



CANADIAN COUNCIL
OF CHIEF EXECUTIVES



CONSEIL CANADIEN
DES CHEFS D'ENTREPRISE

November 17, 2006

The Honorable Michael Johanns
Secretary
United States Department of Agriculture
1400 Independence Avenue, SW
WASHINGTON, DC 20250

The Honorable Carlos M. Gutierrez
Secretary
United States Department of Commerce
1401 Constitution Avenue, NW, Room 5516
WASHINGTON, DC 20230

The Honorable Michael Chertoff
Secretary
United States Department of Homeland Security
WASHINGTON, DC 20528

***RE: INTERIM RULE TO IMPOSE
AGRICULTURE INSPECTION AND USER FEES
ALONG THE UNITED STATES-CANADA BORDER***

The *United States Chamber of Commerce* and the *Canadian Council of Chief Executives* wish to register their strong objection to the Interim Rule known as “Agriculture Inspection and AQ1 User Fees Along the U.S./Canada Border,” details of which were published in the United States Federal Register on August 25, 2006.

Collectively, our members are responsible for the vast majority of U.S. and Canadian economic output, bilateral trade and investment, research and development, and agricultural exchanges. In addition, our organizations serve as the Secretariats to the U.S. and Canadian members of the North American Competitiveness Council (NACC), charged with providing private sector recommendations on issues impacting North American competitiveness under the framework of the Security and Prosperity Partnership of North America (SPP).

It is our firm belief that this Interim Rule represents a setback in our countries’ joint efforts to enhance North American security and prosperity and is inconsistent with the aims of the SPP. The Interim Rule reflects a heavy-handed and disruptive approach to border management that is highly disproportionate to the associated risks, and that imposes unnecessary economic costs.

We recommend the following:

- The Interim Rule should be withdrawn or suspended;
- The United States and Canada should launch bilateral discussions to identify legitimate risks arising from cross-border shipments of fruits and vegetables and determine the most appropriate means of mitigating these risks while minimizing disruption to our bilateral trade relationship; and
- The United States and Canada should agree that, henceforth, proposed regulations that affect cross-border shipments should be reviewed to ensure their compliance with the policy objectives of the SPP.

In our view, the Interim Rule gives rise to concerns from the perspective of both security and competitiveness. We would summarize those concerns as follows:

Security-based concerns:

- Implementation of the Interim Rule will reduce the benefits of voluntary business participation in the United States Customs-Trade Partnership Against Terrorism (C-TPAT) and the United States-Canada Free and Secure Trade (FAST) programs. Once the Rule takes effect, all participants in these programs would be subject to Animal and Plant Health Inspection Service (APHIS) inspections and user fees, along with companies that do not participate in these programs. The result will likely be a reduction in voluntary participation in such programs, especially by small and medium-sized enterprises, resulting in a reduction in efficient and secure cross-border flow of goods.
- The Interim Rule will undermine improvements that have been made to speed processing at land crossings. Our governments have made and will continue to make physical and logistical improvements to major border points with the aim of speeding the secure passage of travelers and cargo. Abrupt imposition of these APHIS inspections and fees could offset these improvements, provoke unnecessary delays at the border, and create significant logistical challenges, particularly for importers and exporters of perishable food products.
- The APHIS rule does not comply with the agreed-upon risk-based approach to interdict high-risk products and goods at the source, rather than at the border. This is inconsistent with the principles of both the SPP and the *Secure and Smart Border Accord* between the United States and Canada. Our organizations strongly believe that the most effective and efficient approach to border security involves cooperative bilateral actions to address risks at their point of origin.
- Implementation of this Rule undermines the ongoing bilateral work of the NAFTA Committee on Sanitary and Phyto-sanitary Measures, the North American Plant Protection Organization, the Canada-United States Consultative Committee on Agriculture and various other projects in which the United States Department of Agriculture and the Canadian Food Inspection Agency are currently engaged.

- The Interim Rule presupposes that Canadian agricultural exports represent a health risk to the citizens of the United States but offers no convincing evidence to support that assumption. The examples cited in the Interim Rule do not substantiate the existence of such a health risk.

Competitiveness-based concerns:

- The Interim Rule will apply across-the-board to all truck, vessel, and rail conveyances (regardless of whether the shipment includes agricultural goods) and all air travelers, and therefore will impose significant economic costs. A more thorough cost-benefit analysis should have been conducted to measure the economic impact of such a far-reaching set of procedures.
- It is unclear how the inspections will be carried out, and there is therefore potential for a negative impact on virtually all border-related conveyances.
- As well as affecting shipments of goods from Canada to destinations in the United States, the Interim Rule would impose unnecessary costs on road and rail shipments from Canada that merely pass through the United States before re-entering Canada. Delays at the border also could affect products being transshipped through the United States to Mexico.
- APHIS does not appear to have properly considered less costly and intrusive means of protecting the American public and agricultural products. Rather than implementing across-the-board inspections and fees at the United States-Canada border, for example, APHIS could have proposed larger fines on air passengers who attempt to enter the United States with prohibited agricultural items. Such a measure would penalize the offending passenger instead of imposing costs on all air passengers and causing unnecessary delays at border checkpoints.
- Application of the Interim Rule is not consistent with the principle of fairness. According to APHIS, between 80 and 95 percent of trucks crossing the border into the United States from Canada do not carry agricultural products. Yet all truckers would be subjected to fees and possible inspections under this rule.
- The Interim Rule imposes sudden, unbudgeted, and destabilizing costs in a North American market for agricultural products that is a highly integrated, low-margin, and intensely competitive. In addition, these fees will further reduce the competitiveness of the transport industry.

As leaders of private enterprise in Canadian and the United States, it is our considered view that the interests of both of our countries and our citizens would be better served by the adoption of an effective, risk-based approach to cross-border shipments of agricultural products. The Interim Rule reflects an approach that is neither efficient nor effective.

We stand ready to work with you to identify importers that are violating existing rules and to help develop a more effective course of action that will safeguard public safety and health without imposing unnecessary costs and delays.

Thank you for the opportunity to register our concerns.

cc The Honorable David Emerson
Minister of International Trade
Government of Canada

The Honorable Chuck Strahl
Minister of Agriculture
Government of Canada

The Honorable Stockwell Day
Minister of Public Safety and Emergency Preparedness Canada
Government of Canada

The Honorable Maxime Bernier
Minister of Industry
Government of Canada

The Honorable W. Ralph Basham
Commissioner
U.S. Customs and Border Protection

Dr. Ron DeHaven
Administrator
Animal and Plant Health Inspection Service
United States Department of Agriculture