October 3, 2014

Paramjit Gill, Member of Parliament
830 La Promenade Building
Ottawa, ON, K1P 5E3

Mr. Gill,

On Oct 1st, the US government informed Minister Ritz that Canada was losing Canadian preferential access to their Perishable Agricultural Commodities Act (PACA) system of payment protection for the produce industry. This will have big consequences for the fresh fruit and vegetable industry in Canada, putting jobs, exporters, Canadian farms and other parts of the produce supply chain at risk, and ultimately leading to higher produce prices for Canadian consumers. As a Canadian citizen and business operator here in Canada, I'd like to know why the Canadian government has yet to act to remedy this issue.

This will hurt my business and I will not stand for it. Removal of preferred PACA access will affect import and export volume and prices, and will result in Canadian job losses and the loss of Canadian farms and other companies in the produce supply chain.

Exporting to the US has now become much riskier. Without access to PACA, going after unpaid bills will be much harder for Canadian companies. Less scrupulous US buyers, knowing that Canadian companies are now at a disadvantage, will attempt to benefit, leading to higher rates of outstanding bills. Situations like this can devastate not only the producer, but all the businesses connected to them and hits rural communities particularly hard. In addition to providing a diverse supply of healthy food for Canadian consumers, Canada's fresh fruit and vegetable sector makes an important contribution to national economic output and employment. In 2013, the fresh fruit and vegetable sector supported 147,900 jobs and creates $11.4 billion in real GDP. The Canadian government has put this at risk. It must urgently pass an act of Parliament demonstrating comparable outcomes to the US system in order to encourage the US government to reinstate Canadian access.

I've attached a backgrounder on the issue prepared with our partners in the Fresh Produce Alliance, which consists of the Canadian Produce Marketing Association, the Canadian Horticultural Council and the Fruit and Vegetable Dispute Resolution Corporation.

I hope that you can make yourself available to discuss this critical issue for our industry and how the government can address and provide a solution immediately.

Sincerely,

F. Charles Waud

F. Charles Waud
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Past President - Brampton Board of Trade (BBoT)
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Payment Protection for Canada's Fresh Fruit and Vegetable Industry: Backgrounder

WHAT IS THE PROBLEM?

On October 1st, the US Department of Agriculture (USDA) revoked preferential Canadian access to their payment protection system for produce suppliers under the Perishable Agricultural Commodities Act (PACA). This will have significant consequences for the fresh fruit and vegetable industry in Canada, putting jobs, Canadian farms and other parts of the produce supply chain at risk, and ultimately leading to higher produce prices for Canadian consumers.

The loss of PACA to Canadian business will be well known throughout the US industry. Less scrupulous players will use it to their advantage, resulting in increasing amounts of unpaid bills to Canadian producers.

Without PACA access, Canadian companies trying to recover unpaid bills will have to post double the value of what they are trying to recover as bond to make a claim. For example, a small producer owed $50,000 would have to post $100,000 cash, is effectively removing $150,000 from their cash flow/operating line for up to one year. Many cannot afford this will simply have to walk away, losing what is rightfully owed to them. Situations like this can devastate not only the producer, but all the businesses connected to them and hits rural communities particularly hard.

While Canadian firms had been the only country benefiting from the same protections as U.S. entities when operating in the US, the lack of a comparable system in Canada has been a growing trade irritant for US suppliers and affects the price and quality of fresh fruit and vegetables available to Canadians.

In order to address the gaps between the two countries, the Canada-U.S. Regulatory Cooperation Council (RCC) mandate agreed to by President Obama and Prime Minister Harper in 2011 included commitments towards establishing comparable approaches toward the common goal of protecting Canadian and U.S. fruit and vegetable suppliers from buyers that default on their payment obligations.

U.S. frustration with the lack of reciprocity, and the perceived lack of action on the part of the Canadian government to find a solution, has reached a breaking point. The U.S. government has revoked the Canadian preferential access to PACA, stating that it will only be reinstated after the passage of act of Parliament demonstrating comparable outcomes.

CONSEQUENCES

Growing, harvesting, packing and shipping perishables is risky. The unique characteristics and volatile financial environment of the fresh produce sector make it vulnerable to payments disruption, with the highly perishable nature of the product an important contributing factor. Low profit margins are the norm for producers and many rely on a single buyer to purchase their entire crop.

When selling into the US, Canadians firms have benefited from a big stick with their customers – 'pay your bills reliably or we can submit a PACA claim, putting your license to operate, and therefore your business, at risk.' This security has led to a thriving Canadian trade south of the border. Its loss will result in increasing rates of Canadian firms not being paid and limited ability to go after unpaid bills.

Removal of preferred PACA access will affect import and export volume and prices, and will result in Canadian job losses and the loss of Canadian farms and other companies in the produce supply chain.

According to data from Agriculture Canada, Canadian and US firms operating in Canada lose on average $19 million per year from through Canadian buyer insolvency. According to a USDA licensee survey, U.S. shippers already add a 5 to 15 percent price premium to fresh produce bound for Canada in order to compensate for the riskier environment. In order to shed its reputation as a secondary or inferior market, Canada must provide payment protections comparable to those offered in the United States.

Integrated supply chains with the United States are key to ensuring a year-round supply of affordable fresh produce for Canadian consumers. Canada sells about 40% of its fruit and vegetable production to the United States – about $1.5 billion in sales in 2012 – and Canada imported nearly $3.5 billion from the U.S. in the same year.

The biggest loser from a lack of government action will be Canadian consumers, who will face increased prices, decreased quality, and reduced selection and variety in the produce aisle.

CURRENT GOVERNMENT REVIEW

Under RCC, Agriculture Canada and the produce industry reviewed and commissioned studies into current and traditional tools, including an insurance model, but none proved viable. Industry Canada is currently undertaking a statutory review of the *Bankruptcy and Insolvency Act* (BIA), including looking at the specific protections for fruit and vegetable suppliers and how these may be changed to satisfy the RCC commitments. The FPA submitted a brief to the review requesting the establishment of a PACA-like trust in Canada. This proposal was also supported in the submissions to Industry Canada from the Canadian Federation of Independent Business, the Canadian Federation of Agriculture, and dozens of Canadian and U.S. companies operating in Canada. The Minister of Industry is expected to table a report to Parliament in the fall after which its recommendations will be studied by a Parliamentary committee.

MARKET IMPORTANCE

In addition to providing a diverse supply of healthy food for Canadian consumers, Canada's fresh fruit and vegetable sector makes an important contribution to national economic output and employment. In 2013, the fresh fruit and vegetable sector supported 147,900 jobs and creates $11.4 billion in real GDP.

Canada's domestic farm gate receipts for fresh fruit and vegetables, excluding potatoes, in 2012 were $2.72 billion. Including potatoes would add more than $1 billion to 2012 farm gate receipts. Seventy-five percent of Canada's 10,000 fruit and vegetable producers are small businesses with average sales of less than $85,000 per year. Over 85% of the value of Canada's vegetables and fruit are grown in Quebec, Ontario, and B.C. Rural communities in these provinces are at greatest risk from produce buyer insolvency.

PRODUCE INDUSTRY SOLUTION

Urgent action is needed. The fruit and vegetable industry believes that the most effective way to provide protection to produce sellers is through the establishment of a limited statutory deemed trust, modeled on what currently exists in the US. This would provide effective and inclusive protection that takes into account the unique characteristics of trade in perishable products. Assets available to trust creditors would be limited specifically to produce accounts receivable, and any cash and inventory from the sale of the produce. A trust does not require any government funding or administration. This solution would also meet the requirements that Canada implement a comparable system in order to reinstate our preferential access to PACA.