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Wednesday 30 May 2012

The Hon Dr Craig Emerson
Minister for Trade and Competitiveness
PO Box 6022
House of Representatives
Parliament House
Canberra
ACT 2600

Dear Minister

Trans Pacific Partnership: Proposed Participation of Canada

Australian Pork Ltd (APL) and the Australian Dairy Industry Council (ADIC) are writing to express policy concerns in respect of Canada's proposed participation in TPP negotiations. Both APL and the ADIC are committed to expanding and improving the quality of market access respectively for Australian origin pork and dairy products.

Major sectors of Canadian agriculture including the pork and dairy industries are beneficiaries of significant government support both at the provincial and federal levels. This support includes production linked subsidies (pork) and the erection of non-tariff barriers to trade (dairy).

Canadian pork producers, by benefitting from substantial government subsidy programmes, enjoy an unfair competitive advantage over hard-working Australian producers who operate in a subsidy-free environment. APL believes that Australian pork, with its higher animal welfare standards, remains at a disadvantage compared with the significant subsidies available to Canadian pork producers. Please refer to the attachment.

Canadian dairy policy, based on milk supply management and regulated by their Federal and Provincial governments has two prime goals. First, to reduce the annual structural surpluses of protein solids which can only be exported in accordance with Canada's obligations under the Uruguay Round Agreement on Agriculture, as confirmed by a subsequent Appellate Body ruling. Secondly, the Canadian government introduced the Special Class program over two decades ago to reduce the price of domestic origin dairy ingredients to undercut competing imports and to facilitate the export of further processed foods at competitive prices.

Consequently at this stage, APL cannot support Canada's entry to the TPP based on its ongoing, substantial subsidy programmes which have the potential to further flood Australia's key Asian export markets with cheap subsidised pork products.

Similarly, the ADIC is opposed to Canada's entry as their systemic, protectionist approach is designed to divert dairy trade to third country markets with attendant commodity price depressing impacts and loss of opportunity to develop sales in their market.

The Canadian government has yet to make a genuine undertaking that they will seek to match the high level of ambition of the current nine negotiating parties in terms of eliminating impediments to trade in pork and dairy products. Admittance of Canada, in the absence of pre-entry confidence building measures, risks re-opening and re-negotiating chapters already agreed upon and consequently severely delaying conclusion of the TPP.

Confidence building measures could include the roll-back of provincial and federal subsidies for pork production and elimination of non-tariff measures such as cheese compositional standards and ice cream subsidies, designed to unfairly encourage consumption of Canadian origin product.

Conclusion

APL and the ADIC support the Australian government's international efforts to liberalise trade and remove trade distorting barriers and subsidies in export markets. APL and the ADIC are supportive of a TPP agreement which is ambitious, comprehensive in coverage, and represents both a 21st century living agreement and a blueprint for an eventual Asia-wide trade agreement. However, failing to reform Canada's considerable government support for their pork and dairy producers puts Australian origin at a major competitive disadvantage; in reality we cannot "compete on a level playing field".

I trust this will inform the Australian negotiating position. Should you have any questions, we would welcome the opportunity to discuss this further with you in person.

Yours sincerely

Andrew Spencer
Chief Executive Officer
Australian Pork Limited

Chris Griffin
Chairman
Australian Dairy Industry Council

Cc: Senator the Hon Joe Ludwig, Minister for Agriculture
The Hon Sid Sidebottom MP, Parliamentary Secretary for Agriculture
Hamish McCormick, First Assistant Secretary, DFAT

Simplified and harmonised trade rules through a high-quality TPP reduce the up-front tariff cost and the transactional costs involved in compliance with non-tariff measures. The latter need to be based upon sound science and internationally accepted standards such as agreed under OIE and Codex Alimentarius.

Canadian pork subsidies

Canada is one of the three largest global exporters of pork, behind only the United States and Denmark. In an ITS Global report commissioned by APL in 2008, it was found that Canadian pork producers received the second highest level of government support behind the EU. In 2004, the Producer Support Estimate (PSE) totalled C$389m, or C$154/tonne, equating to 8%. Canadian provincial government programmes provided a further A$25.7m in subsidies in 2001, with national 'green' and blue' box notifications for that year totalling a massive A$2,143,900,000.

The Canadian Government[1] has a long history of subsidizing Canadian pig farmers: between August 15, 1985 and January 1, 2000, a countervailing duty ("CVD") order was in effect on U.S. imports of live swine from Canada. In addition, from September 23, 1989 and June 21, 1991, a CVD order was in place on U.S. imports of fresh, chilled and frozen pork. Over the history of the CVD order on live swine, the US Department of Commerce examined more than a dozen distinct countervailable subsidy programs provided to the pig industry by the Government of Canada at both the federal and provincial levels. While this order was revoked effective January 1, 2000, through the sunset provision of the Uruguay Round Agreement Act, the Canadian government has continued to provide substantial support to the Canadian pig industry through various federal and provincial programs. Two of the most significant trade-distorting programs are discussed in detail below.

Ontario recently implemented a prominent new subsidy program that will distort trade and harm foreign producers: in addition to many long-standing federal subsidy programs, provincial governments in Canada continue to implement new subsidy programs that distort trade and negatively affect overseas pork industries. One of the most egregious examples was announced on March 29, 2011 in the Province of Ontario's 2011 fiscal year budget. The budget provides for the creation of a risk management program for farmers of select agricultural products covering; grain and oilseeds, cattle, pigs, sheep, and veal. Working in partnership with farm representatives, Ontario established the Risk Management Program (RMP), which provides income stabilization insurance for Canadian pig production. Producers receive a guaranteed return for their production, such that if the market price of pig's falls below the predefined support level, the program will pay 40 percent of the difference between the market price and the support price. As established, RMP is a countervailable subsidy. Similar to ASRA, the Ontario RMP provides direct payments, or grants (a financial contribution), when the prevailing market price falls below a certain floor price (a benefit) for a select group of industries including, pig farmers (specificity).

Access for dairy products to Canada

Canada operates a supply management system to restrict dairy imports via quotas and prohibitive out-of-quota tariff rates. In spite of the URAA Canada has continually tried to limit imports, especially via non-tariff barriers to trade. Existing barriers to our exports are:

[1] Source: submission by Kelley Drye & Warren LLP on behalf of the (U.S.) National Pork Producers Council to the USTR (Chair Douglas Bell, Trade Policy Staff Committee) regarding Canada's expression of interest in the Trans-Pacific Partnership Trade Negotiations; January 13, 2012.

- Canada's compositional standards for cheese, implemented in December 2008, which have the effect of limiting imports of casein, Milk Protein Concentrate (MPC), Milk Protein Isolate (MPI) and Whey Protein Concentrate (WPC) as inputs into cheese making. Cheese making is the primary use for the nearly 15,000 tonnes annually of MPC imported into Canada. The standards can also have disruptive effects on cheese imports because of red tape and restrictions associated with the standards when they are fully implemented. This could result in a change in the product mix of cheese quota imports; from table to industrial varieties.
- An ice cream program, pursuant to which processors receive a subsidy for using Canadian milk-fat, both cream and butter, to substitute for imports and, furthermore, a rebate is paid towards the "Buy 100% Canadian ice cream" promotion program.
- The introduction of a new special class of milk pricing, class 4m, which grants Canadian processors raw milk at subsidized prices well below international market levels for the manufacturing of MPCs designed specifically for use in natural cheese make.