of Canada, the U.S. Administration and the Government of Mexico can reach an agreement that benefits North America for generations to come.

Thank you for your time and your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to be 'R Lemaire', followed by a horizontal line extending to the right.

Ron Lemaire
President
Canadian Produce Marketing Association