

January 2004

Agriculture: Farmers, Agrifood Industry, Scientists, and Consumers

Audrae Erickson

Follow this and additional works at: <http://scholarlycommons.law.case.edu/cuslj>



Part of the [Transnational Law Commons](#)

Recommended Citation

Audrae Erickson, *Agriculture: Farmers, Agrifood Industry, Scientists, and Consumers*, 30 Can.-U.S. L.J. 263 (2004)

Available at: <http://scholarlycommons.law.case.edu/cuslj/vol30/iss/43>

This Speech is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Canada-United States Law Journal by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

AGRICULTURE: FARMERS, AGRIFOOD INDUSTRY, SCIENTISTS, AND CONSUMERS

Audrae Erickson[†]
U.S. Speaker

Thank you for the kind introduction.

I want to take a moment and share with you the many products made from the corn refining industry. Increasingly, more and more of the consumer products that enhance our daily lives are made from corn. Our products are ingredients in many of the foods that you eat, whether it is corn oil, cornstarch, or corn sweeteners.

Corn is also in the fuel tanks of the cars that you drive in the form of ethanol, and in the pharmaceutical products, paints, glues, and other everyday items that you consume. Another new development produced by one of our member companies is biodegradable plastics from corn that will have an enormous and beneficial impact on the environment.

Today, I would like to talk about the subject of Canada and U.S. agricultural trade. My remarks will focus largely on the policy perspective, looking at this issue as it has evolved, and comparing it on a couple of occasions to issues that U.S. agriculture faces with our partners south of the border – Mexico. I think there are some interesting comparisons between all three of the NAFTA partners at certain moments in time.

[†] Audrae Erickson is the president of the Corn Refiners Association, Inc. (“CRA”) based in Washington, D.C. CRA is the national trade association representing members of the U.S. corn refining industry who produce sweeteners, starches, ethanol, bioproducts and feed ingredients. Prior to joining CRA, she served as Senior Director of Congressional Relations for the American Farm Bureau Federation where she specialized in agricultural trade issues, including trade policy, negotiations, dispute settlement, Trade Promotion Authority and matters involving the WTO and the FTAA. In 1999, Ms. Erickson founded the Ag Trade Coalition to promote U.S. agricultural interests on WTO negotiating objectives. The coalition consists of more than 100 organizations representing producers, processors and agribusiness. Erickson continues to chair the coalition. Prior to her service at the AFBF, Erickson served as Director of Agricultural Affairs at the United States Trade Representative’s Office. Ms. Erickson also has served as an economist at the U.S. Department of Agriculture’s Economic Research Service where she specialized in trade and environment issues. She earned her M.A. in economics as a Rotary scholar from McGill University and her B.A., *magna cum laude*, from Linfield College.

After 15 years of increased bilateral trade, liberalization between the U.S. and Canada has resulted in a great success story. Unfortunately, the media does not always report favorably on some of these trade issues, especially the success of the NAFTA for the U.S. and Canadian agricultural sectors. This is particularly true in the area of farm policy, especially when it intersects with trade policy.

As you know, Canada and the United States joined forces economically when the Canada-U.S. Free Trade Agreement¹ was formed in 1989. All tariffs were removed under that agreement by 1998.² Leading up to that moment in time, you will remember, was quite a difficult period politically from the perspective of U.S.-Canadian agricultural farm politics. This period was marked by considerable unease at our respective border. Some governors in the United States were threatening to stop trade in rather visible ways, as you recall. Interestingly, that was right about the time that most tariffs were approaching duty free levels under the Canadian and U.S. agricultural trade relationship.

Now, fast forward to January 1, 2003, when the NAFTA implementation period is largely completed for U.S. agricultural exports to Mexico and that same border tension is now developing with Mexican agricultural producers.³

Relatively speaking, our experience with Canada was less rocky than that with Mexico. We have had some challenges in agricultural trade between our two countries, but most of these matters have been played out in WTO dispute settlement cases. Conversely, the focus for U.S. agriculture of late has increasingly turned to Mexico on a whole host of agricultural issues. One of those disputes is on sweetener trade between the United States and Mexico, a matter that has largely resulted from sugar politics both north and south of the U.S.-Mexico border.

Shifting to bilateral U.S.-Canadian agricultural trade, Canada is the top export market for U.S. agriculture based on 2003 export data.⁴ Canada has always been in the top three foreign markets for U.S. agricultural exports, but in the last year it became the primary trading partner for the United States. We shipped more commodities and food products to Canada than to France, the Philippines, Indonesia, Egypt, Germany, Taiwan and Korea combined.⁵

¹ Canada-U.S. Free Trade Agreement, Jan. 2, 1988, U.S.-Can., 27 I.L.M. 281.

² *Id.* at art. 401(2), 27 I.L.M. 281, 306.

³ Dan Chapman, *NAFTA Tariff Deadline Sets Off Squawks among Chicken Farmers*, ATLANTA JOURNAL CONSTITUTION, Jan. 1, 2003.

⁴ Press Release, State Department, USDA Official Cites Importance of Trade with Western Hemisphere - Penn Says Region is Top Market for U.S. Agricultural Exports (May 20, 2003) (on file with U.S. Dept. of Ag).

⁵ See USDA, *Top 15-Ranked Country Export Destinations for Total U.S. Agricultural Trade, By Fiscal Year*, available at:

<http://www.ers.usda.gov/data/FATUS/DATA/xfytop15.xls> (last visited Sept. 25, 2004).

Conversely, agricultural imports from Canada have not always been warmly embraced. This can be attributed, in part, to the regional impact of some of these imports. A prime example was wheat imports from Canada that affected certain regional markets. The regional nature of imports and sanitary-phytosanitary issues are where the most vexing challenges remain.

While BSE has become the focal point of the beef industry, the emphasis was formerly on beef imports generally speaking. The issue of beef imports largely gave rise to an organization of beef producers in the United States that are renowned for their anti-trade positions. Such opposition often put advocates for agricultural trade on notice.

Fortunately, the sentiment concerning imports has quieted down recently. Although, it is true that we import a great deal of wheat from Canada and several other commodities, we also export a number of agricultural goods to Canada. The total value of our trade, \$9.3 billion in 2003,⁶ is very similar to the level of agricultural goods, \$10.3 billion, which we imported from Canada.⁷ It is interesting to note that Canada exports such a large volume of agricultural commodities to the United States despite the fact that it is one-ninth the population of our country. However, when you conduct a relative size comparison for consuming markets, it is not all that surprising that Canada would have a trade surplus with us. Looked at another way, we export over eight times more to Canada on a per capita basis in agricultural, food and agricultural products, than we import. That is not an often-cited statistic on the U.S. side of the border.

Additionally, two-way trade in agricultural goods between the United States and Canada grew more than 75 percent from the moment that the NAFTA was implemented to recent years.⁸ Half of the overall growth in U.S. agricultural exports to all countries today is largely driven by the trade that we enjoy with Canada.⁹

Each year our agricultural exports to Canada grow at five times the rate of our exports to all other countries. The United State's share of the Canadian agricultural import market has grown steadily to 65 percent today,¹⁰ whereas

⁶ *NAFTA Agricultural Trade an Unqualified Success, U.S. Official Says; Agreement Serves as Building Block for All Trade Liberalization*, FEDERAL INFORMATION AND NEWS DISPATCH, April 20, 2004.

⁷ See USDA, *Top 15-Ranked Country Export Destinations for Total U.S. Agricultural Trade, By Fiscal Year*, available at: <http://www.ers.usda.gov/data/FATUS/DATA/Mfytop15.xls> (last visited Sept. 25, 2004).

⁸ *NAFTA Agricultural Trade an Unqualified Success, U.S. Official Says; Agreement Serves as Building Block for All Trade Liberalization*, FEDERAL INFORMATION AND NEWS DISPATCH, INC., April 20, 2004.

⁹ George C. Myles & Matthew Cahoon, *Canada and NAFTA: a 10-year Measure of Success in Canadian-U.S. Agricultural Trade; North American Free Trade Agreement*, AGEXPORTER, Jan. 1, 2004.

¹⁰ *NAFTA: a Win-Win Proposition for U.S. Producers*, AGEXPORTER, Jan. 1, 2004, at 16.

our market share is dropping off in other parts of the world.¹¹ This variation can be attributed to numerous factors.

What agricultural sectors have benefited the most from U.S.-Canadian trade? Prior to May of last year and prior to the BSE issue – or the cow that stole Christmas here in the United States - red meats, primarily beef, were the beneficiaries, as well as live animals, fruits and vegetables, and manufactured consumer products. The demand for food in Canada – and the Canadian diet generally - is similar to that of the United States. Increased fruit and vegetable consumption in Canada certainly has benefited U.S. fruit and vegetable producers.

I believe that most Americans are unaware that Canada is the top export market for U.S. fresh vegetables. Our bountiful production, coupled with strong food safety regulations in the United States that are similar to regulations in Canada, makes the United States the supplier of choice for the Canadian market.

Despite the import protection that Canada has for its poultry market, our poultry exports to Canada are very important. Canada is the number two export market for U.S. chicken products.

On the dairy front, we have had a couple of challenges with Canada based on Canada's protection of its domestic milk producers. The United States also provides certain protections for its dairy industry, to some extent, due to global restrictions in dairy trade.

Our two countries went to court in the WTO over Canada's dairy export regime.¹² This claim followed a similar dispute that was addressed by NAFTA on dairy, eggs and poultry.¹³ I think those of us in U.S. agriculture will agree that the 1996 claim was not successful result for the United States.

There was a particular aspect of Canada's dairy export regime that the United States took issue with- the price-pooling concept. The United States was able to prove before a WTO panel that Canada was using export subsidies for its milk production or dairy products in excess of what the WTO rules allowed.¹⁴

Even in the face of all these challenges with respect to dairy, American exports of milk and dairy products to Canada have tripled.¹⁵ Again, this is

¹¹ *Id.*

¹² Report of the Appellate Body, Canada - Measures Affecting the Importation of Milk and the Exportation of Dairy Products, WT/DS103/AB/R, WT/DS113/AB/R.

¹³ In the Matter of Tariffs Applied By Canada to Certain U.S.-Origin Agricultural Products, 1996 FTAPD LEXIS 10.

¹⁴ *Id.*

¹⁵ Press Release, On the 10th Anniversary of North American Free Trade Agreement, U.S. Embassy to Trinidad and Tobago (on file with U.S. Embassy to Trinidad and Tobago) available at: <http://trinidad.usembassy.gov/trinidad/NAFTA.html> (last visited Sept. 27, 2004).

not necessarily one of the talking points that you hear repeated by the U.S. or Canadian dairy industry.

With respect to grains, American grain exports have reached five times their level when the NAFTA was first implemented. This is largely because of bulk corn and soybean exports to Canada.

The strongest success story of all is in the consumer oriented food products sector. Seventy percent of our exports in this category are destined for Canada.¹⁶ That includes horticultural products, snack foods, beverages, and other grocery items.

As trade barriers have fallen, several high profile disputes have arisen. It is natural to expect an increased level of trade challenges, especially as barriers are coming down and the volume of trade rising. Some of these disputes are due to real trade impacts, others are due to political pressures.

From the U.S. perspective, I would say that chief among the pressures has been the issue of the Canadian Wheat Board. As you know, the WTO just ruled in the U.S. case for Canada on the CWB.¹⁷

The United States and Canada have long disagreed about the operation of, or the practices of, the Canadian Wheat Board. Over time, there have been a number of instances wherein the United States has challenged the Canadian Wheat Board practices. The last of these challenges by the United States was put before the World Trade Organization.¹⁸ It is certainly the view, rightly or wrongly, of wheat producers in the United States that the practices of the Canadian Wheat Board are monopolistic in scope and that gives them an unfair advantage in the U.S. market.¹⁹

However, an examination of the amount of wheat that we import from Canada is not that significant considering our total market for wheat. A primary issue in this debate is the impact of CWB practices on the ability of U.S. wheat producers to sell to third country markets.²⁰ This issue is exacerbated by the increasing popularity of the Atkins diet, which is taking a toll on the U.S. wheat industry.

Adding insult to injury, the United States appears to have lost the primary aspect of the WTO dispute settlement case on the CWB. Why? Not really because one side was necessarily right over the other, but the fact remains

¹⁶ *supra* note 15.

¹⁷ Tom Ford, *U.S. Policies Threaten Canada*, WINNIPEG FREE PRESS, Sept. 22, 2004, at A14.

¹⁸ WTO Dispute Panel U.S. Request for Consultations Concerning Canadian Measures Relating to Exports of Wheat and Treatment of Imported Grain, WT/DS276/1, (Dec. 20, 2002).

¹⁹ Sen. Chuck Grassley, Rep. Earl Pomeroy, *Asia's Promise Needs Commitment; Agricultural Trade Playing Field Must be Leveled*, ROLL CALL POLICY BRIEFING, Sept. 4, 2003.

²⁰ *Id.*

that in the WTO there are really no rules on state trading enterprises (Sets).²¹ There is one minor clause in the WTO rules that says that Sets should act in a commercial manner.²² It is very difficult to prove that an operation like the Canadian Wheat Board is not operating in a commercial manner.

What is the real result of the WTO ruling on the CWB for the United States? This ruling has caused the United States to push even harder in the WTO negotiations on agriculture to seek stronger disciplines on state trading enterprises. Canada has always been the poster child on the STE issue, unlike the Australian Wheat Board. While the Australian Wheat Board is often lumped together with the CWB, the primary concern rests with the CWB.

The Canadian view, generally speaking, of stronger rules on STEs is to simply say, "Well, it is absolutely unnecessary. The WTO ruling is proof positive that we are operating above board." Therefore, the need to resolve the matter will be amplified in the U.S. efforts in the WTO negotiations on agriculture, a forum wherein the United States works collaboratively with Canada.

EXCHANGE RATES

If anybody has the answer on exchange rates, I would love to hear it! I cannot tell you the number of times that U.S. farmers and ranchers raise concerns about exchange rates. This is especially true when the U.S. dollar is strong relative to the Canadian dollar. Much focus has been placed on the trade impact of exchange rates. Fortunately, due to the weakening of the dollar, the concern has receded somewhat.

It is interesting to note that despite all of the domestic concern about the effect of exchange rates on trade, both Canada and Mexico remained among our top export markets despite currency fluctuations. Why? The reduced trade barriers to the NAFTA encouraged such a result.²³ Thus, the effects of trade liberalization, especially in a free trade context, overwhelm some of the exchange rate impacts that might be felt temporarily. In addition, long-term, established supplier relationships and growing food demand have proven to be a stronger driver of U.S. export expansion than exchange rates.

²¹ The General Agreement on Tariffs and Trade, TIAS No. 1700, 55 UNTS 194, Article XVII available at: http://www.wto.org/english/docs_e/legal_e/gatt47_e.pdf (last visited Sept. 30, 2004).

²² *Id.* at XVII(1)(a).

²³ Samuel Rosa, Ingrid Mohn & Steven Shnitzler, *NAFTA Swell U.S. Horticultural Product Profits*, AGEXPORTER, Jan. 1, 1999, at 22.

Another longstanding trade concern is that of potatoes, and it is no joke to say that this story has been one hot potato! Both Canada and the U.S. have significant potato production. Potato trade does not necessarily flow without challenges back and forth between our two countries. The bottom line is that the U.S. has long felt that restrictions on bulk shipments of potatoes to Canada that are not enforced on an intra-province level within Canada are the primary problem.²⁴ Every time we raise this point and threaten to take Canada to the WTO, Canadian officials reply, “Well, the United States has a few marketing orders that we would like to talk about with respect to what types of potatoes are grown in or marketed in what regions, and under what quality conditions, size and other standards.” That typically quiets us in a hurry. Nevertheless, the dispute rages on with both sides holding firm to their positions. Interestingly, as representatives from both nations’ potato industries meet, they come to understand each other’s positions much better. That has helped to mitigate some of the overall pressure on this issue.

From the Canadian perspective, the U.S. Farm Bill²⁵ was a cause of great concern. Following passage of the Farm Bill, I was in my former position with the American Farm Bureau Federation, which is the nation’s largest agricultural organization representing farmers and ranchers. The Canadians were the first officials to come through our doors after the Farm Bill passed into law. They were not happy with the Farm Bill, to put it mildly. Regardless, the United States is operating within its WTO allowed levels for domestic supports, so there is no real legal challenge. However, it is necessary for all countries to work ever harder in the WTO context where there are great gains to be made from reductions in global domestic support levels and increased market access.

Canada, as a member of the Cairns countries,²⁶ looks disparagingly at our domestic supports. Together we must address this issue in the WTO negotiations on agriculture, because we both want the real culprit – the European Union - to reduce its domestic supports.

With respect to areas of bilateral cooperation, the United States and Canada have certainly developed a strong and enduring working relationship on trade negotiations on agriculture in the WTO and also on matters concerning global trade in biotechnology.

²⁴ *Id.*

²⁵ Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, 116 Stat. 134 (2002) (codified as amended in sections of 7, 16 U.S.C.).

²⁶ Clete D. Johnson, *A Barren Harvest for the Developing World? Presidential “Trade Promotion Authority” and the Unfulfilled Promise of Agriculture Negotiations in the Doha Round*, 32 GA. J. INT’L & COMP. L. 437, n34 (2004).

BIOTECHNOLOGY

On biotechnology issues, it is interesting to note that in the dispute settlement context, Canada and the United States have joined forces with Argentina to challenge the European Union's moratorium on biotech approvals.²⁷

We believe we have a strong WTO case on this matter. Clearly, we have deep vested interests on the biotechnology front to ensure that the practices that are employed by Europe do not spread the contagion effect, as it is often called, to markets of great export importance to us both.

WHERE DO WE GO FROM HERE?

Certainly, trade in agriculture products will remain at impressive levels between the United States and Canada. In addition, we expect to see ever increasing levels of bilateral investment between our two countries. Trade liberalization will continue to be an important factor in the growth of these two variables. In addition, the income growth factor will certainly be strong and will serve to be an important factor in food demand, more so for the United States due to the fact that population in Canada is not growing very much at all.

The United States and Canada have worked together to look at ways in which they can begin to mitigate some of the disputes that arise, and try to address them before they increase to a heightened level of concern. Once it gets to that stage, it is often a political solution more than an economically meaningful solution that results. We would rather work on these issues at the stage where we can derive economically meaningful approaches.

The Consultative Committee on Agriculture (CCA)²⁸ certainly presents that opportunity in that this is a forum for governments to address issues, develop action plans, and to bring issues of concern to that forum first, rather than running straight to the WTO.²⁹ However, the CCA also allows states and provinces to have some input into the process as well. Such input is

²⁷ Press Release, Office of the United States Trade Representative, U.S. and Cooperating Countries File WTO Case Against EU Moratorium on Biotech Foods and Crops (May 13, 2003), *available at*: [http://www.ustr.gov/Document_Library/Press_Releases/2003/May/U.S. Cooperating Countries File WTO Case Against EU Moratorium on Biotech Foods Crops.html](http://www.ustr.gov/Document_Library/Press_Releases/2003/May/U.S._Cooperating_Countries_File_WTO_Case_Against_EU_Moratorium_on_Biotech_Foods_Crops.html) (last visited Nov. 1, 2004).

²⁸ The Canada-U.S. Consultative Committee on Agriculture (CCA) Terms of Reference *available at*: http://www.iir.gov.ab.ca/trade_policy/pdfs/5.4.2.7-CCA_terms_reference.pdf (last visited Sept. 27, 2004).

²⁹ *Id.*

critically important, especially when we reflect on the ability of regional issues to disproportionately affect trade outcomes.

BSE

I want to turn to the issue of BSE just briefly. It is interesting to note that the United States and Canada were really the architects of what is the Sanitary-Phytosanitary Agreement in the WTO.³⁰ It was the efforts of some very savvy and technically astute negotiators in the United States and Canada that brought that agreement to fruition.

When BSE happened first in Canada and then in the United States, each country had to put the WTO SPS Agreement to the test. I think the BSE experience has yielded invaluable lessons in letting science prevail and addressing issues that affect plant, animal and human health in ways that might not have been possible heretofore. The BSE incident demonstrated that we can continue to support scientifically based decisions when reopening trade in agricultural products.

CONCLUSION

To close, the prominence of our bilateral trading relationship in agriculture, and the importance of that trade to our respective net farm incomes, will serve as a strong catalyst, forever strengthening agricultural ties between our two nations.

Thank you very much.

³⁰ Claudio Grossman, *Recent Developments: The Evolution of Free Trade in the Americas: NAFTA Case Studies*, 11 AM. U.J. INT'L L. & POL'Y 687, 693 (1996).

