

---

# Country of Origin Labelling and the World Trade Organization

---

**Presentation by:**  
**Peter Clark**  
**Grey, Clark, Shih and Associates, Limited**

**Ontario Pork Annual General Meeting (AGM) 2010**  
London, Ontario  
March 30, 2010

---

# Country of Origin Labelling

- WTO permits COOL
  - Canada has COOL
  - Is it effective:
    - In Canada?
    - In USA?
-

# Examples of Non-Compliant Products

“PRODUCT OF UNITED STATES” MISSING ON LABELS



# Examples of Non-Compliant Products

**Bilingual Nutrition Facts whereas there should be one English and one French table if possible to display on 15% of available display surface\***

**Product is named "... Smoked Bacon" and "smoke" is not declared in the ingredient list; SODIUM NITRATE is indicated whereas it should read SODIUM NITRITE**



\* "available display surface", in respect of a prepackaged product, means (c) the total surface area of any other package, excluding the bottom if the contents of the package leak out or are damaged when the package is turned over, but does not include (f) the area occupied by the universal product code;

---

# Country of Origin Labelling

CUSTA/NAFTA Single Market in Red Meat  
based on Substantial transformation

- ❑ USA changed rules
  - ❑ Born, Raised and Slaughtered
  - ❑ Flexibilities removed
  - ❑ WTO Technical barrier/trade restriction
  - ❑ Unilateral renegotiation of NAFTA
-

---

# Country of Origin Labelling

## WTO Challenge

- “A” Label – All American Pork
  - “B” Label – Canadian born, American processed
  - “C” Label – Imported for immediate slaughter in USA
  - “D” Label – Imported meat
-

# Country of Origin Labelling

## Cargill



September 8, 2008

**Re: Mandatory Country-of-Origin Labeling (MCOOL) Documents**

**Dear Valued Customer;**

Cargill Meat Solutions Corporation Beef, Regional Beef, Pork and Case Ready businesses will be utilizing Category 'B' (Label #2) Multiple Countries-of-Origin for muscle beef and pork products and the 'known' countries or origin for ground beef in order to minimize costs to consumers.

**Language for each of the product categories will be as follows:**

- **Muscle Beef** → "Product of USA, Canada, Mexico";
- **Ground Beef** → "Product of USA, Canada, Mexico"; and
- **Muscle Pork** → "Product of USA, Canada".

Cargill Meat Solutions Corporation will communicate the Mandatory Country-of-Origin via a number of utilities:

- **Weight Labels** - individual cartons/boxes;
- **Invoices** -- both paper and electronic data interchange (EDI);
- **Bills-of-Lading**; and
- **Case Ready** -- individual packages.
  - Case ready products shipped from case ready facilities will be labeled on the Safe Food Handling panel; and
  - Case ready ground beef chubs -- 1#, 2#, 3# and 5# - will be labeled on the seal-seam: "Product of USA, Canada, Mexico"

ALL beef trimmings and frozen beef offal products that could be used as ingredients to produce ground beef - a covered commodity - will be labeled with their respective Country-of-Origin.

Sincerely,

A handwritten signature in black ink, appearing to read "Herb Meischen".

Herb Meischen  
Vice President

---

# Obama Arrives

- Vilsack changes rules - Immoral Suasion
  - “B” label not for **All American** meat
  - Voluntary Compliance or rule will be changed
  - Segregation/possible fines close options
  - Farewell Free Trade and Open Market
-

# Country of Origin Labelling

John Morrell

Date: February 20, 2009

From: John Morrell Hog Procurement

Dear Producer,

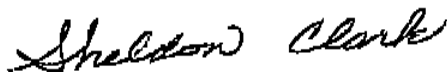
Due to Country of Origin Labeling (COOL), John Morrell & Co. will receive and harvest only those hogs that have been exclusively Born and Raised in the United States prior to the end of March 2009.

John Morrell & Co. will be phasing out harvesting hogs that have been born in Canada and raised in the United States prior to the end of March 2009. Contact your John Morrell hog buyer prior to scheduling any Canadian born hogs during the month of March 2009. All hogs delivered must continue to be identified as to their origin of birth and have a signed affidavit on file with John Morrell.

Enclosed is a Monthly Delivery Estimate. Fill in your estimates of United States born and raised hogs only and mail to:

John Morrell & Co  
Attn: Sheldon Clark  
PO Box 5266  
Sioux Falls, SD  
57117-5266

Sincerely,



Sheldon Clark  
Hog Evaluation Manager

---

# Country of Origin Labelling

- M-COOL is Protectionist
  - M-COOL was designed to be Protectionist
  - Helps U.S. Pork producers
  - Serious negative impacts on Canadian exports of:
    - Weanlings
    - Feeder pigs
    - Market hogs
-

---

# Country of Origin Labelling WTO Challenge

- **Canada** requests WTO consultations
    - 1 December 2008
    - 7 May 2009
  - Panel requested 7 October 2009
  - Panel established 19 November 2009
-

---

# Country of Origin Labelling

## WTO Challenge

- Ontario Pork is and will be plugged into the Geneva process
    - Co-ordinating closely with
      - CPC
      - Manitoba Pork
      - Saskatchewan/Alberta
      - Atlantic Canada
-

---

# Country of Origin Labelling

## WTO Schedule

- Naming Panel – 19 November **2009**
  - 20 days to agree on panelists
  - If no agreements 10 days for DG Selection
  - Best Target Date – **19 December 2009**
  - Actual Date – hopefully soon
-

---

# Country of Origin Labelling WTO Challenge

## ■ Scheduling

- Panelists Selected
  - Schedule Released – one week
    - First Submissions (Canada/Mexico) (3-6 weeks)
    - U.S. Submission (2-3 weeks)
    - First Substantive Meeting (1-2 weeks)
  - Best estimate for first Geneva Session mid- to end-June
-

---

# Country of Origin Labelling WTO Challenge

- Second (Reply) Submission (2-3 weeks)
  - Second Substantive Meeting (1-2 weeks)
  - Could slip into September
  - Serious delays – not unusual in WTO
  - Justice delayed – justice denied
-

---

# Country of Origin Labelling

## WTO Challenge

- **Descriptive Report** (facts) Circulated to Parties (2-4 weeks)
  - Comments by Parties (2 weeks)
  - Interim Report (2-4 weeks)
  - Request for review of issues/Comments (1 week)
  - Review by Panel – possible meeting (2 weeks)
  - Final Report to Parties (2 weeks)
  - Circulate to Members (2 weeks)
-

---

# Country of Origin Labelling WTO Challenge

- Report adopted unless appeal to Appellate Body within 60 days
  - Negative Consensus
  - No scope for rejection
  - Most panels go to appeal
-

---

# Country of Origin Labelling

## WTO Challenge

- Appellate Body is faster track – 90 days
  - Appeal based Law, not Facts
  - Parties will try to make facts into law
  - AB frequently Changes Panel Decision
  - AB=Finality
-

---

# Country of Origin Labelling

## WTO Challenge

- Why is WTO Challenge important?
    - 42 countries have some form of COOL
    - U.K., France have their own schemes
    - Born, raised and slaughtered
    - Voluntary systems are shifting to mandatory
    - E.U.-wide measures are under consideration
-

---

# Country of Origin Labelling

## WTO Challenge

- M-COOL Challenge is necessary
  - Others will copy
  - Possible extension to processed meat
  - Undermine the Single NAFTA market
  - Undermine WTO trade liberalization
-

---

# Trade Liberalization Initiatives

- Doha Round
  - Canada-E.U. Comprehensive Economic Trade and Agreement (CETA)
  - Trans-Pacific Partnership (TPP)
-

---

# Doha Round is dead or in deep coma

- No conclusion in sight before 2013, if then
    - U.S. – destructive approach
    - Brazil election
  - Reasons
    - One size does not fit all
    - Differences in developing countries
    - U.S. position shift, no leadership, unenlightened mercantilism
  - A decade of drift
-

---

# Comprehensive Economic and Trade Agreement

- Is everything on the table?
  - Is WTO TRQ and Administration negotiable?
  - CAP is not on the table
  - Pork is one of the most difficult sectors
  - Ractopamine
-

---

## E.U. Feed Grain Subsidies

- More than 11% of COP of E.U. pork
  - CAP changes reduce internal price in E.U.
  - Reduce external tariffs
  - Reduce need for export refunds
  - Single farm payments reflect previous subsidies
  - Permit production and sale at incremental prices
-

---

# Trans-Pacific Partnership

- Could go APEC-wide
  - USA, Chile, Peru, Vietnam, Australia, Singapore , New Zealand
  - USA is dictating terms – spoilers?
  - U.S. Industry – “No to NZ dairy”
  - Crash and Burn – if nothing in it for others
-

---

# Trans-Pacific Partnership

- Canada and bilateral FTAs – looking for love in all the wrong places
  - Minister Van Loan asked for invite to TPP table
  - U.S. does not want us (or Mexico) there
  - U.S. wants to be Hub with many spokes
-

---

# Canadian Agriculture Policy

- E.U. and U.S. Green Box Fraud
  - Under-reporting – Feed grains not Green input subsidies and available only to developing countries
  - U.S. Loans – Guaranteed Loans \$10 billion
  - U.S. Export Credit Guarantees \$5 billion
  - U.S. Livestock Insurance
-

---

# Canadian Agriculture Policy

- E.U./U.S. policies do not manage risks, they eliminate them
  - If WTO Rules were applied/enforced, CAP and Farm Bill would collapse
  - Canadian approach is parsimonious, unfocussed, unhelpful
  - Hope is not a business strategy
-