

Fighting for the U.S. Cattle Producer!



R-CALF

USA

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January 28, 2010

The Honorable Tom Vilsack
United States Secretary of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250

The Honorable Ron Kirk
United States Trade Representative
600 17th Street NW
Washington, DC 20208

Re: Additional Action Needed to Defend COOL and Protect U.S. Cattle Producers from Canada's Anticompetitive Subsidies

Dear Secretary Vilsack and Ambassador Kirk:

Though Canada claims as an entitlement access to the U.S. market for its cattle and beef without country-of-origin labeling (COOL), Canada continues to subsidize its cattle and beef sector in order to anticompetitively penetrate the U.S. market. R-CALF USA believes Canada's subsidies on beef and cattle constitute an artificial propping-up of a Canadian cattle industry that is unsustainable at its present size, but for those government subsidies. Further, R-CALF USA believes that Canada's subsidies are inconsistent with the very World Trade Organization (WTO) agreements that Canada claims the U.S. has violated vis-à-vis COOL.

The United States Trade Representative (USTR) and the U.S. Department of Agriculture (USDA) should not tolerate the Government of Canada's ongoing practice of using the Canadian treasury to manipulate the U.S. cattle market by subsidizing Canadian cattle supplies and beef production at levels above what a competitive market can support. This practice is particularly appalling given the Government of Canada is trying to undermine the United States' constitutionally passed COOL law – which is widely supported by U.S. cattle producers and consumers – while simultaneously using its treasury to out-compete independent U.S. cattle producers, whose prices are depressed because Canada is unjustly and artificially propping-up its cattle supplies beyond what the available market can bear.

R-CALF USA encourages USTR and USDA to review the following subsidies supplied by the Government of Canada and provincial Canadian governments to anticompetitively penetrate the U.S. market while simultaneously attempting to undermine the United States' pro-competition COOL law. R-CALF USA believes the following subsidies not only negate any standing that Canada may have at the WTO to file a complaint against our domestic COOL law, but also, that these subsidies warrant immediate corrective action by USTR and USDA to protect the hundreds of thousands of remaining independent U.S. cattle producers whose markets are being severely depressed by Canada's artificial maintenance of excessive cattle supplies.

A recent article appearing in the *Winnipeg Free Press* indicates that Canada's federal and provincial governments have implemented programs to financially assist the Canadian cattle

industry following the 2003 detection of bovine spongiform encephalopathy (BSE).¹ The discovery of BSE in Canada resulted in bans of Canadian cattle and beef by the U.S. and numerous other export markets, thereby reducing demand for Canadian cattle and beef derived from Canadian cattle. Despite this worldwide reduction in demand for Canadian cattle and beef, Canada continues to subsidize its cattle industry, thereby promoting excessive cattle supplies that must be unloaded or dumped into export markets. Canada is particularly reliant on the U.S. market to unload or dump its excess supplies and Canada is now trying to further penetrate the U.S. market by destroying COOL – an action that would allow Canada to effectively hide from U.S. consumers the origin of beef derived from Canadian cattle.

Examples of Canada's subsidies on cattle and beef include:

BSE Recovery Loans: Through March 31, 2008, the Manitoba Agricultural Services Corporation (MASC) provided "BSE Recovery Loans" to Manitoba cattle producers that experienced financial hardships due to BSE. The MASC states "Even now, after most disputes have subsided and the borders have reopened, Manitoba producers still suffer through the disease's financial aftershocks."² The BSE Recovery Loans were divided into two parts, with interest on Part 1 loans set at 3.25 percent and lower, and interest on Part 2 loans set at 1.5 percent below MASC's prevailing one-year rate.³ Beginning Feb. 21, 2008, the MASC granted a 3-year deferral on principal payments for Part 2 BSE Recovery Loans, thereby making these loans an ongoing subsidy.⁴

Stocker Loans: The MASC also provides guaranteed "Stocker Loans" to Canadian cattle producers for the purchase of steer calves, heifer calves, and feeder cows, as well as for cash advances to producers that already own stocker animals.⁵ The MASC explains that these loans are intended to address fluctuations in international livestock markets: "Manitoba's livestock producers raise some of Canada's best beef cattle, but fluctuations in international livestock markets can cause even the best producers to experience temporary cash flow problems."⁶ The maximum guarantee for these Stocker Loans is \$250,000 with interest set at a one-year term rate.⁷

Alberta Feeder Association Guarantee Programs: Under the Inspection/Investigation Branch, Regulatory Services Division, Alberta Agriculture and Rural Development, the provincial government may guarantee repayment of loans made to feeder associations to finance

¹ See Rancher hands out beef to highlight problems, Larry Kusch, Winnipeg Free Press, Jan. 27, 2010, available at <http://www.winnipegfreepress.com/local/rancher-hands-out-beef-to-highlight-problems-82772202.html>.

² BSE Recovery Loans, Manitoba Agricultural Services Corporation (MASC), available at http://www.masc.mb.ca/masc.nsf/program_bse_recovery.html, downloaded Jan. 27, 2010.

³ See *id.*, under "details" link.

⁴ See *Ibid.*

⁵ See Stocker Loans, MASC, available at http://www.masc.mb.ca/masc.nsf/program_stocker_loans.html, downloaded on Jan. 27, 2010.

⁶ See Stocker Loans, MASC, available at http://www.masc.mb.ca/masc.nsf/program_stocker_loans.html, downloaded on Jan. 27, 2010.

⁷ See *id.*, under "details" link.

the acquisition of livestock by the members of those feeder associations.⁸ In 1999, the U.S. Department of Commerce found that “these loan guarantees are countervailable subsidies to the extent that they lower the cost of borrowing within the meaning of section 771(5) of the Act [Tariff Act of 1930, as amended by the Uruguay Round Agreement Act].⁹

Agriculture and Agri-Food Canada has compiled a list of measures implemented by the Canadian government that provided the Canadian cattle industry with financial assistance while the government worked to reopen borders and restore market operations.¹⁰ This assistance included:¹¹

BSE Recovery Program: Total program funding was \$520 million. “The program helped to keep the domestic market moving and provided improved returns to feedlots and processors in light of severely depressed prices.”

Work Sharing Program: Agreements valued at more than \$9.4 million were signed with two Canadian meat packers to assist them in overcoming the financial problems associated with BSE.

Producer Assistance 2003: The Government of Canada advanced business risk management funding to certain producers.

Canadian Agricultural Income Stabilization (CAIS) program: The program is intended to assist producers who experienced a loss of income as a result of BSE and other factors, helping producers protect their farming operations from both small and large drops in income.

Cull Animal Program: Total funding for this program is expected to be \$200 million. It was intended to allow payment to producers for cull animals prior to slaughter.

Transitional Industry Support Program: The Government of Canada announced \$930 million for this program that included direct payments to producers of cattle and other ruminant animals.

Fairness Provision of the Income Tax Act: The Canada Revenue Agency was given authority to cancel or waive penalties and interest to those unable to meet their obligations due to extraordinary circumstances, including BSE.

The foregoing is just a sample of the massive subsidies used by the Government of Canada and provincial governments to prop up Canada’s cattle and beef industries. In 2004, R-CALF USA commissioned research that revealed that in 2002 alone – prior to the discovery of

⁸ See Feeder Associations Guarantee Program, Government of Alberta, Agriculture and Rural Development, available at <http://www1.agric.gov.ab.ca/general/progserv.nsf/all/pgmsrv130>, downloaded Jan. 27, 2010.

⁹ 64 Fed. Reg., 57042, col. 2.

¹⁰ See Measures To Assist Industry In Response To BSE, Agriculture and Agri-Food Canada, available at http://www.agr.gc.ca/cb/index_e.php?s1=b&s2=2004&page=bse-esb, downloaded Jan. 27, 2010.

¹¹ *Ibid.*

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BSE in Canada – Canada’s budget included approximately US\$78 million in funding for twenty-one subsidy programs benefiting the Canadian beef and cattle industry.¹²

Several of Canada’s subsidies on cattle and beef are directed at protecting the Canadian cattle industry from market fluctuations in its domestic market. If Canada were doing this only to preserve its national food security by maintaining sufficient domestic production to meet domestic demand, its subsidies likely would not adversely affect U.S. cattle producers. But this is not what Canada is doing. Canada is overproducing for its domestic market and its subsidies are intended to maintain this overproduction even in the face of reduced, worldwide demand, with the effect of creating severe market distortions in the U.S. cattle market.

It is patently unjust and inappropriate for Canada to file a WTO complaint against the United States’ domestic COOL law, which requires only that beef derived from Canadian cattle be identified with a label that includes Canada, while it simultaneously props up both its domestic cattle industry and beef industry with massive subsidies so it can continue to overproduce for both its domestic market and the global market. Because these subsidies require Canada to maximize its penetration of the U.S. market in order to unload or dump its excess production, the United States must act decisively to protect the U.S. market from Canada’s anticompetitive actions.

Canada’s actions are harming U.S. cattle producers and R-CALF USA urges you to take immediate action to protect the U.S. market from Canada’s unjust and inappropriate subsidies, as well as Canada’s related, inappropriate action of attempting to undermine our domestic COOL law.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Bullard", written in a cursive style.

Bill Bullard, CEO

¹² R-CALF USA commissioned a preliminary draft of a petition for relief under Section 301 of the Trade Act of 1974, as amended, in which research was conducted regarding subsidies on beef and cattle by various countries.