

# **BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD**

## **Supervisory Review Re:**

### **Chicken Operating Agreement Amendments**

#### **AFFIDAVIT OF MIKE DUNGATE**

**(sworn April 27, 2016)**

I, Mike Dungate, of the City of Ottawa, in the province of Ontario, MAKE OATH AND SAY:

1. I am the Executive Director of the Chicken Farmers of Canada ("CFC"). I have held this position since May 1997. In my capacity as Executive Director, I am responsible for managing CFC staff and providing support to CFC's Board of Directors. I have worked closely with CFC's board in the negotiation of the MOU and Operating Agreement amendments.
2. I swear this affidavit in connection with the submissions of CFC, dated April 27, 2016, submitted as part of the supervisory review of the British Columbia Farm Industry Review Board related to the amendments to Schedule B of the 2001 Federal-Provincial Agreement for Chicken (the "Operating Agreement"). This affidavit should be read together with CFC's Supplementary Documents, also filed as part of this supervisory review.

#### **A. TRQ imports**

3. The Primary Poultry Processors Association of British Columbia ("PPPABC") has included, at pages 21 to 26 of its documents, an excerpt of a PowerPoint presentation prepared and delivered by Yves Ruel, CFC's Manager of Trade and Policy. A complete copy of this presentation is found in CFC's Supplementary Documents.

4. The chart on page 26 of the presentation is based on data provided to CFC by Global Affairs Canada. The chart presents two amounts - “TRQ allocation” and “TRQ Imports” – on a province by province basis.
5. TRQ Allocation reflects the amount of TRQ allocated to TRQ holders with addresses in a given province. CFC understands that Global Affairs Canada uses only one address – the address on the TRQ application – for each TRQ holder when compiling this information, regardless of whether a TRQ holder operates processing plants in multiple provinces. The data does not indicate where the imported chicken is processed or sold in Canada.
6. TRQ Imports reflect the volume of TRQ imports entering Canada in each province. The data does not indicate where the imported chicken is processed or sold in Canada.
7. Global Affairs Canada sets out the details of its method of allocating TRQ in a Notice to Importers issued annually, which is summarized on CFC’s website at the following link: <http://www.chickenfarmers.ca/how-we-do-it/whats-trade-got-to-do-with-it/>. A copy of the most recent Notice to Importers, dated November 12, 2015, and CFC’s summary are included in CFC’s Supplementary Documents.
8. As described by the Notice to Importers and CFC’s summary, Global Affairs Canada allocates TRQ to companies that fall within one of five groups: traditional, processors, food-service, distributors, and non-import control list (non-ICL) products. The traditional group receives its fixed quantity (20.9 million kgs). The processor, distributor and food-service pools are collectively allocated 37.1% of the TRQ volume (divided as follows: processors: 62.6%, distributors: 26.8%, foodservice: 10.6%). The non-ICL group receives its full requirements through the volume remaining in the regular allocation, special reserves, the market development policy and the supplementary imports to complete allocation.
9. Companies that qualify in more than one pool or group are allowed to apply under both but only receive one allocation; related or affiliated companies are only eligible for one allocation as well. Companies that use less than 90% of their allocation in any year have their allocation in the next year reduced to their actual level of use.

10. Global Affairs Canada annually publishes a list of companies holding TRQ. The 2016 lists of TRQ holders in the processors pool and TRQ holders who are processors in the traditional group are included in CFC's Supplementary Documents.

11. Some major processors have processing plants in multiple provinces. For example, Maple Leaf Foods has major processing plants in both Ontario and Alberta.

12. Some major processors own further processing companies. For example, Sunrise Farms and Hallmark Poultry own Sunwest and JD Sweid, respectively. Some of those further processing plants are located in a different province than their owner. For example, Sunrise Farms, Hallmark Poultry, and Sofina (Western-based processors) own, respectively, DC Foods, Elmira Poultry, and Janes Family Foods (further processing companies that operate in Ontario).

13. There is also a secondary market for TRQ or for products imported under TRQ. Transfers on this secondary market are not necessarily reflected in the data of Global Affairs Canada. CFC understands that a majority of TRQ volume is transferred on this secondary market rather than used by the TRQ holder.

### **B. Spent fowl imports**

14. Imports of chicken fraudulently declared as spent fowl represent an ongoing challenge for the industry. This fraud is most clearly demonstrated by the fact that, in 2012, more spent fowl breast meat was declared as entering Canada from the United States than spent fowl breast meat produced in the United States that year.

15. CFC and CPEPC are actively working to stop illegal imports and have both made public statements against such imports. CFC has put sustained pressure on the federal government to address this concern.

16. CFC is likewise concerned with the potential for abuse of the Duties Relief Program, which provides relief from import duties on products that will be exported either in the same condition or after processing. CFC considers this program to have a high potential for abuse in

the case of chicken, particularly since products can be substituted with lower value cuts, such as spent fowl, before re-export.

17. CFC was pleased to see the announcement, made concurrently with the conclusion of TPP negotiations, that the federal government will intensify on-going anti-circumvention measures to enhance Canada's border controls, including requiring certification for spent fowl and excluding supply-managed products from the Duties Relief Program. A copy of the news release, dated October 5, 2015, containing this announcement is contained in CFC's Supplementary Documents.

18. CFC closely monitors available information regarding fowl imports. CFC does not have data on the distribution of spent fowl imports, fraudulent or legitimate, between provinces and regions. Moreover, CFC is not aware of any data supplied by AAFC that would indicate the distribution of spent fowl imports between provinces and/or regions.

19. The largest chicken producing U.S. states are Arkansas, Georgia, Maryland, North Carolina, and Mississippi. These states are significantly closer to Ontario and Quebec than to British Columbia.

### **C. The differentiated regional allocation proposal**

20. The differentiated regional allocation proposal was presented to the CFC Board at its September 2015 meeting. No processor representative spoke in favour of the proposal at the meeting. As a consequence, Bill Vanderspek, Executive Director of the British Columbia Chicken Marketing Board (the "BC Board"), presented the proposal. A PowerPoint presentation used in this presentation is contained in CFC's Supplementary Documents.

21. At the conclusion of the presentation, in the absence of any processor representative to field questions about the proposal, Manitoba Chicken Producers asked CFC members to provide feedback to western board managers by September 18, 2015.

22. CFC provided this feedback on September 18, 2015, asking a series of questions of clarification about the proposal in a letter to Wayne Hiltz, general manager of the Manitoba

Chicken Producers. This letter is contained in CFC's Supplementary Documents. CFC did not receive a response to this letter.

23. Chicken Farmers of Ontario ("CFO") provided its response in a letter, dated September 18, 2015, to Clinton Monchuk, Chief Executive Officer of the Chicken Farmers of Saskatchewan, indicating that CFO did not support the proposal. This letter is contained in CFC's Supplementary Documents.

24. CPEPC held a conference call on September 11, 2015 to discuss the proposal. CPEPC provided its position to the Western chicken boards in a letter, dated September 22, 2015, indicating that a majority of CPEPC members did not support the proposal as presented. This letter is contained in CFC's Supplementary Documents.

25. When setting allocations, CFC directors review and discuss a package of market information as well as the requests of provincial boards and the recommendations of industry representatives on CFC's board. The market information considered by CFC includes total TRQ and other imports on a national basis. It does not include import volumes broken down on a provincial or regional basis. CFC's allocations in 2014 and 2015 ranged from 0.0% to 5.0% above base and averaged approximately 3.0% above base.

26. In the allocation for period A-138, the discrete supply share to Ontario consisted of 199,529 kg, or approximately .117% of the national allocation. In the allocation for period A-138, a 3% increase in the allocation to Western provinces would equal 1,527,153 kg.

#### **D. Other avenues**

27. PPPABC has not made a complaint to the Farm Products Council of Council ("FPCC") over any of the allocations since A-121. Processors began complaints in Manitoba and Saskatchewan in relation to the signing of the MOU by the chicken boards in those provinces. The processors have withdrawn those complaints.


28. CFC is not aware of any effort by PPPABC or its members to raise concerns with Global Affairs Canada about the TRQ allocation methodology.

29. The MOU contained an interim methodology for the further processing component and required CFC to engage an independent consultant to develop a permanent distribution factor for this component. Stakeholders raised concerns with the interim methodology. As a consequence, CFC adopted a new calculation of provincial shares of the further processing component. CFC will form a steering committee in 2016, which will determine the terms of reference for a request for proposals for an independent consultant to develop a long term solution to the further processing component. CFC's intent is to implement the results of the study on or before the first full allocation period of 2019. The resolution of CFC's Board of Directors implementing this approach is contained in CFC's Background Documents.

30. Beginning in October 2005, and up to and including period A-138, Saskatchewan has requested and received the maximum amount of market development quota (14% of domestic allocation) in all but three periods (A-74, A-75, and A-91).

31. CFC's Exceptional Circumstances Policy is included in CFC's Supplementary Documents. The BC Board made an exceptional circumstances request in conjunction with the 2010 Vancouver Winter Olympics, and CFC approved that request.

SWORN before me at the City of Ottawa,  
in the Province of Ontario,  
on this 27<sup>th</sup> day of April, 2016

  
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Commissioner for Taking Affidavits

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