



## What Will Canada Do Now? Canada May Put Duties On Over \$1 Billion Annually From the USA

By Cyndee Todgham Cherniak on December 7th, 2015

Posted in Agriculture, Cross-border trade, Customs Law, World Trade Organization



The World Trade Organization has agreed with Canada that the United States has not modified its laws to remove Country of Origin Labelling (COOL) violations and a WTO Arbitration Panel has ruled that “Canada may request authorization from the Dispute Settlement Body to suspend concessions and related obligations in the goods sector under the GATT 1994 at a level not exceeding CAD 1,054.729 million annually.” The WTO Decision is available on the WTO website.

What this means is Canada may place duties on goods entering Canada from the United States to receive \$1.054,729,000 annually. That will help Canada’s deficit.

What with the Trudeau Government do now? Retaliation is like shooting yourself in the foot and hoping to not hit a major artery. When duties are placed on imports, Canadian businesses and consumers suffer. That being said, there are many manufacturers in Canada who will compete against US goods and would appreciate a little extra duties at the border. Consumers will end up paying more for the US goods and may select Canadian manufactured goods instead. Canadian manufacturers may raise their prices to distributors and consumers knowing that the supply/demand dynamic has shifted.

In 2013, former Minister of International Trade Ed Fast and Former Minister of Agriculture Gerry Ritz prepared the following list of potential COOL retaliation targets:

- 01.02: live bovine animals;
- 01.03: live swine;
- 02.01: meat of bovine animals, fresh or chilled;
- 02.02: meat of bovine animals, frozen;
- 02.03: meat of swine, fresh, chilled or frozen;
- 0207.13.10: cuts of offal, fresh or chilled, of spent fowl;
- 0406.90: cheese, not including the following: fresh (unripened or uncured) cheese, whey cheese or curd; grated or powdered; processed cheese; blue-veined cheese or cheese containing veins produced by *Penicillium roqueforti*;
- 0808.10: apples, fresh;
- 0809.29: cherries, other than sour cherries (*Prunus cerasus*);
- 0812.10: cherries, provisionally preserved (unsuitable in that state for immediate consumption);

- 10.05: corn (maize);
- 1006.30.00: semi-milled or wholly milled rice, whether or not polished or glazed;
- 1602.32.11: prepared or preserved-prepared meals of spent fowl; prepared meals of specially defined mixtures;
- 1602.32.92: prepared or preserved-specially defined mixtures, other than in cans or glass jars; spent fowl other than in cans or glass jars;
- 1602.49: prepared or preserved swine cuts, other than ham and cuts thereof; other than shoulder and cuts thereof;
- 1602.50: prepared or preserved meat of bovine animals;
- 1702.20: maple sugar and maple syrup;
- 1702.40.00: glucose and glucose syrup, containing in the dry state at least 20 percent but less than 50 percent by weight of fructose, excluding invert sugar;
- 1702.60.00: certain fructose and fructose syrup, containing in the dry state more than 50 percent by weight of fructose, excluding invert sugar;
- 1806.20: chocolate and other food preparations containing cocoa-preparations in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg;
- 1806.90: other chocolate and other food preparations containing cocoa-ice cream mix or ice milk mix; chocolates; chocolate coated nuts and other confectionery;
- 19.02: pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagna, gnocchi, ravioli, cannelloni; couscous, whether or not prepared;
- 19.04: prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize [corn] in grain form or in the form of flakes or other worked grains (except flour, groats and meal), pre-cooked or otherwise prepared, not elsewhere specified or included;
- 19.05: bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products;
- 2004.10.00: certain potatoes, prepared or preserved otherwise than by vinegar or acetic acid, frozen;
- 2009.11: frozen orange juice;
- 2103.20: tomato ketchup and other tomato sauces;
- 22.04: wine of fresh grapes, including fortified wines; certain grape must;
- 2207.20: ethyl alcohol and other spirits, denatured, of any strength;
- 2940.00.00: certain sugars, chemically pure, other than sucrose, lactose, maltose, glucose and fructose; sugar ethers, sugar acetals and sugar esters, and their salts;
- 3504.00: peptones and their derivatives; other protein substances and their derivatives, not elsewhere specified or included; hide powder, whether or not chromed;
- 71.13: articles of jewellery and parts thereof, of precious metal or of metal clad with precious metal;
- 7306.40.00: certain tubes, pipes and hollow profiles, welded, of circular cross-section, of stainless steel;
- 7321.90: parts for non-electric heating appliances;
- 7326.11.00: grinding balls and similar articles for mills, forged or stamped, but not further worked, of iron or steel;
- 9401.30: swivel seats with variable height adjustment;
- 9403.30.00: wooden furniture of a kind used in offices; and
- 9404.29.00: mattresses of materials other than cellular rubber or plastics, whether or not covered.

Now that the Trudeau Liberals are in power, the list may change. Trade Minister Chrystia Freedland has some work ahead and decisions to make. Trade Minister Freedland and Agriculture Minister Lawrence MacAulay have issued a statement and said "If the U.S. Senate does not take immediate action to repeal COOL for beef and pork, Canada will quickly take steps to retaliate.

This is a serious trade issue between Canada and the United States.

Tags: COOL, Country of Origin Labelling, Retaliation, WTO World Trade Organization

This Blog/Web Site is made available by the lawyer or law firm publisher for educational purposes only as well as to give you general information and a general understanding of the law, not to provide specific legal advice. By using this blog site you understand that there is no attorney client relationship between you and the Blog/Web Site publisher. The Blog/Web Site should not be used as a substitute for competent legal advice from a licensed professional attorney in your state.

The postings on this Blog/Web Site should not be attributed to McMillan LLP or Mitchell Silberberg & Knupp LLP. Some of the articles are posted by law students, and readers should use caution when relying on any post of a law student.

Cyndee Todgham Cherniak

c/o LexSage Professional Corporation  
The Gooderham "Flatiron" Building, 49 Wellington Street East, Suite 501  
Toronto, Ontario  
M5E 1C9  
Phone: 416-307-4168  
Fax: 416-760-8999

Susan Kohn Ross  
c/o Mitchell Silberberg & Knupp LLP  
11377 W. Olympic Boulevard  
Los Angeles, California  
90064  
Phone: 310-312-3206  
Fax: 310-231-8406

Copyright © 2016, Canada-U.S. Blog. All Rights Reserved. Strategy, design, marketing & support by LexBlog