

August 15, 2014

By Fax and E-Mail

Mr. Laurent Pellerin
Chairman
FARM PRODUCTS COUNCIL OF CANADA
Experimental Farm
960 Carling Avenue, Building 59,
Ottawa, Ontario, K1A 0C6

Re: Comments from EVQ regarding: Complaints Concerning CFC's Allocation of Chicken Quota for Period A127

Mr. Chairman,

The Éleveurs de volailles du Québec became aware of the complaints filed by the Canadian Poultry and Egg Processor Council (CPEPC) and the Further Poultry Processors Association of Canada (FPPAC), on August 5, 2014, and by the Restaurants Canada (RC), on August 6, 2014. Pursuant to your August 7, 2014 letter, the ÉVQ wishes to inform you of its position with regard to these complaints.

The EVQ's position is presented in six stages:

- I. Procedures Followed
- II. Improper Complaint
- III. A Decision Based on Canadian Market Needs
- IV. Market Conditions Exceptional in 2014 and Different from 2013
- V. Availability of Chicks and Allocation
- VI. A Return to the Fundamentals of Supply Management

I. Procedures Followed¹

During the July 29, 2014 meeting, Chicken Farmers of Canada (CFC) set an allocation 4.25% above the Canadian base, by a double-majority vote, as required by articles 3.09 and 2.01d) of the Operating Agreement.

Like the other Provincial Boards, ÉVQ filed a written and justified quota allocation request.

¹ *Appendix B, 2001 Federal Provincial Agreement for Chicken, Art. 3 to 5.*

II. Improper Complaint

The complaint filed by Restaurants Canada requires no redress from the Farm Products Council of Canada (the Council).

We should point out that the Act does not give the Council regulatory powers allowing it to adopt regulations aimed at implementing a marketing plan. So, in keeping with the jurisprudence, the Council cannot substitute itself for the CFC to make a quota-allocation decision that it would deem to be the right one. Moreover, that is what the Federal Court decided in the *Saskatchewan v. Canada* affair.²

[17] In addition to the prior approval function it exercises, Council is also charged with addressing complaints brought in respect of quota allocation disputes and other matters pertaining to agency operations. In respect of quota allocations, Council's mandate to hear and decide complaints is linked to its prior approval function. **Although Council does not have directive authority, if it considers that an allocation-related complaint is well founded, Council can, as in a number of past cases, refuse to prior approve an allocation until the Agency has addressed the relevant legal or policy concerns to its satisfaction**

[...]

[64] In particular, although Council does not have the ability to step into the shoes of CEMA and decide for itself how a quota allocation ought to be enacted, [...] (Our emphases)

III. A Decision Made, Based on Canadian Market Needs

Contrary to what the complaints from CPEPC, FPPAC and RC would have us believe, the determination of the allocation for period A127 has been set in order to address the Canadian market needs on the basis of economic facts and realistic projections.

As for every period, EVQ carried out an analysis in order to estimate Canadian market needs for period A127 and to set an appropriate allocation. To do this, they have made projections that took into account the imports, exports and inventories that will materialize over the course of this period and market conditions and the growth in domestic consumption over the past year. The results and methodology of our analysis can be found in Schedule 1. Much of the data used to establish these projections comes from average observations for the weeks corresponding to the targeted period in the preceding years and so includes the prevailing seasonal variations for that period.

² *Saskatchewan (Agriculture, Food and Rural Revitalization) v. Canada (Attorney General)*, 2006 CF 345.

According to our model, with a percentage 4.25% above the Canadian base, the increase in domestic production compared to the past year will be 2.8%. Domestic consumption will thus be 2.4% higher compared to the past year and the per capita consumption of chicken 1.3%. These results are the product of a cautious approach when one considers chicken's competitive position compared to other proteins and current market conditions.

IV. Market Conditions Exceptional in 2014 and Different from 2013

In their complaint, CPEPC and FPPAC allege that similar market conditions to those seen today were observed in 2013. In our opinion, the market situation that prevailed at that time was not comparable to 2014's and the economic indicators reveal exceptional market conditions.

a) Rising Domestic Consumption

According to estimates from Chicken Farmers of Canada (CFC), domestic consumption in Canada is 4.8% above last year's, for January through June.³ By contrast, for the same period last year, domestic consumption rose by 2.7%.⁴ Furthermore, according to AC Nielsen, retail sales at the National level moved forward strongly with an increase of 3.15% for the 52 weeks ending June 28, 2014 compared to the same period last year.⁵ Let's remember that according to our model, growth of 4.25% above the base will allow 2.4% growth in domestic consumption which is less than the growth seen since the start of the year.

b) Substantial Increase in Wholesale Price

The wholesale price (composite index) is sustaining a significantly higher level than in 2013. Since the beginning of 2014 the wholesale price increased by 14%.

³ CHICKEN FARMERS OF CANADA, *Market Information, A127*, presented July 29, 2014, Meeting of the CFC Board of Directors.

⁴ CHICKEN FARMERS OF CANADA, *Market Information, A121*, presented September 4, 2013, Meeting of the CFC Board of Directors.

⁵ AC NIELSEN, *Latest 52 weeks ending June 28, 2014*, sales in dollars and volumes, undated.

Graph 1. Wholesale Price and Producer Price - 2012 to 2014



Source: EMI Express Markets Inc. Weekly Report, compiled by EVQ 2013 and 2014

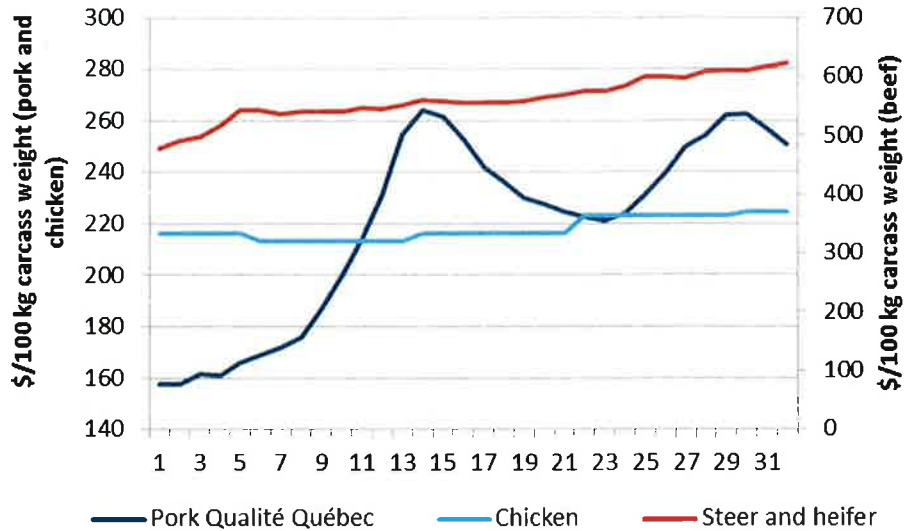
c) Expected Decrease in Producer Price

The producer price has seen only a small increase since the beginning of the year compared to the wholesale price in percentage (see Graph 1). According to the United States Department of Agriculture (USDA), a drop in the price of corn and soya at the beginning of the new harvest^{6&7}, is to be expected and implies a decrease in the producer price over the coming months. Compared to the producer price in the chicken sector, substantial increases have been seen in the beef and pork sectors since the start of the year.

⁶ UNITED STATES DEPARTMENT OF AGRICULTURE, Economic Research Services, *Oil crop outlook*, July 15th 2014, p. 8.

⁷ UNITED STATES DEPARTMENT OF AGRICULTURE, Economic Research Services, *Feed outlook*, July 15th 2014, p. 13.

Graph 2. Producer Price for Chicken, Pork and Beef in Québec in 2014



Sources: Fédération des producteurs de porcs du Québec, Fédération des producteurs de bovins du Québec and EVQ, Our Compilations.

d) Competitiveness of Retail Chicken

Chicken is well-positioned in the retail meat market. The retail price of beef has increased substantially (+11%) since January 2014, primarily due to low inventories of live animals and a decrease in American production. As for pork, an increase in the retail price was also seen (14 %), due primarily to the presence of porcine epidemic diarrhoea in the United States. During the same period, the retail price of chicken rose by 1%.

With the expected decrease in the price of grain, the continuation of high retail prices for competing meats during the targeted period, and strength in the domestic consumption of chicken, chicken should maintain an advantageous competitive position. The allocation for period A127 set by CFC will allow market needs to be met, which must, according to the Act⁸, conditions increases in allocation. Furthermore, considering the overall economic factors previously presented, this production increase, contrary to the claims advanced by the complainants, will not have the effect of destabilizing the market.

e) Inventories below the Target Range

We should also add that the level of inventories was below the CFC target range on July 1, 2014, contrary to what CPEPC and FPPAC would have us believe, in their letter. Inventories (excluding legs and other) have been trending down since the beginning of the year and a decrease of 7.3% has been seen between July 2013 and 2014.

⁸ Farm Products Agencies Act, L.R.C. (1985) ch. F-4.

f) Delay in the Entry of Tariff Rate Quota Imports

The only similarity seen, compared to 2013, is the late importing of tariff-rate quotas. The delay is, however, much less than in 2013.

In their complaint, FPPAC and CPEPC allege that the increase in allocation for A127 would have the effect of creating a market situation similar to 2013's. That is to say that it would have to be corrected by the issuing of very low allocations in the spring and summer, a period during which the further processors request additional volumes. But, as has been shown, the market conditions that existed in 2013 were not the same as those in 2014. We should also point out that, in 2013, allocations for the periods A120 and A121 were set out at 1.8% and 2% above the base, respectively. In fact the thing that triggered the drop in prices in November and December 2013 was not the allocation, but rather the massive influx of tariff rate quota imports, during a limited period of time. The processors, further processors and restaurateurs are the main import permit holders and the real players in the market destabilization seen subsequently.

However, EVQ believes that the creation of substantial room for tariff-rate quota imports in A127, as the complainants submit, is not compatible with a fair estimation of market needs, since we cannot foresee the moment of their arrival on the Canadian market from now until the end of 2014. In addition the growth approved for period A127 could cause the processors to speed up their tariff rate quota imports so as to quickly profit from very high wholesale prices, which would also contribute to avoiding the situation experienced at the end of 2013

V. Availability of Chicks and Allocation

The complaints from CPEPC, FPPAC and RC mention a limited supply of chicks on the North American market, which could lead to supply problems for period A127.

Firstly, let's remember that the allocation is set on the basis of Canadian market needs and not as a function of the availability of chicks. In addition, Québec's preliminary allocation was set at 5%. This was made public on May 30, 2014, which granted a sufficient time lapse to allow Québec hatcheries to adjust. In answer to what the restaurateurs have put forward, Québec's chicken farmers are tied to their purchasers by supply agreements specifying the weight categories required.

VI. A Return to the Fundamentals of Supply Management

According to the Act, the National agency must "promote the production and marketing of the regulated product or products for which it is responsible, in a way that will

increase efficiency and competitiveness" and "look after the interests of both the producers and the consumers or of the regulated products".⁹

On many occasions over the last number of meetings to set allocations, CPEPC filed very low growth percentages. These percentages were about 2% less than the quota allocations that had, in fact, been determined.

Table 1. Initial request for increase in the Canadian adjusted base and variation relating to the allocation obtained by period A120 to A127, by organisation (%)

		A120	A121	A122	A123	A124	A125	A126	A127
CPEPC	Initial Request	-1.50%	-2.00%	1.00%	0.00%	0.00%	-0.50%	1.00%	1.75%
	Δ vs allocation	-3.30%	-4.00%	-1.50%	-1.50%	0.00%	-1.50%	-1.50%	-2.50%
Restaurants Canada	Initial Request	1.24%	1.24%	1.23%	1.20%	1.38%	-1.60%	1.19%	2.40%
	Δ vs allocation	-0.56%	-0.76%	-1.27%	-0.30%	1.38%	-2.60%	-1.31%	-1.85%
FPPAC	Initial Request	0.50%	0.65%	1.75%	1.50%	0.25%	-0.50%	2.00%	2.00%
	Δ vs allocation	-1.30%	-1.35%	-0.75%	0.00%	0.25%	-1.50%	-0.50%	-2.25%

As previously shown, the inventories are currently below the target range and wholesale prices are high. If the industry's recommendations for growth rate had been followed, Canada would probably now experience a chicken shortage.

In addition, CPEPC developed its analyses of required growth rate as a function of the result of their margins. It goes without saying that this criterion does not meet the applicable legal parameters.

On this point, ÉVQ believes that care should be taken with the powers that have already been, or could be, put at the industry's disposal not only at the National, but also at the Provincial level, in order to ensure the development of the full potential of Canadian markets, in keeping with the Act.

Conclusion

The ÉVQ believes that all members of CFC have the responsibility of working to meet the needs of the markets and not limiting competition among the members of the same industry by tightening supply. It thus believes that the allocation must not be perceived as an opportunity to arbitrate in favour of one or another of the segments of the downstream sector of the industry. It also supports a balanced approach in the determination of allocations.

The Éleveurs de volailles du Québec remains convinced of the soundness of the allocation decision for period A127. They are dedicated to meeting market needs and offering chicken, in sufficient quantities and at a reasonable price, to Canadian

⁹ *Supra*, note 8, article 21a) and b).

consumers. In addition, considering the prevailing exceptional conditions, if the Council finds for the complainants, the members as a whole could miss a market opportunity.

For these reasons, we ask you to reject the complaints lodged, opposing the allocation for period A127.

Yours truly,

A handwritten signature in black ink, appearing to be 'P. Fréchette', written in a cursive style.

Pierre Fréchette
General Manager

c.c

David Janzen, PPC

Mick Dugate, PPC

Robin Horel, CPEPC

Robert DeValk, FPPAC

Rick Hall, Restaurants Canada

Françoise Gauthier, RMAAQ

Provincial board

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Schedule 1
Information on the methodology used
Estimation of supply and demand

This document describes the methodology used by EVQ to periodically estimate supply and demand.

To estimate exports we have used the volumes set out in the market development program and added a volume of 1.5 million kilograms which corresponds in general to unplanned exports.

To estimate imports we have used the proportional quota value that could be imported during these weeks, i.e. the total tariff rate quota divided by 52 weeks. To this number, we have added 1.5 million kilograms of imported chicken to take into account tariff rate quota import delays. We have also added supplementary imports for purposes of competition -- average of the past three years during the corresponding weeks.

Inventories are currently slightly below CFC's target range. We have however estimated zero inventory variations for this period in the projections carried out.

Estimate of supply and demand Period A 127	2014	2013 (same weeks)
Production		
Domestic chicken allocation	155.42 2.8%	151.22
Market Development Programs	6.69	6.84
Imports (Add)		
TRQ Imports	13.40	13.20
Imports to Compete	2.53	2.13
Exports (Subtract)		
Market Development Programs	6.69	6.84
Unplanned Exports	1.50	1.50
Inventories (Subtract)		
Chicken Inventory Changes	0.00	-0.80
Domestic Consumption		
Total Domestic Consumption	169.85 2.4%	165.85
Per Capita Consumption of Chicken	30.93 1.3%	30.54