



## **US Country of Origin Labelling Legislation and recent decisions May 2015**

Despite the recent World Trade Organization (WTO) decision that the US Country of Origin Labelling legislation contravenes GATT 1994 (WTO General Agreement on Tariffs and Trade, 1994) and the TBT (WTO Technical Barriers to Trade) Agreement, the US House Ag Committee has elected NOT to repeal country of origin labelling requirements for lambs and lamb products. Country of origin labeling will no longer be required for beef, pork or chicken.

### **Background**

COOL legislation was written into the US Farm Security and Rural Investment Act in 2002, and required retailers to provide country of origin labeling for fresh beef, pork and lamb. Legislation was expanded in 2008 to include other food items.

In 2009, the Canadian government launched a challenge to COOL at the WTO challenging its impact on trade agreements and suggesting it distorts equitable trade. The WTO panel provided a report in 2011 that was subsequently appealed in 2011, 2014 and finally in 2015. Additional appellants joined Canada and Mexico in the third appeal process, including Australia, Brazil, China, Columbia, the EU, Japan, Korea and New Zealand.

The final report from the WTO (April 24, 2015) concluded that:

*The Appellate Body recommends that the DSB request the United States to bring its measures found in this Report, and in the Canada Panel Report as modified by this Report, to be inconsistent with the GATT 1994 and the TBT Agreement into conformity with its obligations under those Agreements.*

Next steps for the US Congress is to repeal COOL legislation otherwise Canada could impose retaliatory tariffs representative of the economic impact COOL has had on affected sectors.

On May 20, 2015, the House Ag Committee approved a bipartisan bill to amend the legislation, repealing country of origin labeling requirements for beef, pork and chicken while leaving intact the requirements for all other covered commodities including lamb. The Committee will work to get the newly amended bill to the House as quickly as it can.

### **Sheep industry perspective**

The impetus for leaving lamb subject to labelling requirements resulted from lobbying from the American sheep industry, particularly ASI. This decision was not a trade off by any agency in the interest of other Canadian livestock groups. These efforts were likely undertaken to protect the US lamb



branding efforts included in the US sheep industry roadmap. It can also be speculated that ASI's efforts are meant to target Australia and New Zealand as much as Canada.

The Canadian sheep industry, in comments submitted early on in the COOL challenge, has to some extent been included in the process and certainly has kept track as negotiations proceeded through 'due process'. The WTO ruling was favorable for all of the livestock sectors. It is the recent decision by the US House Ag Committee that is of grave importance to the sector and that decision needs to be swiftly addressed.

### **Possible next steps**

Those who've championed the WTO challenges to COOL, including the Canadian government, beef and pork sectors and other countries are likely to dispute the US House Ag Committee's recommendations to only partially repeal COOL legislation. Anything less than full compliance from the US could undermine the WTO's decision and leave the door open to further appeal by the US. This would require little other than support in principle from the CSF and would require minimal CSF resources.

Should lamb country of origin labelling remain a requirement, the Canadian sheep industry could approach the federal government to challenge the ruling at the WTO level. This would require considerable contribution of resources from the CSF and Canadian sheep industry. The beef and pork sectors have spent millions of dollars and over 7 years challenging COOL legislation on behalf of all sectors. Should the US legislation be overturned, it would re-establish lost marketing opportunity renew a revenue stream for the industry.

If the US House and Congress opt to keep COOL in place for lamb, the Canadian sheep industry could request implementation of retaliatory tariffs. The Canadian government would need to support putting the tariffs in place, and the industry would need to quantify the level of economic impact COOL has had on the sector. This would require additional lobbying of the federal government and a study into financial losses, along with additional resources from the CSF to support the initiative. It would also help the industry recoup losses incurred by the legislation.

### **Steps taken to date**

The CSF has requested an urgent meeting with Minister Ritz to discuss the recent decisions by the US House Ag Committee, and support from the federal government moving forward.

A meeting with MP Miller is scheduled for Tuesday June 2nd.

The CFA has pledged their support in advocating on behalf of the Canadian sheep industry.

The CSF is contacting the other countries potentially impacted by the lamb country of origin labelling to coordinate retaliatory efforts.