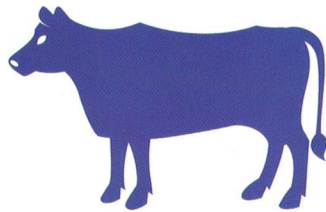


## More American protectionism — Not COOL

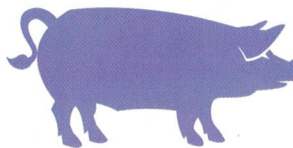
Canadian farmers and meat processors were shocked to learn on May 23, 2013 that the long awaited U.S. response to the World Trade Organization (WTO) requirement that it discontinue discriminatory Country of Origin Labeling (COOL) for cattle and hogs was to publish a new set of rules that will actually make the situation for Canadians much worse. The new rule is no more trade compliant than its predecessor. This slap in the face to its largest trading partner is yet another example of a longstanding pattern of trade protectionism by the country that lectures the rest of the world on the need for a rules-based free trade system.

From the outset, the original COOL rules put in place in 2008 had a dramatic negative impact on Canadian swine and beef cattle producers. Canadian cattle shipments to the U.S. were reduced by 50 per cent within a year, and export of slaughter hogs was cut by 58 per cent. Canada took the case to the WTO, arguing that the U.S. COOL regime violated Article 2.1 of the Technical Barriers to Trade Agreement (TBT) in that the provisions were a disguised barrier to trade being “arbitrary or unjustifiable discrimination between countries.” When Canada won the case, the U.S. appealed and the Appellate Body again confirmed that the U.S. COOL regime “reflects discrimination in violation of Article 2.1 of the TBT Agreement.” But COOL

Canadian cattle shipments to the U.S. were reduced by **50 per cent within a year**



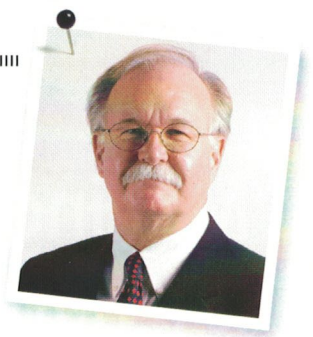
Export of slaughter hogs was cut by **58 per cent**



stayed in place pending the new rules that have now turned out to be a bitter betrayal.

The Canadian Pork Council (CPC) has said it was appalled by the U.S. response, making a “very bad situation of the last four years much worse.” The CPC estimates that the labelling rules cost Canada about \$1 billion annually in beef and pork exports. The Canadian Cattlemen’s Association (CCA) has said that the new rules will more than double regulatory costs, meaning that there will be even fewer Canadian cattle exported to the U.S.

Left with no alternative but to proceed to trigger the steps that allow it to take retaliatory action, on June 8 Canada announced for comment a long list of products on which it threatens to impose a 100-per-cent surtax. The list includes U.S. cattle, pigs, beef, pork, pasta, some fruits and vegetables, milled rice, cereals, bread, frozen orange juice, meat from spent hens, chocolate and maple syrup. It also includes some non-food items such as office furniture and mattresses. Once Canada finalizes the list, it will seek the approval of the WTO to proceed, a process that is still likely to take until the end of 2014. Unwilling to wait, the CPC and CCA and six other Canadian and American trade associations



have sued the U.S. government, arguing that COOL is unconstitutional.

Canadian officials have taken a very strategic approach in developing the list of products for possible retaliation. By identifying what states may be vulnerable in the 2014 mid-term elections, and what products these states export to Canada, the list is designed to punish those states if they persist in supporting COOL. This is Canada’s only real leverage to try to force the U.S. to live up to its international trade obligations.

The Canadian government will have to be very careful how it winnows the list of products subject to retaliation. Some sectors will benefit by the reduction of competition from U.S. exporters, but other companies and whole sectors could be severely harmed if they have to pay a prohibitive new price for imported products that they may use, for example, as ingredients in further processing. We cannot support one industry at the expense of another. It is incumbent on those companies and sectors that may be adversely affected to put their case to the government in the strongest terms before Sept. 30, the deadline for comments.

After what I experienced in the years I was president of the Canadian Food Inspection Agency, and in the decade since acting for Canadian agriculture and food companies, I am no longer surprised, but still deeply disappointed, by the level of American trade protectionism against Canada. ●

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