

IN THE MATTER OF THE SYNDICAT DES PRODUCTEURS D'OEUFS
D'INCUBATION DU QUÉBEC COMPLAINT PURSUANT TO S. 7(1)(F) OF THE
FARM PRODUCTS AGENCIES ACT, R.S.C., 1985, C. F-4 AGAINST THE
CANADIAN HATCHING EGG PRODUCERS

**BOOK OF DOCUMENTS OF
CANADIAN HATCHING EGG PRODUCERS**

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CANADA

CONSOLIDATION

CODIFICATION

Farm Products Agencies Act

Loi sur les offices des produits agricoles

R.S.C., 1985, c. F-4

L.R.C. (1985), ch. F-4

Current to September 30, 2015

À jour au 30 septembre 2015

Last amended on February 26, 2015

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OFFICIAL STATUS
OF CONSOLIDATIONS

CARACTÈRE OFFICIEL
DES CODIFICATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Published
consolidation is
evidence

31. (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

31. (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Codifications
comme élément
de preuve

Inconsistencies
in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

Incompatibilité
— lois

NOTE

This consolidation is current to September 30, 2015. The last amendments came into force on February 26, 2015. Any amendments that were not in force as of September 30, 2015 are set out at the end of this document under the heading “Amendments Not in Force”.

NOTE

Cette codification est à jour au 30 septembre 2015. Les dernières modifications sont entrées en vigueur le 26 février 2015. Toutes modifications qui n'étaient pas en vigueur au 30 septembre 2015 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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An Act to establish the National Farm Products Council and to authorize the establishment of agencies for farm products

Loi créant le Conseil national des produits agricoles et autorisant la création d'offices des produits agricoles

SHORT TITLE

TITRE ABRÉGÉ

Short title

1. This Act may be cited as the *Farm Products Agencies Act*.

1. *Loi sur les offices des produits agricoles*.

Titre abrégé

R.S., 1985, c. F-4, s. 1; 1993, c. 3, s. 2.

L.R. (1985), ch. F-4, art. 1; 1993, ch. 3, art. 2.

INTERPRETATION

DÉFINITIONS

Definitions

2. In this Act,

2. Les définitions qui suivent s'appliquent à la présente loi.

Définitions

"agency"
«office»

"agency" means

- (a) for the purpose of Part I, a marketing agency or a promotion-research agency,
- (b) for the purpose of Part II, a marketing agency, and
- (c) for the purpose of Part III, a promotion-research agency;

«commercialisation» Sont assimilés à la commercialisation, dans le cas d'un produit agricole qui n'est pas réglementé, la vente et la mise en vente, l'achat, la tarification, l'assemblage, l'emballage, la transformation, le transport, l'entreposage et toute autre opération nécessaire au conditionnement du produit et à son offre, en un lieu et à un moment donnés, pour consommation ou utilisation. Dans le cas d'un produit réglementé, le terme s'entend seulement de celles des opérations ci-dessus mentionnées qui sont spécifiées dans le plan de commercialisation ou le plan de promotion et de recherche, selon le cas, relatif à ce produit.

«commercialisation»
«marketing»

"Council"
«Conseil»

"Council" means the National Farm Products Council established by section 3;

«Conseil» Le Conseil national des produits agricoles créé par l'article 3.

«Conseil»
«Council»

"farm product"
«produit agricole» ou «produit de ferme»

"farm product" means

- (a) for the purpose of Part I, any natural product of agriculture, whether processed or unprocessed, and any part of any such product,
- (b) for the purpose of Part II,
 - (i) eggs and poultry, and any part of any such product, and
 - (ii) any other natural product of agriculture and any part of any such product in respect of which the Governor in Council is satisfied, as a result of declarations by provincial governments following plebiscites, or otherwise, that the majority of the producers thereof in Canada is in favour of the establishment of a marketing

«ministre» Le ministre de l'Agriculture et de l'Agroalimentaire.

«ministre»
«Minister»

«office»

- a) Pour l'application de la partie I, un office de commercialisation ou un office de promotion et de recherche;
- b) pour l'application de la partie II, un office de commercialisation;
- c) pour l'application de la partie III, un office de promotion et de recherche.

«office»
«agency»

agency with powers relating to that product, and

(c) for the purpose of Part III, any natural product of agriculture, whether processed or unprocessed, and any part of any such product;

“marketing”
«commercialisation»

“marketing”, in relation to any farm product that is not a regulated product, includes selling and offering for sale and buying, pricing, assembling, packing, processing, transporting, storing and any other act necessary to prepare the product in a form or to make it available at a place and time for purchase for consumption or use and, in relation to a regulated product, includes only such of the above acts as are specified in the marketing plan or promotion and research plan, as the case may be, relating to the regulated product;

“marketing agency”
«office de commercialisation»

“marketing agency” means an agency established pursuant to subsection 16(1);

“marketing plan”
«plan de commercialisation»

“marketing plan” means a plan relating to the promotion, regulation and control of the marketing of any regulated product in interprovincial or export trade that includes provision for all or any of the following:

(a) the determination of those persons engaged in the growing or production of the regulated product for interprovincial or export trade and the exemption of any class of persons so engaged from the marketing plan or any aspect thereof,

(b) the specification of those acts that constitute the marketing of the regulated product and of those persons engaged in its marketing, as so specified, in interprovincial or export trade, and for the exemption of any class of persons so engaged from the marketing plan or any aspect thereof,

(c) the marketing of the regulated product on a basis that enables the agency that is implementing the plan to fix and determine the quantity, if any, in which the regulated product or any variety, class or grade thereof may be marketed in interprovincial or export trade by each person engaged in the marketing thereof and by all persons so engaged, and the price, time and place at which the

«office de commercialisation» Office créé en vertu du paragraphe 16(1).

«office de commercialisation»
“marketing agency”

«office de promotion et de recherche» Office créé en vertu de l’article 39.

«office de promotion et de recherche»
“promotion-research agency”

«plan de commercialisation» Plan relatif au développement, à la réglementation et au contrôle de la commercialisation de tout produit réglementé offert sur le marché inter-provincial ou d’exportation et comportant au moins l’un des éléments suivants :

«plan de commercialisation»
“marketing plan”

a) la détermination des personnes se livrant à la culture ou à la production du produit réglementé offert sur le marché interprovincial ou d’exportation et la non-application du plan de commercialisation ou de l’un de ses éléments à toute catégorie de personnes se livrant à cette activité;

b) la désignation des opérations qui constituent la commercialisation du produit réglementé et des agents de celle-ci, ainsi délimitée, sur le marché interprovincial ou d’exportation, ainsi que la non-application du plan de commercialisation ou de l’un de ses éléments à toute catégorie de personnes se livrant à cette activité;

c) la commercialisation du produit réglementé suivant une formule qui permet à l’office chargé de la mise en oeuvre du plan de fixer et de déterminer en quelle quantité ce produit ou l’une de ses variétés, classes ou qualités, peut être commercialisé sur le marché interprovincial ou d’exportation par chacun des agents de cette commercialisation et par l’ensemble de ceux-ci, et à quel prix et quel moment et en quel lieu il — ou elle — peut être ainsi commercialisé;

d) la mise en commun des recettes provenant de la commercialisation du produit réglementé, ou de l’une de ses variétés, classes ou qualités, sur le marché interprovincial ou d’exportation et la gestion de comptes communs, et la création d’une caisse commune, notamment pour permettre un système de paiements initiaux, intérimaires et finals aux producteurs et la déduction, sur cette caisse, des dépenses de fonctionnement;

regulated product or any variety, class or grade thereof may be so marketed,

(d) the pooling of receipts from the marketing of the regulated product or any variety, class or grade thereof in interprovincial or export trade and the operation of pool accounts including provision for a system of initial, interim and final payments to producers and deduction from the pool of the expenses of the operation thereof,

(e) a system for the licensing of persons engaged in the growing or production of the regulated product for, or the marketing thereof in, interprovincial or export trade, including provision for fees, other than fees related to the right to grow the regulated product, payable to the appropriate agency by any such person in respect of any licence issued to such person and for the cancellation or suspension of any such licence where a term or condition thereof is not complied with, and

(f) the imposition and collection by the appropriate agency of levies or charges from persons engaged in the growing or production of the regulated product or the marketing thereof and for such purposes classifying those persons into groups and specifying the levies or charges, if any, payable by the members of each group;

“Minister”
«ministre»

“Minister” means the Minister of Agriculture and Agri-Food;

“promotion and research plan”
«plan de promotion et de recherche»

“promotion and research plan” means a plan respecting the promotion of the marketing or production of any regulated product for the purposes of interprovincial, export or import trade and respecting research activities related to the regulated product that includes provision for all or any of the following:

(a) the determination of those persons engaged in the growing, production, processing or importation of the regulated product for interprovincial, export or import trade and the exemption from the plan or any aspect thereof of any class of persons so engaged,

(b) the specification of those acts that constitute the marketing of the regulated product and of those persons engaged in its marketing, as so specified, in interprovincial or export trade, and for the exemption from the

e) la mise en place d’un régime d’attribution de licences aux personnes se livrant à la culture, à la production ou à la commercialisation du produit réglementé offert sur le marché interprovincial ou d’exportation, comportant une disposition relative aux redevances, autres que celles relatives au droit de cultiver le produit réglementé, payables à l’office compétent par les intéressés pour toute licence qui leur est attribuée et en cas d’annulation ou de suspension de la licence pour non-respect de ses modalités;

f) l’institution et la perception par l’office compétent de prélèvements à acquitter par les personnes se livrant à la culture, à la production ou à la commercialisation du produit réglementé, ainsi que la répartition à ces fins de ces personnes en groupes et la détermination des prélèvements à la charge des membres de ces groupes.

«plan de promotion et de recherche» Plan relatif à la promotion de la commercialisation ou de la production de tout produit réglementé offert sur le marché interprovincial, d’exportation ou d’importation, ou aux activités de recherche liées à ce produit et comportant au moins l’un des éléments suivants :

«plan de promotion et de recherche»
“promotion and research plan”

a) la détermination des personnes se livrant à la culture, à la production, à la transformation ou à l’importation du produit réglementé offert sur le marché interprovincial, d’exportation ou d’importation et la non-application du plan ou de l’un de ses éléments à toute catégorie de personnes se livrant à l’une de ces activités;

b) la désignation des opérations qui constituent la commercialisation du produit réglementé ainsi que des agents de celle-ci, ainsi délimitée, sur le marché interprovincial ou d’exportation, ainsi que la non-application du plan ou de l’un de ses éléments à toute catégorie de personnes se livrant à cette activité;

c) l’institution, la perception et le remboursement par l’office compétent de prélèvements à acquitter par les personnes se livrant à la culture, à la production, à la commercialisation ou à l’importation du produit réglementé, ainsi que la répartition à ces fins de ces personnes en groupes et la détermination

plan or any aspect thereof of any class of persons so engaged, and

(c) the imposition, collection and refunding by the appropriate agency of levies or charges from persons engaged in the growing, production or importation of the regulated product or the marketing thereof and for such purposes classifying those persons into groups and specifying the levies or charges, if any, payable by the members of each group;

“promotion-research agency”
«office de promotion et de recherche»

“promotion-research agency” means an agency established pursuant to section 39;

“regulated product”
«produit réglementé»

“regulated product” means

(a) for the purpose of Part II, any farm product grown or produced

(i) anywhere in Canada, if a marketing agency is authorized to exercise its powers in relation to any such product grown or produced in Canada, or

(ii) in any region of Canada designated in the proclamation that authorizes a marketing agency to exercise its powers in relation to any such product grown or produced in that region, or in any such region and anywhere in Canada outside that region for shipment into that region in interprovincial trade and not for export where the proclamation that authorizes the marketing agency to exercise its powers in relation to such product so provides, and

(b) for the purpose of Part III, any farm product in relation to which a promotion-research agency is authorized to exercise its powers in interprovincial, export or import trade as specified in the proclamation that authorizes the agency to exercise its powers in relation to such product;

“research”
«recherche»

“research” includes development.

R.S., 1985, c. F-4, s. 2; 1993, c. 3, ss. 3, 13(F); 1994, c. 38, s. 25.

des prélèvements à la charge des membres de ces groupes.

«produit agricole» ou «produit de ferme»

«produit agricole» ou «produit de ferme»
“farm product”

a) Pour l’application de la partie I, tout ou partie d’un produit naturel de l’agriculture, transformé ou non;

b) pour l’application de la partie II :

(i) les oeufs et la volaille ou une partie de ceux-ci,

(ii) les autres produits naturels de l’agriculture, ou une partie de ceux-ci, au sujet desquels le gouverneur en conseil est convaincu, sur la foi de déclarations de gouvernements provinciaux faites notamment à la suite de référendums, que la majorité des producteurs de ces produits au Canada s’est prononcée en faveur de la création d’un office de commercialisation ayant compétence pour ces produits;

c) pour l’application de la partie III, tout ou partie d’un produit naturel de l’agriculture, transformé ou non.

«produit réglementé»

«produit réglementé»
“regulated product”

a) Pour l’application de la partie II, produit agricole cultivé ou produit :

(i) soit sur tout le territoire canadien, lorsque la compétence à son égard est exercée par un office de commercialisation,

(ii) soit dans toute région du Canada désignée dans la proclamation conférant à un office de commercialisation compétence à son égard ou, si la proclamation le prévoit, à la fois dans une telle région et dans toute partie du Canada d’où il est expédié vers celle-ci, dans le cadre du commerce interprovincial et non pour exportation;

b) pour l’application de la partie III, produit agricole à l’égard duquel un office de promotion et de recherche est compétent, dans la mesure où le prévoit la proclamation qui l’autorise à exercer sa compétence à l’égard de ce produit dans le cadre du commerce interprovincial, d’exportation ou d’importation.

«recherche» La recherche s'entend également des activités de développement.

«recherche»
"research"

L.R. (1985), ch. F-4, art. 2; 1993, ch. 3, art. 3 et 13(F); 1994, ch. 38, art. 25.

PART I

NATIONAL FARM PRODUCTS COUNCIL

ESTABLISHMENT

Council established

3. (1) There is established a council, to be known as the National Farm Products Council, consisting of not less than three and not more than seven members to be appointed by the Governor in Council to hold office during pleasure.

Primary producers

(1.1) At least fifty per cent of the members of the Council, not taking into account the chairman thereof, shall be primary producers at the time of appointment.

Chairman and vice-chairman

(2) The Governor in Council shall designate one member of the Council to be the chairman thereof and another member to be the vice-chairman thereof, one of whom shall be a primary producer.

Regional representation

(3) In making appointments under this section, the Governor in Council shall try to ensure equal representation from the four Western provinces, the two Central provinces and the four Atlantic provinces.

Eligibility

(4) A person who has reached the age of seventy years is not eligible to be appointed a member of the Council and a member thereof ceases to hold office on reaching the age of seventy years.

Temporary substitute members

(5) If a member of the Council, other than the chairman, is absent or unable to act, the Governor in Council may appoint a temporary substitute member on such terms and conditions as the Governor in Council prescribes.

R.S., 1985, c. F-4, s. 3; 1993, c. 3, s. 5; 2010, c. 12, s. 1731.

Chairman to preside

4. The chairman of the Council shall preside at meetings of the Council but in the event of the absence or incapacity of the chairman, or if the office of chairman is vacant, the vice-chairman of the Council shall act as chairman for the time being.

1970-71-72, c. 65, s. 4.

PARTIE I

CONSEIL NATIONAL DES PRODUITS AGRICOLES

CRÉATION

3. (1) Est créé le Conseil national des produits agricoles, composé de trois à sept membres, ou conseillers, nommés par le gouverneur en conseil à titre amovible.

Création du Conseil

(1.1) Au moins cinquante pour cent des conseillers, compte non tenu du président, sont des personnes qui sont des producteurs du secteur primaire au moment de la nomination.

Producteurs du secteur primaire

(2) Le gouverneur en conseil désigne parmi les conseillers un président et un vice-président; l'un d'eux doit être un producteur du secteur primaire.

Président et vice-président

(3) En procédant aux nominations prévues au présent article, le gouverneur en conseil veille, dans la mesure du possible, à ce que les quatre provinces de l'Ouest, les deux provinces centrales et les quatre provinces de l'Atlantique soient également représentées.

Représentation régionale

(4) La limite d'âge pour la désignation ou le maintien au Conseil est de soixante-dix ans.

Limite d'âge

(5) En cas d'absence ou d'empêchement d'un conseiller, à l'exception du président, le gouverneur en conseil peut, aux conditions qu'il fixe, nommer un membre suppléant.

Suppléance

L.R. (1985), ch. F-4, art. 3; 1993, ch. 3, art. 5; 2010, ch. 12, art. 1731.

4. Le président du Conseil préside les réunions de celui-ci; en cas d'absence ou d'empêchement ou de vacance de son poste, la présidence est assumée par le vice-président.

Présidence

1970-71-72, ch. 65, art. 4.

Salaries and fees	<p>5. (1) A member of the Council who is not employed in the federal public administration shall be paid a salary to be fixed by the Governor in Council.</p>	<p>5. (1) Les membres du Conseil qui ne sont pas employés dans l'administration publique fédérale reçoivent le traitement fixé par le gouverneur en conseil.</p>	Rémunération
Expenses	<p>(2) Each member of the Council is entitled to be paid any travel and living expenses incurred by them in the performance of their duties under this Act that are provided by by-law of the Council made under paragraph 12(c).</p> <p>R.S., 1985, c. F-4, s. 5; 2003, c. 22, s. 224(E); 2015, c. 3, s. 83(E).</p>	<p>(2) Les conseillers sont indemnisés des frais de déplacement et de séjour engagés dans l'exercice de leurs fonctions en application de la présente loi et prévus par règlement administratif pris aux termes de l'alinéa 12c).</p> <p>L.R. (1985), ch. F-4, art. 5; 2003, ch. 22, art. 224(A); 2015, ch. 3, art. 83(A).</p>	Indemnités
DUTIES AND POWERS		MISSION ET POUVOIRS	
Duties of Council	<p>6. (1) The duties of the Council are</p> <p>(a) to advise the Minister on all matters relating to the establishment and operation of agencies under this Act with a view to maintaining and promoting an efficient and competitive agriculture industry;</p> <p>(b) to review the operations of agencies with a view to ensuring that they carry on their operations in accordance with their objects set out in section 21 or 41, as the case may be; and</p> <p>(c) to work with agencies in promoting more effective marketing of farm products in inter-provincial and export trade and, in the case of a promotion-research agency, in promoting such marketing in import trade and in connection with research and promotion activities relating to farm products.</p>	<p>6. (1) Le Conseil a pour mission :</p> <p>a) de conseiller le ministre sur les questions relatives à la création et au fonctionnement des offices prévus par la présente loi en vue de maintenir ou promouvoir l'efficacité et la compétitivité du secteur agricole;</p> <p>b) de contrôler l'activité des offices afin de s'assurer qu'elle est conforme aux objets énoncés aux articles 21 ou 41, selon le cas;</p> <p>c) de travailler avec les offices à améliorer l'efficacité de la commercialisation des produits agricoles offerts sur les marchés inter-provincial, d'exportation et, dans le cas d'un office de promotion et de recherche, sur le marché d'importation ainsi que des activités de promotion et de recherche à leur sujet.</p>	Mission du Conseil
Additional duties	<p>(2) In carrying out its duties, the Council shall consult, on a continuing basis, with the governments of all provinces having an interest in the establishment or the exercise of the powers of any one or more agencies under this Act or with any body or bodies established by the government of any province to exercise powers similar to those of the Council in relation to intraprovincial trade in farm products.</p> <p>R.S., 1985, c. F-4, s. 6; 1993, c. 3, s. 6.</p>	<p>(2) Dans l'exécution de sa mission, le Conseil consulte régulièrement les gouvernements de toutes les provinces ayant intérêt à la création ou à l'exercice des pouvoirs d'un ou de plusieurs offices dans le cadre de la présente loi, ou tout organisme créé par le gouvernement d'une province pour exercer des pouvoirs semblables à ceux du Conseil en matière de commerce des produits agricoles à l'intérieur de cette province.</p> <p>L.R. (1985), ch. F-4, art. 6; 1993, ch. 3, art. 6.</p>	Autres fonctions
Powers of Council	<p>7. (1) In order to fulfil its duties, the Council</p> <p>(a) on receipt of a written request from one or more associations representing a significant number of persons engaged in the growing or production of any farm product in Canada or if directed to do so by the Minister</p>	<p>7. (1) Afin de remplir sa mission, le Conseil :</p> <p>a) doit, à la demande du ministre en ce sens ou sur réception d'une requête écrite d'une ou de plusieurs associations représentant un nombre suffisant de personnes se livrant à la culture ou à la production, au Canada, d'un</p>	Pouvoirs du Conseil

shall, or on its own initiative may, inquire into the merits of

(i) establishing an agency in respect of the farm product and vesting it with all or any of the powers set out in section 22 or 42, as the case may be, or

(ii) broadening the authority of an existing agency by vesting it with all or any of the powers set out in section 22 or 42, as the case may be, in relation to any farm products that are additional to the farm products in respect of which it was established,

and report its recommendations to the Minister, including the terms of an appropriate marketing plan or promotion and research plan where, in its opinion, it is appropriate that an agency be vested with power to implement such a plan in relation to the farm products to which the inquiry relates;

(b) shall review any amendment to a marketing plan or promotion and research plan that is submitted to it by the agency charged with the implementation of the plan, review any proposed marketing plan or promotion and research plan that is submitted to it by an agency that is not vested with power to implement such a plan, and consider all representations submitted to it in relation to the proposed amendment or plan and report its recommendations thereon to the Minister;

(c) shall review the operations of agencies and report thereon annually to the Minister or, in any case where in its opinion the circumstances warrant, on a more frequent basis;

(d) shall review all orders and regulations that are proposed to be made by agencies and that are of a class of orders or regulations to which the Council, by order, provides that this paragraph is applicable and, where it is satisfied that the orders and regulations are necessary for the implementation of the marketing plan or promotion and research plan that the agency proposing to make the orders or regulations is authorized to implement, the Council shall approve the orders and regulations;

(e) shall review all orders and regulations that are made by agencies and that are not of

ou de plusieurs produits agricoles, ou bien peut, de sa propre initiative, procéder à une enquête et présenter au ministre ses recommandations, notamment quant aux modalités d'un plan de commercialisation ou d'un plan de promotion et de recherche approprié, lorsqu'il convient, à son avis, de conférer à un office le pouvoir d'exécuter un tel plan pour le ou les produits faisant l'objet de l'enquête; celle-ci vise à déterminer l'opportunité :

(i) soit de créer un office pour un ou plusieurs produits agricoles et de lui conférer tout ou partie des pouvoirs prévus à l'article 22 ou 42, selon le cas,

(ii) soit d'étendre l'autorité d'un office existant en lui conférant tout ou partie des pouvoirs prévus à l'article 22 ou 42, selon le cas, à l'égard de produits agricoles autres que celui ou ceux pour lesquels il a été créé;

b) examine toute modification d'un plan de commercialisation ou d'un plan de promotion et de recherche qui lui est soumise par l'office chargé de l'exécuter, ainsi que tout projet de plan de commercialisation ou de plan de promotion et de recherche qui lui est soumis par un office non habilité à le mettre en oeuvre, étudie les observations qui lui sont adressées concernant l'une ou l'autre, et présente au ministre ses recommandations à cet égard;

c) examine l'activité des offices et en fait rapport tous les ans au ministre ou, si à son avis les circonstances le justifient, à intervalles plus courts;

d) examine les projets d'ordonnances et de règlements des offices et qui relèvent des catégories auxquelles, par ordonnance prise par lui, le présent alinéa s'applique, et les approuve lorsqu'il est convaincu que ces ordonnances et règlements sont nécessaires à l'exécution du plan de commercialisation ou du plan de promotion et de recherche que l'office qui les propose est habilité à mettre en oeuvre;

e) examine les ordonnances et les règlements pris par les offices et qui ne relèvent pas d'une catégorie d'ordonnances ou de règlements à laquelle l'alinéa d) est applicable, et soit les approuve, lorsqu'il est convaincu

a class of orders or regulations to which paragraph (d) is made applicable, and, where it is satisfied that the orders or regulations are necessary for the administration of the marketing plan or promotion and research plan that the agency that has made the orders or regulations is authorized to implement, the Council shall approve the orders or regulations and, where it is not so satisfied, the Council may, by order, set aside in whole or in part any such orders and regulations;

(f) shall make such inquiries and take such action within its powers as it deems appropriate in relation to any complaints received by it from any person who is directly affected by the operations of an agency and that relate to the operations of the agency;

(g) may conduct studies of, and on its own initiative or on the direction of the Minister research into, any matter relating to the marketing or promotion of a farm product in interprovincial or export trade or research activities related thereto;

(h) may, for the purpose of implementing any marketing plan, require persons engaged in the production of a farm product for, or the marketing of a farm product in, interprovincial or export trade

(i) to register with the Council or the appropriate agency,

(ii) to maintain books and records in relation to the production or marketing of the farm product by them in such form and containing such information as the Council requires pursuant to this paragraph, and

(iii) to submit to the Council or the appropriate agency such information relating to the production or marketing of the farm product by them as it may reasonably require;

(i) may, when in its opinion it is necessary to do so for the purpose of determining the advisability of establishing an agency in respect of a farm product or of vesting an agency with power to implement a marketing plan, require persons engaged in the production of a farm product for, or the marketing of a farm product in, interprovincial or export trade to submit to the Council or the appropriate agency such information relating to

que ces ordonnances ou règlements sont nécessaires à l'exécution du plan de commercialisation ou du plan de promotion et de recherche que l'office qui les propose est habilité à mettre en oeuvre, soit, dans le cas contraire, peut, par ordonnance, les annuler en tout ou en partie;

f) procède aux enquêtes et prend les mesures qu'il estime appropriées relativement aux plaintes qu'il reçoit — en ce qui a trait à l'activité d'un office — des personnes directement touchées par celle-ci;

g) peut mener des études et, de sa propre initiative ou sur instruction du ministre, des recherches sur toute question relative à la commercialisation ou à la promotion d'un produit agricole offert sur le marché interprovincial ou d'exportation ou aux activités de recherche à son sujet;

h) peut, pour l'exécution de tout plan de commercialisation, exiger des personnes se livrant à la production ou à la commercialisation d'un produit agricole donné sur le marché interprovincial ou international :

(i) qu'elles se fassent inscrire auprès de lui ou de l'office compétent,

(ii) qu'elles tiennent des registres sur la production ou la commercialisation par leurs soins du produit agricole, en la forme et avec les renseignements qu'il exige en application du présent alinéa,

(iii) qu'elles lui fournissent, ou à l'office compétent, les renseignements sur la production ou la commercialisation par leurs soins du produit agricole qu'il peut valablement leur réclamer;

i) peut, s'il le juge nécessaire pour décider de l'opportunité de créer un office pour un produit donné ou de conférer à un office existant le pouvoir d'exécuter un plan de commercialisation, exiger des personnes se livrant à la production ou à la commercialisation d'un produit agricole sur le marché interprovincial ou international qu'elles lui fournissent, ou à l'office compétent, les renseignements sur la production ou la commercialisation par leurs soins du produit agricole qu'il peut valablement leur réclamer;

the production or marketing of the farm product by them as it may reasonably require;

(j) may, for the purpose of implementing any promotion and research plan, require persons who are engaged in the production or importation of a farm product for, or the marketing of a farm product in, interprovincial, export or import trade

(i) to register with the Council or the appropriate agency,

(ii) to maintain books and records in relation to the production, marketing or importation of the farm product by them in such form and containing such information as the Council requires pursuant to this paragraph, and

(iii) to submit to the Council or the appropriate agency such information relating to the production, marketing or importation of the farm product by them as it may reasonably require;

(k) may, when in its opinion it is necessary to do so for the purpose of determining the advisability of establishing an agency in respect of a farm product or of vesting an agency with power to implement a promotion and research plan, require persons who are engaged in the production or importation of a farm product for, or the marketing of a farm product in, interprovincial, export or import trade to submit to the Council or the appropriate agency such information relating to the production, marketing or importation of the farm product by them as it may reasonably require; and

(l) may do all such other things as are incidental or conducive to the fulfilment of its duties.

Idem

(2) The Council, in reporting to the Minister under subsection (1), shall not recommend the establishment of an agency in respect of one or more farm products or the broadening of the authority of an existing agency by vesting it with powers in relation to one or more farm products unless it is satisfied that

(a) in the case of a marketing agency, the majority of the producers of each of those farm products, in Canada or in the region of

j) peut, pour l'exécution de tout plan de promotion et de recherche, exiger des personnes se livrant à la production, à l'importation ou à la commercialisation d'un produit agricole donné sur le marché interprovincial, d'exportation ou d'importation :

(i) qu'elles se fassent inscrire auprès de lui ou de l'office compétent,

(ii) qu'elles tiennent des registres sur la production, l'importation ou la commercialisation par leurs soins du produit agricole, en la forme et avec les renseignements qu'il exige en application du présent alinéa,

(iii) qu'elles lui fournissent, ou à l'office compétent, les renseignements sur la production, l'importation ou la commercialisation par leurs soins du produit agricole qu'il peut valablement leur réclamer;

k) peut, s'il le juge nécessaire pour décider de l'opportunité de créer un office pour un produit donné ou de conférer à un office existant le pouvoir d'exécuter un plan de promotion et de recherche, exiger des personnes se livrant à la production, à l'importation ou à la commercialisation d'un produit agricole sur le marché interprovincial, d'exportation ou d'importation qu'elles lui fournissent, ou à l'office compétent, les renseignements sur la production, l'importation ou la commercialisation par leurs soins du produit agricole qu'il peut valablement leur réclamer;

l) peut prendre toute autre mesure utile à la réalisation de sa mission.

(2) Dans le ou les rapports qu'il adresse au ministre en application du paragraphe (1), le Conseil ne peut recommander la création d'un office pour un ou plusieurs produits agricoles, non plus que l'extension de la compétence d'un office existant par l'attribution à celui-ci de pouvoirs concernant un ou plusieurs autres nouveaux produits agricoles, que s'il est convaincu que :

Réserve

Canada to which the recommendation relates, is in favour of that action; or

(b) in the case of a promotion-research agency, the majority of the aggregate of the producers or, where the import trade in one or more farm products is to be included, the majority of the aggregate of the producers and importers, of all those farm products, in Canada or in the region of Canada to which the recommendation relates, is in favour of that action.

R.S., 1985, c. F-4, s. 7; 1993, c. 3, s. 7.

a) dans le cas d'un office de commercialisation, la majorité des producteurs du ou des produits agricoles, dans l'ensemble du pays ou dans la région du Canada visée par la recommandation, est en faveur d'une telle mesure;

b) dans le cas d'un office de promotion et de recherche, la majorité de l'ensemble des producteurs ou, si le marché d'importation d'un ou de plusieurs produits agricoles est visé, la majorité de l'ensemble des producteurs et des importateurs de tous les produits agricoles, dans l'ensemble du pays ou dans la région du Canada visée par la recommandation, est en faveur d'une telle mesure.

L.R. (1985), ch. F-4, art. 7; 1993, ch. 3, art. 7.

PUBLIC HEARINGS

AUDIENCES PUBLIQUES

Where hearing to be held

8. (1) A public hearing shall be held by the Council

(a) in connection with an inquiry into the merits of establishing an agency or of broadening the authority of an existing agency to cover any additional farm product or farm products;

(b) where the Council has under review a proposed marketing plan or promotion and research plan; or

(c) in connection with any other matter relating to its objects if the Governor in Council or the Minister directs the Council to hold a public hearing in connection with such matter.

Where hearing may be held

(2) A public hearing may be held by the Council in connection with any matter relating to its objects where the Council is satisfied that such a hearing would be in the public interest.

Hearing by two or more members

(3) The chairman of the Council may direct that a public hearing under this section be held on behalf of the Council by two or more members thereof designated by the chairman, and the members so designated have for the purpose of the hearing the powers of the Council set out in subsection (5) and shall report to the Council on the hearing.

Hearings throughout Canada

(4) A public hearing under this section may be held at such place in Canada or at such places in Canada by adjournment from place to place as the Council may designate.

8. (1) Le Conseil tient une audience publique :

a) lorsqu'il enquête sur l'opportunité de la création d'un office ou de l'extension du pouvoir d'un office existant à un ou plusieurs autres produits agricoles;

b) lorsqu'il étudie un projet de plan de commercialisation ou de plan de promotion et de recherche;

c) lorsque le gouverneur en conseil ou le ministre le lui enjoint, relativement à toute autre question de sa compétence.

Audience obligatoire

(2) Le Conseil peut tenir une audience publique au sujet d'une question de sa compétence s'il est convaincu que cela est dans l'intérêt public.

Audience facultative

(3) Le président peut ordonner que l'audience publique soit tenue au nom du Conseil par plusieurs conseillers qu'il désigne; ceux-ci sont alors à cette fin investis des pouvoirs du Conseil énoncés au paragraphe (5) et doivent rendre compte au Conseil de l'audience.

Audience par plusieurs conseillers

(4) L'audience publique peut se tenir, au Canada, au lieu désigné par le Conseil ou aux lieux où il décide de se transporter d'une séance à l'autre.

Lieu des audiences

Powers in relation to hearings	<p>(5) The Council has, in respect of any public hearing under this section, all the powers of a commissioner appointed under Part I of the <i>Inquiries Act</i>.</p> <p>R.S., 1985, c. F-4, s. 8; 1993, c. 3, s. 8.</p>	<p>(5) Le Conseil a, pour toute audience publique, les pouvoirs d'un commissaire nommé en vertu de la partie I de la <i>Loi sur les enquêtes</i>.</p> <p>L.R. (1985), ch. F-4, art. 8; 1993, ch. 3, art. 8.</p>	Pouvoirs relatifs aux audiences
Public notice	<p>9. The Council shall give notice of any public hearing under section 8 and of the matters to be considered thereat in the <i>Canada Gazette</i> and in one or more newspapers and farm journals in general circulation throughout all of Canada and in particular in those areas of Canada where, in the opinion of the Council, there are persons who are likely to be interested in the matters to be considered thereat.</p> <p>1970-71-72, c. 65, s. 9.</p>	<p>9. Le Conseil publie un avis de toute audience publique tenue en application de l'article 8 et des questions à l'étude dans la <i>Gazette du Canada</i>, de même que un ou plusieurs journaux et des revues agricoles diffusés dans tout le Canada et en particulier dans les régions où, à son avis, il y a des personnes susceptibles d'être intéressées par l'audience.</p> <p>1970-71-72, ch. 65, art. 9.</p>	Avis public
Rules of procedure	<p>10. The Council may make rules respecting the conduct of public hearings under section 8 and generally respecting the conduct of business of the Council in relation thereto.</p> <p>1970-71-72, c. 65, s. 10.</p>	<p>10. Le Conseil peut établir des règles concernant la tenue des audiences publiques prévues à l'article 8 et portant, d'une manière générale, sur la procédure qu'il doit suivre à leur égard.</p> <p>1970-71-72, ch. 65, art. 10.</p>	Règles de procédure
ORGANIZATION		ORGANISATION	
Head office	<p>11. The head office of the Council shall be in the National Capital Region described in the schedule to the <i>National Capital Act</i> or at such other place in Canada as may be designated by the Governor in Council.</p> <p>1970-71-72, c. 65, s. 11.</p>	<p>11. Le siège du Conseil est fixé dans la région de la capitale nationale définie à l'annexe de la <i>Loi sur la capitale nationale</i> ou en tout autre lieu, au Canada, désigné par le gouverneur en conseil.</p> <p>1970-71-72, ch. 65, art. 11.</p>	Siège
By-laws	<p>12. The Council may make by-laws</p> <p>(a) respecting the calling of meetings of the Council;</p> <p>(b) respecting the conduct of business at meetings of the Council and the establishment of committees thereof, the delegation of duties to those committees and the fixing of quorums for meetings of the Council and any committee thereof;</p> <p>(c) subject to the approval of the Treasury Board, fixing the travel and living expenses to be paid to the members of the Council; and</p> <p>(d) generally for the conduct and management of the affairs of the Council.</p> <p>1970-71-72, c. 65, s. 12.</p>	<p>12. Le Conseil peut, par règlement administratif :</p> <p>a) prévoir la convocation de ses réunions;</p> <p>b) régir le déroulement de ses réunions, ainsi que la constitution de comités, la délégation de fonctions à ceux-ci et la fixation de quorums pour ses réunions et celles de ses comités;</p> <p>c) fixer, sous réserve de l'approbation du Conseil du Trésor, les indemnités de déplacement et de séjour pour les conseillers;</p> <p>d) d'une façon générale, régir son activité.</p> <p>1970-71-72, ch. 65, art. 12.</p>	Règlements administratifs

Staff	<p>13. Officers and employees necessary for the proper conduct of the business of the Council shall be appointed in the manner authorized by the <i>Public Service Employment Act</i>. 1970-71-72, c. 65, s. 13; 1980-81-82-83, c. 47, s. 16.</p>	<p>13. Le personnel nécessaire aux travaux du Conseil est nommé conformément à la <i>Loi sur l'emploi dans la fonction publique</i>. 1970-71-72, ch. 65, art. 13; 1980-81-82-83, ch. 47, art. 16.</p>	Personnel
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Superannuation	<p>14. Any member of the Council who, under the terms of their appointment, is required to devote the whole of their time to the performance of their duties as a member is deemed to be employed in the public service for the purposes of the <i>Public Service Superannuation Act</i> and to be employed in the federal public administration for the purposes of the <i>Government Employees Compensation Act</i> and any regulations made under section 9 of the <i>Aeronautics Act</i>. R.S., 1985, c. F-4, s. 14; 2003, c. 22, s. 166(E); 2015, c. 3, s. 84(E).</p>	<p>14. Le conseiller qui, aux termes de son mandat, est tenu de consacrer tout son temps à l'exercice de ses fonctions est réputé faire partie de la fonction publique pour l'application de la <i>Loi sur la pension de la fonction publique</i> et faire partie de l'administration publique fédérale pour l'application de la <i>Loi sur l'indemnisation des agents de l'État</i> et des règlements pris en vertu de l'article 9 de la <i>Loi sur l'aéronautique</i>. L.R. (1985), ch. F-4, art. 14; 2003, ch. 22, art. 166(A); 2015, ch. 3, art. 84(A).</p>	Pension
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ANNUAL REPORT

RAPPORT ANNUEL

Report to Parliament	<p>15. The Council shall, within three months after the end of each fiscal year, submit to the Minister a report in such form as the Minister may direct on its activities for that fiscal year and the Minister shall cause the report to be laid before Parliament within fifteen days after the receipt thereof, or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting. 1970-71-72, c. 65, s. 16.</p>	<p>15. Dans les trois mois suivant la fin de chaque exercice, le Conseil présente au ministre, en la forme prescrite par celui-ci, un rapport d'activité pour cet exercice. Le ministre le fait déposer devant le Parlement dans les quinze jours suivant sa réception ou, si le Parlement ne siège pas, dans les quinze premiers jours de séance ultérieurs de l'une ou l'autre chambre. 1970-71-72, ch. 65, art. 16.</p>	Rapport au Parlement
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PART II

PARTIE II

FARM PRODUCTS MARKETING AGENCIES

OFFICES DE COMMERCIALISATION DES PRODUITS DE FERME

ESTABLISHMENT

CRÉATION

Establishment of agencies	<p>16. (1) The Governor in Council may, by proclamation, establish an agency with powers relating to any farm product or farm products the marketing of which in interprovincial and export trade is not regulated under the <i>Canadian Dairy Commission Act</i> if the Governor in Council is satisfied that a majority of the producers of the farm product or of each of the farm products in Canada is in favour of the establishment of an agency.</p>	<p>16. (1) Le gouverneur en conseil peut, par proclamation, créer un office compétent pour des produits agricoles dont la commercialisation sur les marchés interprovincial et d'exportation n'est pas réglementée par la <i>Loi sur la Commission canadienne du lait</i>, lorsqu'il est convaincu que la majorité des producteurs, au Canada, des produits en question est en faveur d'une telle mesure.</p>	Création des offices
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Plebiscites	<p>(2) The Governor in Council, in order to determine whether a majority of producers of a farm product are in favour of establishing an</p>	<p>(2) Le gouverneur en conseil peut, pour déterminer si la majorité des producteurs d'un produit agricole est en faveur de la création d'un office, demander à chaque province de</p>	Référendums
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	agency, may request that each province carry out a plebiscite of those producers.	procéder à un référendum auprès de ces producteurs.	
Agencies to be bodies corporate	(3) Every agency established pursuant to this Act is a body corporate. R.S., 1985, c. F-4, s. 16; 1993, c. 3, s. 13(F); 2011, c. 25, s. 35; 2015, c. 3, s. 85.	(3) Les offices créés en application de la présente loi sont des personnes morales. L.R. (1985), ch. F-4, art. 16; 1993, ch. 3, art. 13(F); 2011, ch. 25, art. 35; 2015, ch. 3, art. 85.	Personnalité morale
Contents of proclamation	17. (1) A proclamation establishing an agency shall (a) designate the farm product or farm products in relation to which the agency may exercise its powers and indicate whether those powers may be exercised in relation to (i) any such product or products to the extent that it is or they are grown or produced anywhere in Canada, or (ii) any such product or products to the extent that it is or they are grown or produced in any region of Canada designated in the proclamation, or in any such region and anywhere in Canada outside that region for shipment into that region in inter-provincial trade and not for export; (b) designate any of the powers set out in section 22 that are not vested in the agency; (c) set out the terms of any marketing plan that the agency is empowered to implement; (d) state the corporate name of the agency and the place within Canada where the head office of the agency is situated; and (e) fix the number of members of the agency, which shall be not less than three and not more than sixteen at least a majority of whom shall be primary producers, and provide for the manner of appointment of members and temporary substitute members and the term of their appointment if the manner and term are to be other than as provided in subsection 18(1).	17. (1) La proclamation portant création d'un office doit : a) désigner le ou les produits agricoles ressortissant à l'office et indiquer si celui-ci peut exercer ses pouvoirs : (i) soit à l'égard de ce ou ces produits, dans la mesure où ils sont cultivés ou produits en quelque lieu du Canada que ce soit, (ii) soit à l'égard de ce ou ces produits dans la mesure où ils sont cultivés ou produits dans une région du Canada désignée dans la proclamation, ou à la fois dans une telle région et toute autre partie du Canada d'où ils sont expédiés vers celle-ci dans le cadre du commerce interprovincial et non pour exportation; b) préciser tout pouvoir prévu à l'article 22 qui n'est pas conféré à l'office; c) énoncer les modalités des plans de commercialisation que l'office est habilité à mettre en oeuvre; d) préciser la dénomination de l'office et le lieu de son siège au Canada; e) fixer le nombre des membres de l'office — de trois à seize — dont au moins la moitié doivent être des producteurs du secteur primaire, et prévoir, s'ils diffèrent de ceux qu'établit le paragraphe 18(1), le mode de nomination et la durée du mandat de ces membres et des suppléants.	Contenu de la proclamation
Alteration	(2) The Governor in Council may, by proclamation, (a) designate any farm product or farm products, in respect of which the Governor in Council is authorized under subsection 16(1) to establish an agency, as an additional product or products in relation to which an agency previously established under that subsection may exercise its powers and indicate	(2) Le gouverneur en conseil peut, par proclamation : a) étendre la compétence d'un office précédemment créé en application du paragraphe 16(1) en désignant un ou plusieurs produits agricoles supplémentaires pour lesquels il est lui-même habilité par ce paragraphe à constituer un tel organisme, et indiquer si cet office peut exercer ses pouvoirs :	Modification

whether those powers may be exercised in relation to

(i) any such product or products to the extent that it is or they are grown or produced anywhere in Canada, or

(ii) any such product or products to the extent that it is or they are grown or produced in any region of Canada designated in the proclamation, or in any such region and anywhere in Canada outside that region for shipment into that region in inter-provincial trade and not for export;

(b) vest in an agency any powers set out in section 22 that were withheld from it at the time it was established, and where the proclamation vests in the agency the power to implement a marketing plan, the terms thereof shall be set out in the proclamation;

(c) amend the terms of a marketing plan that an agency is empowered to implement or withdraw any of the powers set out in section 22 that were previously vested in the agency;

(d) change the name of an agency or the place within Canada where the head office of the agency is situated;

(e) increase or decrease the number of members of an agency but not so as to increase the number above sixteen or decrease it below three; or

(f) provide for the manner of appointment of members and temporary substitute members of an agency and a term of appointment of those members that varies from the manner and term provided in subsection 18(1) or from the manner and term provided in the proclamation establishing the agency.

(3) A proclamation referred to in subsection (1) or (2) that designates a farm product other than tobacco, eggs or poultry or any part of tobacco, eggs or poultry shall not set out as a term of the marketing plan that an agency is empowered to implement any term that would enable the agency to fix and determine the quantity in which any regulated product could be marketed in interprovincial or export trade by persons engaged in the marketing thereof.

R.S., 1985, c. F-4, s. 17; 1993, c. 3, ss. 9, 13(F); 2015, c. 3, s. 86(E).

(i) soit à l'égard d'un ou de plusieurs produits semblables, dans la mesure où ils sont cultivés ou produits en quelque lieu du Canada que ce soit,

(ii) soit à l'égard d'un ou de plusieurs produits semblables, dans la mesure où ils sont cultivés ou produits dans une région du Canada désignée dans la proclamation, ou à la fois dans une telle région et toute autre partie du Canada d'où ils sont expédiés vers celle-ci dans le cadre du commerce interprovincial et non pour exportation;

b) conférer à un office les pouvoirs énumérés à l'article 22 qui lui étaient refusés au moment de sa création, en énonçant obligatoirement dans la proclamation, s'il s'agit du pouvoir de mettre en oeuvre un plan de commercialisation, les modalités de celui-ci;

c) modifier les modalités du plan de commercialisation qu'un office est habilité à mettre en oeuvre ou lui retirer l'un des pouvoirs énumérés à l'article 22;

d) modifier la dénomination d'un office ou transférer son siège en un autre lieu au Canada;

e) accroître ou réduire le nombre des membres d'un office, dans une fourchette de trois à seize;

f) prévoir le mode de nomination et la durée du mandat des membres d'un office et des membres suppléants lorsqu'ils diffèrent de ceux qui sont prévus soit au paragraphe 18(1), soit dans la proclamation créant l'office.

(3) La proclamation visée aux paragraphes (1) ou (2), quand elle désigne un produit agricole autre que le tabac, les oeufs ou la volaille — ou qu'une partie de ceux-ci —, ne peut contenir, pour le plan de commercialisation qu'un office a le pouvoir d'exécuter, de modalités permettant à cet office de déterminer en quelle quantité un produit réglementé pourra être commercialisé sur le marché interprovincial ou d'exportation par des personnes qui se livrent à la commercialisation de ce produit.

L.R. (1985), ch. F-4, art. 17; 1993, ch. 3, art. 9 et 13(F); 2015, ch. 3, art. 86(A).

Limitation

Réserve

MEMBERSHIP OF AGENCIES

COMPOSITION DES OFFICES

Appointment	<p>18. (1) The members of an agency shall be appointed by the Governor in Council to hold office during pleasure, or in such other manner including election by producers, and for such term as is provided in the proclamation establishing the agency or in a proclamation issued under subsection 17(2) in respect of the agency.</p>	<p>18. (1) Les membres d'un office sont nommés soit par le gouverneur en conseil à titre amovible, soit selon le mode — notamment élection par les producteurs — et pour la durée prévus par la proclamation créant l'office ou la proclamation prise aux termes du paragraphe 17(2).</p>	Nomination
Chairman and vice-chairman	<p>(2) The Governor in Council shall designate one member of an agency to be the chairman thereof and another member to be the vice-chairman thereof, or may provide for the manner of such designation in the proclamation establishing the agency.</p>	<p>(2) Le gouverneur en conseil désigne deux membres de l'office comme président et vice-président de celui-ci respectivement, ou en prévoit le mode de désignation dans la proclamation créant l'office.</p>	Président et vice-président
Eligibility	<p>(3) A person who has reached the age of seventy years is not eligible to be appointed a member of an agency and a member thereof ceases to hold office on reaching the age of seventy years.</p>	<p>(3) La limite d'âge pour la nomination ou le maintien à un office est de soixante-dix ans.</p>	Limite d'âge
Temporary substitute members	<p>(4) If a member of an agency, other than the chairman, is absent or unable to act, the Governor in Council may, unless otherwise provided in the proclamation establishing the agency, appoint a temporary substitute member on such conditions as the Governor in Council prescribes.</p> <p>1970-71-72, c. 65, s. 19; 1980-81-82-83, c. 47, s. 16.</p>	<p>(4) En cas d'absence ou d'empêchement d'un membre, à l'exception du président, le gouverneur en conseil peut, sauf disposition contraire de la proclamation créant l'office, désigner, aux conditions qu'il fixe, un membre suppléant.</p> <p>1970-71-72, ch. 65, art. 19; 1980-81-82-83, ch. 47, art. 16.</p>	Membres suppléants
Chairman	<p>19. The chairman of an agency shall preside at meetings of the agency but in the event of the absence or incapacity of the chairman, or if the office of chairman is vacant, the vice-chairman of the agency shall act as chairman for the time being.</p> <p>1970-71-72, c. 65, s. 20.</p>	<p>19. Le président d'un office préside les réunions de celui-ci; en cas d'absence ou d'empêchement du président, ou de vacance de son poste, la présidence est assumée par le vice-président.</p> <p>1970-71-72, ch. 65, art. 20.</p>	Président
Salaries and fees	<p>20. (1) A member of an agency who devotes the whole of their time or a portion of their time on a continuous basis to the performance of their duties as a member shall be paid by the agency a salary to be fixed by the Governor in Council on the recommendation of the Council, and the other members of the agency shall be paid by the agency any fees for attendances at meetings of the agency or any of its committees that are provided by by-law of the agency made under paragraph 25(c).</p>	<p>20. (1) Les membres qui exercent leurs fonctions à temps plein ou à temps partiel reçoivent de l'office le traitement fixé par le gouverneur en conseil sur proposition du Conseil; les autres membres de l'office, qui ne font qu'assister à ses réunions ou à celles de ses comités, reçoivent les jetons de présence prévus par règlement administratif pris en application de l'alinéa 25c).</p>	Rémunération
Expenses	<p>(2) Each member of an agency or of a consultative or advisory committee of an agency is entitled to be paid by the agency any travel and living expenses incurred by them in the perfor-</p>	<p>(2) Les membres d'un office ou d'un comité consultatif d'un office sont indemnisés par ce dernier, conformément au règlement administratif pris en application de l'alinéa 25c), des</p>	Indemnités

mance of their duties under this Act that are provided by by-law of the agency made under paragraph 25(c).

R.S., 1985, c. F-4, s. 20; 2015, c. 3, s. 87(E).

OBJECTS AND POWERS

Objects

21. The objects of an agency are

(a) to promote a strong, efficient and competitive production and marketing industry for the regulated product or products in relation to which it may exercise its powers; and

(b) to have due regard to the interests of producers and consumers of the regulated product or products.

1970-71-72, c. 65, s. 22.

Powers

22. (1) Subject to the proclamation by which it is established and to any subsequent proclamation altering its powers, an agency may

(a) purchase any regulated product in relation to which it may exercise its powers and any farm product, wherever grown or produced that is of the same kind as the regulated product in relation to which it may exercise its powers, and package, process, store, ship, insure, export or sell or otherwise dispose of any such product purchased by it;

(b) implement a marketing plan the terms of which are set out in the proclamation establishing it or in any subsequent proclamation issued under subsection 17(2) in respect of it;

(c) prepare and submit to the Council

(i) a marketing plan, if it is not empowered to implement a marketing plan, or

(ii) any amendments to the marketing plan that the agency is empowered to implement,

that it considers appropriate for the attainment of its objects;

(d) undertake and assist in the promotion of the consumption and use of any regulated product in relation to which it may exercise its powers, the improvement of the quality and variety thereof and the publication of information in relation thereto;

(e) designate bodies through which any regulated product in relation to which it may exercise its powers or any variety, class or

frais de déplacement et de séjour engagés dans l'exercice de leurs fonctions en application de la présente loi.

L.R. (1985), ch. F-4, art. 20; 2015, ch. 3, art. 87(A).

MISSION ET POUVOIRS

Mission

21. Un office a pour mission :

a) de promouvoir la production et la commercialisation du ou des produits réglementés pour lesquels il est compétent, de façon à en accroître l'efficacité et la compétitivité;

b) de veiller aux intérêts tant des producteurs que des consommateurs du ou des produits réglementés.

1970-71-72, ch. 65, art. 22.

Pouvoirs

22. (1) Sous réserve de la proclamation le créant et de toute proclamation ultérieure modifiant ses pouvoirs, l'office peut :

a) acheter tout produit réglementé pour lequel il est compétent et tout produit agricole, indépendamment de sa provenance, similaire à celui-ci et les emballer, transformer, entreposer, expédier, assurer, exporter ou vendre, ou faire toute autre opération à leur égard;

b) exécuter le plan de commercialisation dont les modalités sont énoncées dans la proclamation le créant ou dans toute proclamation ultérieure prise en application du paragraphe 17(2);

c) préparer et soumettre au Conseil, s'il l'estime judicieux pour la réalisation de sa mission :

(i) soit un plan de commercialisation, si son mandat original n'en comporte pas,

(ii) soit des modifications du plan de commercialisation prévu par son mandat;

d) encourager, directement ou indirectement, la consommation et l'utilisation de tout produit réglementé pour lequel il est compétent, l'amélioration de sa qualité et la multiplication de ses variétés, ainsi que la publication de toute information le concernant;

e) désigner les organismes chargés de commercialiser le ou les produits réglementés pour lesquels il est compétent, ou toute variété, classe ou qualité de ces produits, sur le marché interprovincial ou d'exportation;

grade of any such product shall be marketed in interprovincial or export trade;

(f) where it is empowered to implement a marketing plan, make such orders and regulations as it considers necessary in connection therewith, but all such orders and regulations shall, in the case of orders and regulations that are of a class to which paragraph 7(1)(d) is made applicable, be submitted to the Council before the making thereof, and in any other case, be submitted to the Council either before or after the making thereof and

(i) any order or regulation that is submitted to the Council before the making thereof and that is thereafter made before the Council approves the order or regulation is of no force or effect, and

(ii) any order or regulation that is submitted to the Council after the making thereof and that is set aside by order of the Council thereupon ceases to be of any force or effect;

(g) by order, require any person designated by it who is engaged in the marketing of any regulated product in relation to which it may exercise its powers, or any person who is a member of a class of persons designated by it and who is so engaged, to deduct from any amount payable by that person to any other person engaged in the production or marketing of the regulated product any amount payable to the agency by the other person by way of licence fees, levies or charges provided for in any marketing plan that the agency is authorized to implement and to remit all amounts so deducted to the agency;

(h) purchase, lease or otherwise acquire and hold, mortgage, hypothecate, sell or otherwise deal with any real property or immovable;

(i) establish branches or employ agents or mandataries in Canada or elsewhere;

(j) expend any money received by it through the conduct of its operations, whether by way of licence fees, levies or charges paid by persons engaged in the production or marketing of any regulated product in relation to which it may exercise its powers or otherwise;

f) prendre les ordonnances et règlements qu'il considère nécessaires à l'exécution du plan de commercialisation qu'il est habilité à mettre en oeuvre, après les avoir soumis au Conseil, lorsqu'ils relèvent d'une catégorie à laquelle l'alinéa 7(1)d) est applicable, ou, dans tout autre cas, soit après soit avant leur présentation au Conseil, étant entendu que :

(i) les ordonnances et règlements soumis au Conseil avant leur prise sont sans effet s'ils sont pris avant approbation par celui-ci,

(ii) les ordonnances et règlements soumis au Conseil après leur prise sont inopérants à compter de leur annulation, le cas échéant, par ordonnance du Conseil;

g) par ordonnance, exiger des personnes désignées par lui ou des personnes faisant partie d'une catégorie désignée par lui et se livrant à la commercialisation d'un produit réglementé pour lequel il est compétent qu'elles déduisent de toute somme payable par elles à une autre personne se livrant à la production ou à la commercialisation de ce produit réglementé le montant payable à l'office par celle-ci au titre des frais de licence, taxes ou prélèvements prévus dans tout plan de commercialisation qu'il est habilité à mettre en oeuvre, et qu'elles lui remettent les montants ainsi déduits;

h) procéder à toutes opérations sur un immeuble ou bien réel, notamment l'acheter, le prendre à bail ou l'acquérir d'autre façon, le détenir, le grever d'une hypothèque ou le vendre;

i) établir des succursales ou avoir des mandataires au Canada ou à l'étranger;

j) dépenser les sommes reçues par lui dans le cadre de son mandat au titre des frais de licence, taxes ou prélèvements payés par des personnes se livrant à la production ou à la commercialisation de tout produit réglementé pour lequel il est compétent;

k) investir dans des valeurs émises ou garanties par le gouvernement du Canada les sommes en sa possession ou sous sa responsabilité qui, à son avis, ne sont pas immédiatement nécessaires à son fonctionnement, et vendre les valeurs ainsi acquises par lui puis

	<p>(k) invest any money in its possession or control that in its opinion is not immediately required for the purposes of its operations, in securities of or guaranteed by the Government of Canada and sell any securities so acquired by it and reinvest the proceeds thereof or any part thereof in like manner;</p> <p>(l) borrow money on the credit of the agency and on the security of any regulated product or other property held by it;</p> <p>(m) undertake to advertise and promote and do research into new markets for the establishment of greater sales; and</p> <p>(n) do all such other things as are necessary or incidental to the exercise of any of its powers or the carrying out of any of its functions under this Act.</p>	<p>réinvestir de la même manière tout ou partie du produit de la vente;</p> <p>l) emprunter sur son crédit et sur la garantie de tout produit réglementé ou autre bien en sa possession;</p> <p>m) faire de la publicité et des études pour découvrir de nouveaux marchés et promouvoir la recherche en vue d'accroître les ventes;</p> <p>n) prendre toute autre mesure qu'il estime utile pour la réalisation de sa mission dans le cadre de la présente loi.</p>	
Additional powers in intraprovincial trade	<p>(2) An agency may perform on behalf of a province any function relating to intraprovincial trade in any regulated product in relation to which it may exercise its powers that is specified in an agreement entered into pursuant to section 31.</p>	<p>(2) L'office peut, au nom d'une province, exercer, en matière de commerce intraprovincial d'un produit réglementé pour lequel il est compétent, toute fonction spécifiée dans un accord conclu en application de l'article 31.</p>	Commerce intraprovincial : pouvoirs supplémentaires
Delegation of powers	<p>(3) An agency may, with the approval of the Governor in Council, grant authority to any body, authorized under the law of a province to exercise powers of regulation in relation to the marketing locally within the province of any regulated product in relation to which the agency may exercise its powers, to perform on behalf of the agency any function relating to interprovincial or export trade in the regulated product that the agency is authorized to perform.</p> <p>R.S., 1985, c. F-4, s. 22; 1993, c. 3, s. 13(F); 2001, c. 4, s. 82; 2004, c. 25, s. 140; 2015, c. 3, s. 88(E).</p>	<p>(3) L'office peut, avec l'approbation du gouverneur en conseil, autoriser un organisme, habilité par la législation d'une province à exercer des pouvoirs réglementaires en ce qui concerne la commercialisation locale dans la province d'un produit réglementé pour lequel il est compétent, à remplir, en son nom, toute fonction qui lui est attribuée en matière de commerce interprovincial ou d'exportation de ce produit.</p> <p>L.R. (1985), ch. F-4, art. 22; 1993, ch. 3, art. 13(F); 2001, ch. 4, art. 82; 2004, ch. 25, art. 140; 2015, ch. 3, art. 88(A).</p>	Délégation de pouvoirs
Where marketing plan makes allocation	<p>23. (1) A marketing plan, to the extent that it allocates any production or marketing quota to any area of Canada, shall allocate that quota on the basis of the production from that area in relation to the total production of Canada over a period of five years immediately preceding the effective date of the marketing plan.</p>	<p>23. (1) Les quotas de production ou de commercialisation éventuellement fixés par un plan de commercialisation pour une région du Canada doivent correspondre à la proportion que représente la production de cette région dans la production canadienne totale des cinq années précédant la mise en application du plan.</p>	Quotas
Idem	<p>(2) In allocating additional quotas for anticipated growth of market demand, an agency shall consider the principle of comparative advantage of production.</p> <p>1970-71-72, c. 65, s. 24.</p>	<p>(2) L'office de commercialisation prend en compte les avantages comparatifs de production dans l'attribution de quotas additionnels destinés à répondre à la croissance prévue de la demande du marché.</p> <p>1970-71-72, ch. 65, art. 24.</p>	Idem

GENERAL

DISPOSITIONS GÉNÉRALES

Employment of staff

24. An agency may employ such officers and employees as it considers necessary for the proper conduct of its activities.

1970-71-72, c. 65, s. 25.

24. L'office peut employer le personnel qu'il estime nécessaire à l'exercice de ses activités.

1970-71-72, ch. 65, art. 25.

Personnel

Agency may make by-laws

25. An agency may make by-laws

(a) respecting the calling of meetings of the agency;

(b) respecting the conduct of business at meetings of the agency and the establishment of committees thereof, the delegation of duties to those committees and the fixing of quorums for meetings of the agency and any committee thereof;

(c) subject to the approval of the Council, fixing the fees to be paid to members of the agency other than any members who are paid salaries, for attendances at meetings of the agency or any committee thereof, and the travel and living expenses to be paid to the members of the agency and the members of any consultative or advisory committee of the agency;

(d) subject to the approval of the Council, respecting the establishment, management and administration of a pension fund for the members, officers and employees of the agency and their dependants, the contributions thereto to be made by the agency and the investment of the pension fund moneys thereof;

(e) respecting the duties and conduct of the members of the agency;

(f) prescribing the duties of officers and employees of the agency and the terms and conditions of their employment including the remuneration to be paid to them by the agency;

(g) for the establishment of consultative or advisory committees consisting of members of the agency or persons other than members or both; and

(h) generally for the conduct and management of the affairs of the agency.

1970-71-72, c. 65, s. 26.

25. L'office peut, par règlement administratif :

a) prévoir la convocation de ses réunions;

b) régir le déroulement de ses réunions, ainsi que la constitution de comités, la délégation de fonctions à ceux-ci et la fixation des quorums pour ses réunions et celles de ses comités;

c) fixer, sous réserve de l'approbation du Conseil, les honoraires payables à ses membres, à l'exception de ceux qui reçoivent des traitements, pour leur présence à ses réunions ou à celles de ses comités, ainsi que les frais de déplacement et de séjour remboursables à ses membres et à ceux de tout comité consultatif;

d) prévoir, sous réserve de l'approbation du Conseil, concernant l'établissement et la gestion d'une caisse de retraite pour ses membres, cadres et employés et les personnes à leur charge, ainsi que ses contributions à cette caisse de retraite et le placement des fonds de celle-ci;

e) prévoir les fonctions et les règles de conduite de ses membres;

f) déterminer les fonctions de son personnel et ses modalités d'emploi, notamment la rémunération à lui verser;

g) pourvoir à la création de comités consultatifs formés soit de ses membres, soit de personnes étrangères, soit à la fois de ses membres et de personnes étrangères;

h) d'une façon générale, régir son activité.

1970-71-72, ch. 65, art. 26.

Règlements administratifs

Not agent of Her Majesty

26. An agency is not an agent of Her Majesty, and the chairman and the other members of an agency and the officers and employ-

26. L'office n'est pas mandataire de Sa Majesté et son président et ses autres membres,

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ees thereof are not part of the federal public administration.

R.S., 1985, c. F-4, s. 26; 2003, c. 22, s. 224(E).

ainsi que son personnel, ne font pas partie de l'administration publique fédérale.

L.R. (1985), ch. F-4, art. 26; 2003, ch. 22, art. 224(A).

FINANCIAL

DISPOSITIONS FINANCIÈRES

Conduct of financial operations

27. Subject to subsection 28(1), an agency shall conduct its operations on a self-sustaining financial basis without appropriations therefor by Parliament.

1970-71-72, c. 65, s. 28.

27. Sous réserve du paragraphe 28(1), l'office est financièrement autonome et ne reçoit pas pour son fonctionnement de crédits votés par le Parlement.

1970-71-72, ch. 65, art. 28.

Autonomie financière

Payment by Minister of Finance

28. (1) The Minister of Finance may, out of the Consolidated Revenue Fund, on the requisition of the Minister, make grants to an agency not exceeding in the aggregate one hundred thousand dollars to enable the agency to meet initial operating and establishment expenses.

28. (1) À la demande du ministre, le ministre des Finances peut, jusqu'à concurrence de cent mille dollars, octroyer à un office des subventions prélevées sur le Trésor pour lui permettre de faire face à ses frais d'établissement et à ses dépenses initiales d'exploitation.

Subvention initiale

Limitation

(2) The aggregate amount of grants made under subsection (1) shall not exceed one million dollars.

1970-71-72, c. 65, s. 29.

(2) Le total des subventions consenties au titre du paragraphe (1) ne peut dépasser un million de dollars.

1970-71-72, ch. 65, art. 29.

Réserve

Audit

29. The accounts and financial transactions of each agency shall be audited annually by an auditor appointed by the Governor in Council and a report of each audit shall be made to the appropriate agency, the Council and the Minister.

1970-71-72, c. 65, s. 30.

29. Un vérificateur nommé par le gouverneur en conseil vérifie chaque année les comptes et opérations financières de chaque office et présente son rapport à l'office concerné, au Conseil et au ministre.

1970-71-72, ch. 65, art. 30.

Vérification

ANNUAL REPORT

RAPPORT ANNUEL

Report to Parliament

30. An agency shall, within three months after the end of each fiscal year, submit to the Council and the Minister a report in such form as the Minister may direct on its activities for that fiscal year and the Minister shall cause the report to be laid before Parliament within fifteen days after the receipt thereof, or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.

1970-71-72, c. 65, s. 31.

30. Dans les trois mois suivant la fin de chaque exercice, l'office présente au Conseil et au ministre, en la forme prescrite par ce dernier, un rapport d'activité pour cet exercice. Le ministre le fait déposer devant le Parlement dans les quinze jours suivant sa réception ou, si le Parlement ne siège pas, dans les quinze premiers jours de séance ultérieurs de l'une ou l'autre chambre.

1970-71-72, ch. 65, art. 31.

Rapport au Parlement

AGREEMENTS

ACCORDS

Federal-provincial agreements

31. With the approval of the Governor in Council, the Minister may, on behalf of the Government of Canada, enter into an agreement with any province providing for the performance by an agency on behalf of the province of functions relating to intraprovincial trade in a regulated product or products in relation to which the agency may exercise its pow-

31. Avec l'approbation du gouverneur en conseil, le ministre peut, au nom du gouvernement fédéral, conclure avec une province un accord sur l'exercice par un office, pour le compte de la province, de fonctions relatives au commerce intraprovincial d'un ou de plusieurs produits réglementés pour lesquels cet office est compétent, ainsi que sur toutes questions

Accords fédéro-provinciaux

ers and for such other matters relating thereto as may be agreed on by the Minister and the government of the province.

1970-71-72, c. 65, s. 32.

Competition Act
not to apply

32. Nothing in the *Competition Act* applies to any contract, agreement or other arrangement between an agency and any person or persons engaged in the production or marketing of a regulated product where the agency has authority under this or any other Act, under a proclamation issued under this Act or under an agreement entered into pursuant to section 31 of this Act to enter into such an arrangement.

R.S., 1985, c. F-4, s. 32; R.S., 1985, c. 19 (2nd Supp.), s. 50.

s’y rapportant dont lui-même et le gouvernement provincial intéressé peuvent convenir.

1970-71-72, ch. 65, art. 32.

32. La *Loi sur la concurrence* ne s’applique ni à un contrat, ni à un accord, ni à toute autre forme d’arrangement conclu par un office avec une ou plusieurs personnes se livrant à la production ou à la commercialisation d’un produit réglementé lorsque l’office est habilité à le faire aux termes d’une loi quelconque, ou d’une proclamation prise en application de la présente loi, ou d’un accord passé en application de l’article 31 de la présente loi.

L.R. (1985), ch. F-4, art. 32; L.R. (1985), ch. 19 (2^e suppl.), art. 50.

Non-application
de la *Loi sur la
concurrence*

INSPECTORS

Inspectors

33. The Minister, on the recommendation of an agency, may designate any qualified person as an inspector for the purposes of this Act.

1970-71-72, c. 65, s. 34.

INSPECTEURS

Inspecteurs

33. Sur recommandation d’un office, le ministre peut désigner toute personne qualifiée pour remplir les fonctions d’inspecteur dans le cadre de la présente loi.

1970-71-72, ch. 65, art. 34.

Powers of
inspectors

34. (1) An inspector may at any reasonable time enter any place that the inspector believes on reasonable grounds is occupied, other than a dwelling-house or any part of a place that is designed to be used and is being used as a permanent or temporary dwelling-house, and in which the inspector believes on reasonable grounds there is any regulated product produced for, or intended to be marketed in, interprovincial or export trade and examine any books, records or other documents in that place that the inspector believes on reasonable grounds contain any information relating to the regulated product and make copies thereof or take extracts therefrom, and may require any person to produce, for inspection, or for the purpose of obtaining copies thereof or extracts therefrom, any books, records or documents relating to that product that are located in any other place.

34. (1) L’inspecteur peut à toute heure convenable, s’il a des motifs raisonnables de le croire occupé, entrer dans tout lieu, à l’exception d’un logement privé ou d’une partie d’un local conçu pour servir ou servant de logement privé permanent ou temporaire, s’il a des motifs raisonnables de croire qu’il s’y trouve un produit réglementé produit pour le marché interprovincial ou d’exportation, ou qui est destiné à y être commercialisé; il peut examiner les livres, registres et autres documents qui s’y trouvent, s’il a des motifs raisonnables de croire qu’ils contiennent des renseignements relatifs au produit réglementé, et les reproduire en tout ou en partie et peut aussi exiger la communication, aux mêmes fins, de tout livre, registre ou document se trouvant ailleurs que dans les lieux qu’il visite et se rapportant à ce produit.

Pouvoirs des
inspecteurs

Certificate to be
produced

(2) An inspector shall be furnished with a certificate of designation and on entering any place referred to in subsection (1) shall, if so requested, produce the certificate to any person in charge thereof.

(2) L’inspecteur reçoit un certificat attestant sa qualité, qu’il présente, sur demande, au responsable du lieu visé au paragraphe (1).

Production du
certificat

Assistance to
inspectors

(3) The owner or person in charge of any place referred to in subsection (1) and every person found in that place shall give an inspec-

(3) Le propriétaire ou le responsable du lieu visité, ainsi que toute personne qui s’y trouve, sont tenus de prêter à l’inspecteur toute l’assis-

Assistance à
l’inspecteur

tor all reasonable assistance to enable the inspector to carry out their duties and functions under this Act and shall furnish the inspector with any information with respect to any regulated product found in that place that the inspector may reasonably require.

R.S., 1985, c. F-4, s. 34; 1993, c. 3, ss. 11, 13(F); 2015, c. 3, s. 89(E).

Obstruction of inspectors

35. (1) No person shall obstruct or hinder an inspector engaged in carrying out their duties and functions under this Act.

False statements

(2) No person shall knowingly make a false or misleading statement, either orally or in writing, to an inspector engaged in carrying out their duties and functions under this Act.

R.S., 1985, c. F-4, s. 35; 2015, c. 3, s. 90(E).

RECOVERY OF DEBTS DUE AN AGENCY

Licence fees, levies and charges

36. Where a marketing plan provides for licence fees or levies or charges payable by persons engaged in the production of a regulated product, or the marketing thereof, and any such licence fee, levy or charge remains unpaid after the time provided in the plan at which it was due and payable to an agency, the licence fee, levy or charge constitutes a debt payable to the agency and may be sued for and recovered as such by the agency in any court of competent jurisdiction.

1970-71-72, c. 65, s. 37.

OFFENCES AND PUNISHMENT

Contravention of Act, regulation, etc.

37. (1) Every person who
(a) contravenes any provision of this Act or of a marketing plan that an agency is authorized to implement,

(b) fails to comply with a requirement of the Council under paragraph 7(1)(h) or (i) that is applicable to that person, or

(c) contravenes any order or regulation made by an agency under paragraph 22(1)(f) or (g) that has been approved by the Council,

is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

Offence by employee, etc.

(2) In any prosecution for an offence under this section, it is sufficient proof of the offence to establish that it was committed by an employee, or an agent or a mandatary, of the ac-

tance possible dans l'exercice de ses fonctions et de lui donner les renseignements qu'il peut valablement exiger concernant un produit réglementé qu'il y a trouvé.

L.R. (1985), ch. F-4, art. 34; 1993, ch. 3, art. 11 et 13(F); 2015, ch. 3, art. 89(A).

Entrave

35. (1) Lorsque l'inspecteur agit dans l'exercice de ses fonctions, il est interdit d'entraver son action.

Fausse déclarations

(2) Lorsque l'inspecteur agit dans l'exercice de ses fonctions, il est interdit de lui faire sciemment, oralement ou par écrit, une déclaration fautive ou trompeuse.

L.R. (1985), ch. F-4, art. 35; 2015, ch. 3, art. 90(A).

RECouvreMENT DES DETTES DUES À UN OFFICE

36. Les frais de licence, prélèvements et taxes éventuellement payables à un office, aux termes d'un plan de commercialisation, par des personnes se livrant à la production ou à la commercialisation d'un produit réglementé et non acquittés à l'échéance fixée par le plan constituent des créances de l'office dont le recouvrement peut être poursuivi à ce titre devant tout tribunal compétent.

1970-71-72, ch. 65, art. 37.

INFRACTIONS ET PEINES

Frais de licence, prélèvements et taxes

37. (1) Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de cinq mille dollars quiconque, selon le cas :

a) contrevient à une disposition de la présente loi ou d'un plan de commercialisation qu'un office est habilité à mettre en oeuvre;

b) ne se conforme pas à l'une des exigences du Conseil prévues aux alinéas 7(1)(h) ou (i) qui lui sont applicables;

c) contrevient à une ordonnance ou un règlement pris par un office au titre des alinéas 22(1)(f) ou (g) et ayant reçu l'approbation du Conseil.

Contraventions

(2) Dans la poursuite d'une infraction visée au présent article, il suffit, pour prouver l'infraction, d'établir qu'elle a été commise par un employé ou un mandataire de l'accusé, que cet

Preuve de l'infraction

cused whether or not the employee, or agent or mandatary, is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without knowledge or consent of the accused and that the accused exercised all due diligence to prevent its commission.

employé ou mandataire ait été ou non identifié ou poursuivi. L'accusé peut se disculper en prouvant que la perpétration a eu lieu à son insu ou sans son consentement et qu'il avait pris les mesures nécessaires pour l'empêcher.

Limitation period

(3) Any proceedings by way of summary conviction in respect of an offence under this section may be instituted at any time within but not later than one year after the time when the subject-matter of the proceedings arose.

(3) La poursuite, sur déclaration de culpabilité par procédure sommaire, d'une infraction prévue au présent article se prescrit par un an à compter de sa perpétration.

Prescription

Evidence as to geographical origin

(4) In any prosecution for an offence under this section,

(4) Dans la poursuite d'une infraction prévue au présent article :

Preuve quant au lieu de provenance

(a) the act or omission complained of in respect of which the prosecution was instituted shall, unless the contrary is established, be deemed to relate to the production or marketing of a farm product in interprovincial or export trade or to the duties of a person engaged in the production or marketing thereof; and

a) l'acte ou l'omission faisant l'objet de la plainte ayant motivé la poursuite sont, en l'absence de preuve contraire, réputés avoir trait à la production ou à la commercialisation d'un produit agricole sur le marché interprovincial ou d'exportation ou aux fonctions d'une personne qui se livre à la production ou à la commercialisation de ce produit;

(b) any farm product referred to in the information laid in respect of the offence shall, unless the contrary is established, be deemed to have been grown or produced in Canada or in the particular province or region in Canada, if any, alleged in the information.

b) tout produit agricole visé dans la plainte déposée relativement à l'infraction est, en l'absence de preuve contraire, réputé avoir été cultivé ou produit soit au Canada, soit dans la province ou région du Canada éventuellement mentionnée dans la plainte.

R.S., 1985, c. F-4, s. 37; 1993, c. 3, s. 13(F); 2004, c. 25, s. 141; 2015, c. 3, s. 91(E).

L.R. (1985), ch. F-4, art. 37; 1993, ch. 3, art. 13(F); 2004, ch. 25, art. 141; 2015, ch. 3, art. 91(A).

WINDING-UP OF AGENCIES

DISSOLUTION DES OFFICES

Winding-up of an agency

38. The Governor in Council may order any agency established pursuant to this Act to wind up its affairs and may by proclamation dissolve any agency in respect of which such an order has been made, but an order or proclamation under this section becomes effective only on the expiration of ninety days after the date of publication thereof in the *Canada Gazette*.

38. Le gouverneur en conseil peut, par décret, ordonner à un office créé en application de la présente loi de liquider ses affaires et, par proclamation, dissoudre l'office visé par ce décret. Celui-ci ou la proclamation prennent effet quatre-vingt-dix jours après leur date de publication dans la *Gazette du Canada*.

Modalité

1970-71-72, c. 65, s. 39.

1970-71-72, ch. 65, art. 39.

PART III

PARTIE III

FARM PRODUCTS PROMOTION AND RESEARCH AGENCIES

OFFICES DE PROMOTION ET DE RECHERCHE

ESTABLISHMENT

CRÉATION

Establishment of agencies

39. (1) The Governor in Council may, by proclamation, establish a promotion-research agency with powers relating to one or more

39. (1) Le gouverneur en conseil peut, par proclamation, créer un office de promotion et de recherche pour un ou plusieurs produits agri-

Création des offices

	farm products, where the Governor in Council is satisfied that the majority of the aggregate of the producers or, where the import trade in one or more farm products is to be included, the majority of the aggregate of the producers and importers, of all those farm products, in Canada or in the region to which the proclamation relates, is in favour of the establishment of such an agency.	coles lorsqu'il est convaincu que la majorité de l'ensemble des producteurs ou, si le marché d'importation d'un ou de plusieurs produits agricoles est visé, la majorité de l'ensemble des producteurs et des importateurs de tous les produits agricoles en question au Canada ou dans la région visée par la proclamation est en faveur d'une telle mesure.	
Plebiscites	(2) The Governor in Council, in order to determine whether the majority referred to in subsection (1) is in favour of establishing an agency with powers relating to one or more farm products, may request that each province concerned carry out a plebiscite of the producers or the producers and importers, as the case may be.	(2) Le gouverneur en conseil peut, pour déterminer si la majorité visée au paragraphe (1) est en faveur de la création d'un office ayant compétence à l'égard d'un ou de plusieurs produits agricoles, demander à chaque province concernée de procéder à un référendum auprès des producteurs ou des producteurs et des importateurs en cause.	Référendums
Agencies to be bodies corporate	(3) An agency established pursuant to this Part is a body corporate. 1993, c. 3, s. 12.	(3) Les offices créés en application de la présente partie sont des personnes morales. 1993, ch. 3, art. 12.	Personnalité morale
Contents of proclamation	40. (1) A proclamation establishing an agency shall (a) designate the farm products in relation to which, and, where applicable, the region of Canada within which, the agency may exercise its powers; (b) designate any of the powers set out in section 42 that are not vested in the agency; (c) set out the terms of any promotion and research plan that the agency is empowered to implement; (d) state the corporate name of the agency and the place in Canada where the head office of the agency is to be situated; and (e) subject to subsections (2) to (4), fix the number of members of the agency and provide for the manner of appointment of members and temporary substitute members and the term of their appointment if the manner and term are to be other than as provided in subsection 18(1).	40. (1) La proclamation portant création d'un office doit : a) désigner le ou les produits agricoles ressortissant à l'office et, s'il y a lieu, désigner la région du Canada à l'égard de laquelle celui-ci peut exercer ses pouvoirs; b) préciser tout pouvoir prévu à l'article 42 qui n'est pas conféré à l'office; c) énoncer les modalités des plans de promotion et de recherche que l'office est habilité à mettre en oeuvre; d) préciser la dénomination de l'office et le lieu de son siège au Canada; e) sous réserve des paragraphes (2) à (4), fixer le nombre des membres de l'office et prévoir, s'ils diffèrent de ceux qu'établit le paragraphe 18(1), le mode de nomination et la durée du mandat de ces membres et des suppléants.	Contenu de la proclamation
Number of members of agency	(2) The number of members of an agency shall be not less than three and not more than sixteen.	(2) Les membres d'un office sont au nombre de trois à seize.	Nombre
Majority of members of agency	(3) Where an agency is authorized by proclamation to exercise its powers in relation to one or more farm products in import trade, the majority of the members of the agency shall	(3) La proclamation, si elle autorise l'office à exercer sa compétence à l'égard du marché d'importation de un ou de plusieurs produits agricoles précise, sous réserve d'un minimum	Majorité

be comprised of representatives of the following groups, namely,

- (a) primary producers of those farm products, and
- (b) importers of those farm products,

and the number of representatives of each such group within that majority shall, subject to there being at least one of each group, be in proportion to the share of each such group in the aggregate of the total intraprovincial, interprovincial and import trade in all of those products and, where the agency is authorized by proclamation to exercise its powers in relation to one or more farm products in export trade, the export trade in all of those farm products.

Idem

(4) Where an agency is not authorized by proclamation to exercise its powers in relation to at least one farm product in import trade, the majority of the members of the agency shall be primary producers.

1993, c. 3, s. 12.

Object

41. The object of an agency is to promote a strong, efficient and competitive industry for the regulated products in relation to which it may exercise its powers by promoting the marketing and production of the products and by conducting and promoting research activities relating thereto, having due regard to the interests of producers and consumers and, where applicable, importers of the regulated products.

1993, c. 3, s. 12.

Powers

42. (1) Subject to the proclamation by which it is established and any amendment thereto, an agency may

- (a) implement a promotion and research plan the terms of which are set out in the proclamation;
- (b) prepare and submit to the Council
 - (i) a promotion and research plan, if it is not empowered to implement a promotion and research plan, or
 - (ii) any amendments to the promotion and research plan that the agency is empowered to implement,

that it considers appropriate for the attainment of its object;

de un siège attribué à chaque groupe, le nombre de membres qui représenteront respectivement les producteurs du secteur primaire au Canada et les importateurs du ou des produits agricoles en question, la répartition des sièges étant proportionnelle à leur part de la totalité du marché intraprovincial, interprovincial, d'importation et, si le marché d'exportation est visé par le plan, du marché d'exportation.

(4) Si la proclamation n'autorise pas l'office à exercer sa compétence à l'égard du marché d'importation d'au moins un produit agricole, la majorité est composée de représentants des producteurs du secteur primaire.

1993, ch. 3, art. 12.

Idem

Mission

41. Un office a pour mission de favoriser l'efficacité et la compétitivité du secteur visé par les produits réglementés à l'égard desquels il peut exercer sa compétence en faisant la promotion de la production et de la commercialisation de ces produits et en encourageant la recherche liée à ces produits, et ce dans le plus grand intérêt de leurs producteurs et consommateurs ainsi que, le cas échéant, de leurs importateurs.

1993, ch. 3, art. 12.

Pouvoirs

42. (1) Sous réserve de la proclamation le créant et de toute proclamation ultérieure modifiant ses pouvoirs, l'office peut :

- a) exécuter le plan de promotion et de recherche dont les modalités sont énoncées dans la proclamation;
- b) préparer et soumettre au Conseil, s'il l'estime judicieux pour la réalisation de sa mission :
 - (i) soit un plan de promotion et de recherche, si son mandat original n'en comporte pas,
 - (ii) soit des modifications du plan de promotion et de recherche prévu dans son mandat;

(c) undertake and assist in the promotion of the consumption and use of any regulated product in relation to which it may exercise its powers, the improvement of the quality and variety thereof and the publication of information in relation thereto;

(d) where it is empowered to implement a promotion and research plan, make such orders and regulations as it considers necessary in connection therewith, but all such orders and regulations shall, in the case of orders and regulations that are of a class to which paragraph 7(1)(d) is made applicable, be submitted to the Council before the making thereof, and in any other case, be submitted to the Council either before or after the making thereof, and

(i) any order or regulation that is submitted to the Council before the making thereof and that is thereafter made before the Council approves the order or regulation is of no force or effect, and

(ii) any order or regulation that is submitted to the Council after the making thereof and that is set aside by order of the Council thereupon ceases to be of any force or effect;

(e) by order, require any person designated by it, or any person who is a member of a class of persons designated by it, who is engaged in the marketing or importing of any regulated product in relation to which it may exercise its powers to deduct from any amount payable by that person to any other person engaged in the production, marketing or importation of the regulated product any amount payable to the agency by the other person by way of levies or charges provided for in any promotion and research plan that the agency is authorized to implement and to remit all amounts so deducted to the agency;

(f) refund, in accordance with the promotion and research plan, any amount remitted to the agency under an order made under paragraph (e);

(g) undertake research activities with respect to, and advertise and promote in any other manner, the regulated products in relation to which it may exercise its powers;

c) encourager, directement ou indirectement, la consommation et l'utilisation de tout produit réglementé pour lequel il est compétent, l'amélioration de sa qualité et la multiplication de ses variétés, ainsi que la publication de toute information le concernant;

d) prendre les ordonnances et les règlements qu'il considère nécessaires à l'exécution du plan de promotion et de recherche qu'il est habilité à mettre en oeuvre, après les avoir soumis au Conseil, lorsqu'ils relèvent d'une catégorie à laquelle l'alinéa 7(1)d) est applicable, ou, dans tout autre cas, soit après soit avant leur présentation au Conseil, étant entendu que :

(i) les ordonnances et règlements soumis au Conseil avant leur prise sont sans effet s'ils sont pris avant approbation par celui-ci,

(ii) les ordonnances et règlements soumis au Conseil après leur prise sont inopérants à compter de leur annulation, le cas échéant, par ordonnance du Conseil;

e) par ordonnance, exiger des personnes désignées par lui ou des personnes faisant partie d'une catégorie désignée par lui et se livrant à la commercialisation ou à l'importation d'un produit réglementé pour lequel il est compétent qu'elles déduisent de toute somme payable par elles à une autre personne se livrant à la production, à la commercialisation ou à l'importation de ce produit réglementé le montant payable à l'office par celle-ci au titre des taxes ou prélèvements prévus dans tout plan de promotion et de recherche qu'il est habilité à mettre en oeuvre, et qu'elles lui remettent les montants ainsi déduits;

f) rembourser, en conformité avec le plan de promotion et de recherche, tout montant qui lui est remis en application de l'alinéa e);

g) entreprendre des activités de recherche liées aux produits réglementés pour lesquels il est compétent ainsi que d'autres activités de publicité et de promotion;

h) procéder à toutes opérations sur un immeuble ou bien réel, notamment l'acheter, le prendre à bail ou l'acquérir d'autre façon, le détenir, le grever d'une hypothèque ou le vendre;

(h) purchase, lease or otherwise acquire and hold, mortgage, hypothecate, sell or otherwise deal with any real property or immovable;

(i) establish branches or employ agents or mandataries in Canada or elsewhere;

(j) expend any money received by it through the conduct of its operations, whether by way of levies or charges paid by persons engaged in the production, marketing or importing of any regulated product in relation to which it may exercise its powers or otherwise;

(k) invest any money in its possession or control that in its opinion is not immediately required for the purposes of its operations in securities of or guaranteed by the Government of Canada and sell any securities so acquired by it and reinvest the proceeds thereof or any part thereof in like manner;

(l) borrow money on the credit of the agency and on the security of any regulated product or other property held by it; and

(m) do all such other things as are necessary or incidental to the exercise of any of its powers or the carrying out of any of its functions under this Part.

(2) An agency may perform on behalf of a province any function relating to intraprovincial trade in any regulated product in relation to which it may exercise its powers that is specified in an agreement entered into pursuant to section 31.

(3) An agency may, with the approval of the Governor in Council, grant authority to any body, authorized under the law of a province to exercise powers of regulation in relation to the marketing locally within the province of any regulated product in relation to which the agency may exercise its powers, to perform on behalf of the agency any function relating to interprovincial, export or import trade in the regulated product that the agency is authorized to perform.

1993, c. 3, s. 12; 2001, c. 4, s. 83; 2004, c. 25, s. 142.

43. (1) Sections 18 to 20, 24 to 27, 29 to 31, 33 to 35 and 38 apply in respect of this Part.

i) établir des succursales ou avoir des mandataires au Canada ou à l'étranger;

j) dépenser les sommes reçues par lui dans le cadre de son mandat au titre des taxes ou prélèvements payés par des personnes se livrant à la production, à la commercialisation ou à l'importation de tout produit réglementé pour lequel il est compétent;

k) investir dans des valeurs émises ou garanties par le gouvernement du Canada les sommes en sa possession ou sous sa responsabilité qui, à son avis, ne sont pas immédiatement nécessaires à son fonctionnement, et vendre les valeurs ainsi acquises par lui puis réinvestir de la même manière tout ou partie du produit de la vente;

l) emprunter sur son crédit et sur la garantie de tout produit réglementé ou autre bien en sa possession;

m) prendre toute autre mesure qu'il estime utile pour la réalisation de sa mission dans le cadre de la présente partie.

(2) L'office peut, au nom d'une province, exercer, en matière de commerce intraprovincial d'un produit réglementé pour lequel il est compétent, toute fonction spécifiée dans un accord conclu en application de l'article 31.

(3) L'office peut, avec l'approbation du gouverneur en conseil, autoriser un organisme, habilité par la législation d'une province à exercer des pouvoirs réglementaires en ce qui concerne la commercialisation locale dans la province d'un produit réglementé pour lequel il est compétent, à remplir, en son nom, toute fonction qui lui est attribuée en matière de commerce interprovincial, d'exportation ou d'importation de ce produit.

1993, ch. 3, art. 12; 2001, ch. 4, art. 83; 2004, ch. 25, art. 142.

43. (1) Les articles 18 à 20, 24 à 27, 29 à 31, 33 à 35 et 38 s'appliquent à l'égard de la présente partie.

Additional powers in intraprovincial trade

Commerce intraprovincial : pouvoirs supplémentaires

Delegation of powers

Délégation de pouvoirs

Application of certain provisions of Part II

Application de certaines dispositions de la partie II

Modification for purpose of application	<p>(2) For the purposes of subsection (1), a reference in any of those sections to "agency" shall be deemed to be a reference to "promotion-research agency".</p> <p>1993, c. 3, s. 12.</p>	<p>(2) Dans les articles mentionnés au paragraphe (1), toute mention d'un office vaut mention d'un office de promotion et de recherche.</p> <p>1993, ch. 3, art. 12.</p>	Adaptation
Levies and charges	<p>44. Where a promotion and research plan provides for levies or charges payable by persons who are engaged in the production or importation of a regulated product, or the marketing thereof, and any such levy or charge remains unpaid after the time provided in the plan at which it was due and payable to an agency, the levy or charge constitutes a debt payable to the agency and may be sued for and recovered as such by the agency in any court of competent jurisdiction.</p> <p>1993, c. 3, s. 12.</p>	<p>44. Les prélèvements et taxes éventuellement payables à un office aux termes d'un plan de promotion et de recherche par des personnes se livrant à la production, à la commercialisation ou à l'importation d'un produit réglementé et non acquittés à l'échéance fixée par le plan constituent des créances de l'office dont le recouvrement peut être poursuivi à ce titre devant tout tribunal compétent.</p> <p>1993, ch. 3, art. 12.</p>	Taxes et prélèvements
Offences and punishment	<p>45. (1) Every person who</p> <p>(a) contravenes any provision of this Part or of a promotion and research plan that an agency is authorized to implement,</p> <p>(b) fails to comply with a requirement of the Council pursuant to paragraph 7(1)(j) or (k) that is applicable to that person, or</p> <p>(c) contravenes any order or regulation made by an agency under paragraph 42(1)(d) or (e) that has been approved by the Council,</p> <p>is guilty of an offence punishable on summary conviction and liable to a fine not exceeding five thousand dollars.</p>	<p>45. (1) Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de cinq mille dollars quiconque, selon le cas :</p> <p>a) contrevient à une disposition de la présente partie ou d'un plan de promotion et de recherche qu'un office est habilité à mettre en oeuvre;</p> <p>b) ne se conforme pas à l'une des exigences du Conseil prévues aux alinéas 7(1)j) ou k) qui lui sont applicables;</p> <p>c) contrevient à une ordonnance ou un règlement pris par un office au titre des alinéas 42(1)d) ou e) et ayant reçu l'approbation du Conseil.</p>	Infractions et peines
Limitation period	<p>(2) Any proceedings by way of summary conviction in respect of an offence under this section may be instituted at any time within but not later than one year after the time when the subject-matter of the proceedings arose.</p> <p>1993, c. 3, s. 12.</p>	<p>(2) Les poursuites pour infraction prévue au présent article se prescrivent par un an à compter de la perpétration.</p> <p>1993, ch. 3, art. 12.</p>	Prescription
Information obtained under <i>Customs Act</i>	<p>46. An agency may authorize any person or person within a class of persons to receive customs information as defined in subsection 107(1) of the <i>Customs Act</i> and, subject to any conditions that the agency may specify, a person so authorized is legally entitled to the information.</p> <p>1993, c. 3, s. 12; 2015, c. 3, s. 92.</p>	<p>46. Les personnes qu'un office désigne, nommément ou par catégorie, par écrit à cette fin sont des personnes ayant légalement qualité à avoir accès, sous réserve des conditions que l'office peut fixer, aux renseignements douaniers au sens du paragraphe 107(1) de la <i>Loi sur les douanes</i>.</p> <p>1993, ch. 3, art. 12; 2015, ch. 3, art. 92.</p>	Communication des renseignements douaniers



CANADA

CONSOLIDATION

CODIFICATION

Canadian Hatching Egg Producers Proclamation

Proclamation visant Les Producteurs d'œufs d'incubation du Canada

SOR/87-40

DORS/87-40

Current to June 22, 2015

À jour au 22 juin 2015

Last amended on July 5, 2013

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OFFICIAL STATUS
OF CONSOLIDATIONS

CARACTÈRE OFFICIEL
DES CODIFICATIONS

Subsections 31(1) and (3) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Les paragraphes 31(1) et (3) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit:

Published
consolidation is
evidence

31. (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

31. (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Codifications
comme élément
de preuve

...

[...]

Inconsistencies
in regulations

(3) In the event of an inconsistency between a consolidated regulation published by the Minister under this Act and the original regulation or a subsequent amendment as registered by the Clerk of the Privy Council under the *Statutory Instruments Act*, the original regulation or amendment prevails to the extent of the inconsistency.

(3) Les dispositions du règlement d'origine avec ses modifications subséquentes enregistrées par le greffier du Conseil privé en vertu de la *Loi sur les textes réglementaires* l'emportent sur les dispositions incompatibles du règlement codifié publié par le ministre en vertu de la présente loi.

Incompatibilité
— règlements

NOTE

This consolidation is current to June 22, 2015. The last amendments came into force on July 5, 2013. Any amendments that were not in force as of June 22, 2015 are set out at the end of this document under the heading “Amendments Not in Force”.

NOTE

Cette codification est à jour au 22 juin 2015. Les dernières modifications sont entrées en vigueur le 5 juillet 2013. Toutes modifications qui n'étaient pas en vigueur au 22 juin 2015 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

TABLE OF PROVISIONS

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Registration
SOR/87-40 December 29, 1986

FARM PRODUCTS AGENCIES ACT

Canadian Hatching Egg Producers Proclamation

A Proclamation

Whereas in and by subsection 17(1) of the *Farm Products Marketing Agencies Act* it is provided that the Governor in Council may by proclamation establish an agency with powers relating to any farm product or farm products the marketing of which in interprovincial and export trade is not regulated pursuant to the *Canadian Wheat Board Act* or the *Canadian Dairy Commission Act* where she is satisfied that a majority of the producers of the farm product or of each of the farm products in Canada is in favour of the establishment of an agency;

And Whereas the Governor in Council is satisfied that a majority of the producers in Canada of broiler hatching eggs and chicks produced for chicken production is in favour of the establishment of such an agency;

Now Know You that We, by and with the advice of Our Privy Council for Canada, do by this Our Proclamation establish an agency, to be known as Canadian Hatching Egg Producers, consisting of eight members appointed in the manner and for the terms set forth in the schedule hereto.

And Know You Further that We are pleased to specify that the farm products in relation to which Canadian Hatching Egg Producers may exercise its powers are broiler hatching eggs and chicks produced for chicken production, and such powers may be exercised in relation to

(a) broiler hatching eggs and chicks produced in the Provinces of Ontario, Quebec, Manitoba, British Columbia, Saskatchewan and Alberta for chicken pro-

Enregistrement
DORS/87-40 Le 29 décembre 1986

LOI SUR LES OFFICES DES PRODUITS AGRICOLES

Proclamation visant Les Producteurs d'œufs d'incubation du Canada

Proclamation

Attendu que le paragraphe 17(1) de la *Loi sur les offices de commercialisation des produits de ferme* prévoit que le gouverneur en conseil peut par proclamation établir un office ayant des pouvoirs relativement à un ou plusieurs produits de ferme dont la commercialisation aux fins du commerce interprovincial et d'exportation n'est pas réglementée en application de la *Loi sur la Commission canadienne du blé* ou de la *Loi sur la Commission canadienne du lait*, lorsqu'il est convaincu que la majorité des producteurs du produit de ferme, ou de chacun des produits de ferme au Canada, est en faveur de la création d'un office;

Attendu que le gouverneur en conseil est convaincu que la majorité des producteurs au Canada d'œufs d'incubation de poulet de chair et de poussins destinés à la production de poulets sont en faveur de la création de cet office;

Sachez que, sur et avec l'avis de Notre Conseil privé pour le Canada, Nous créons, par la présente proclamation, l'office appelé Les Producteurs d'œufs d'incubation du Canada, composé de huit membres nommés selon le mode et pour le mandat énoncés à l'annexe ci-après.

Sachez que Nous précisons que les œufs d'incubation de poulet de chair et les poussins destinés à la production de poulets sont les produits agricoles ressortissant aux Producteurs d'œufs d'incubation du Canada et que ceux-ci peuvent exercer leurs pouvoirs :

a) à l'égard des œufs d'incubation de poulet de chair et des poussins destinés à la production de poulets qui sont produits dans les provinces d'Ontario, de Québec, du Manitoba, de la Colombie-Britannique, de la

duction and marketed in interprovincial or export trade; and

(b) broiler hatching eggs and chicks produced for chicken production in the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador as well as Yukon, the Northwest Territories and Nunavut and shipped into the Provinces of Ontario, Quebec, Manitoba, British Columbia, Saskatchewan and Alberta in interprovincial trade and not for export.

And Know You Further that We are pleased to specify that Canadian Hatching Egg Producers shall not, in relation to chicks produced for chicken production, be authorized to exercise its powers pursuant to section 22 of the *Farm Products Agencies Act*, save and except to make such orders and regulations as it considers necessary

(a) to implement a quota system for persons engaged in the marketing of chicks produced in the Provinces of Nova Scotia, New Brunswick, Prince Edward Island or Newfoundland and Labrador or Yukon, the Northwest Territories or Nunavut for chicken production and marketed in the Provinces of Ontario, Quebec, Manitoba, British Columbia, Saskatchewan and Alberta;

(b) to establish a system for the licensing, for information purposes, of persons engaged in the marketing of chicks produced for chicken production; and

(c) to require a person engaged in the marketing of chicks produced for chicken production to deduct, from any amount payable by the person to a broiler hatching egg producer, any levies or charges payable to Canadian Hatching Egg Producers by the producer and to remit all amounts so deducted to Canadian Hatching Egg Producers.

Saskatchewan et d'Alberta et commercialisés sur le marché interprovincial ou international;

b) à l'égard des œufs d'incubation de poulet de chair et des poussins destinés à la production de poulets qui sont produits dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard et de Terre-Neuve-et-Labrador ainsi qu'au Yukon, dans les Territoires du Nord-Ouest et au Nunavut, pour être expédiés vers les provinces d'Ontario, de Québec, du Manitoba, de la Colombie-Britannique, de la Saskatchewan et d'Alberta et commercialisés sur le marché interprovincial et non international.

Sachez que Nous précisons que Les Producteurs d'œufs d'incubation du Canada ne sont pas autorisés, en ce qui concerne les poussins destinés à la production de poulets, à exercer les pouvoirs que leur confère l'article 22 de la *Loi sur les offices des produits agricoles*, sauf pour prendre les ordonnances et règlements qu'ils considèrent nécessaires pour :

a) instituer un système de contingentement pour les personnes qui se livrent à la commercialisation des poussins destinés à la production de poulets qui sont produits dans les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard ou de Terre-Neuve-et-Labrador, ou encore au Yukon, dans les Territoires du Nord-Ouest ou au Nunavut, pour être commercialisés dans les provinces d'Ontario, de Québec, du Manitoba, de la Colombie-Britannique, de la Saskatchewan et d'Alberta;

b) mettre en place, pour la collecte de renseignements, un régime d'attribution de licences aux personnes qui se livrent à la commercialisation des poussins destinés à la production de poulets;

c) exiger des personnes qui se livrent à la commercialisation des poussins destinés à la production de poulets qu'elles déduisent de toute somme qu'elles doivent payer aux producteurs d'œufs d'incubation de poulet de chair les prélèvements que ceux-ci doivent payer aux Producteurs d'œufs d'incubation du Canada, et qu'elle les remette à ces derniers.

And Know You Further that We are pleased to specify that the manner of designation of the chairman and vice-chairman of Canadian Hatching Egg Producers, the place within Canada where the head office of Canadian Hatching Egg Producers is situated and the terms of the marketing plan that Canadian Hatching Egg Producers is empowered to implement shall be as set forth in the schedule hereto.

And Know You Further that We are pleased to specify that this Proclamation and the schedule hereto may be cited as the *Canadian Hatching Egg Producers Proclamation*.

Of All Which Our Loving Subjects and all others whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

In Testimony Whereof, We have caused these Our Letters to be made Patent and the Great Seal of Canada to be hereunto affixed. Witness: Our Right Trusty and Well beloved Jeanne Sauvé, a Member of Our Privy Council for Canada, Chancellor and Principal Companion of Our Order of Canada, Chancellor and Commander of Our Order of Military Merit upon whom We have conferred Our Canadian Forces' Decoration, Governor General and Commander-in-Chief of Canada.

At Our Government House, in Our City of Ottawa, this twenty-second day of December in the year of Our Lord one thousand nine hundred and eighty-six and in the thirty-fifth year of Our Reign.

By Command,

MARK R. DANIELS

Deputy Registrar General of Canada

SOR/87-544, s. 1; SOR/89-154, s. 1; SOR/89-250, s. 1; SOR/2007-196, s. 1; SOR/2013-144, s. 1.

Sachez que Nous précisons dans l'annexe ci-après le mode de désignation du président et du vice-président des Producteurs d'œufs d'incubation du Canada, le lieu au Canada où est situé le siège des Producteurs d'œufs d'incubation du Canada ainsi que les modalités du plan de commercialisation qu'ils sont habilités à mettre en œuvre.

Sachez que Nous précisons que la présente proclamation et l'annexe ci-après peuvent être citées sous le titre *Proclamation visant Les Producteurs d'œufs d'incubation du Canada*.

De ce qui précède, Nos féaux sujets et tous ceux que les présentes peuvent concerner sont par les présentes requis de prendre connaissance et d'agir en conséquence.

En Foi de Quoi, Nous avons fait émettre Nos présentes lettres patentes et à icelles fait apposer le grand sceau du Canada. Témoin: Notre très fidèle et bien-aimée Jeanne Sauvé, Membre de Notre Conseil privé pour le Canada, Chancelier et Compagnon principal de Notre Ordre du Canada, Chancelier et Commandeur de Notre Ordre du Mérite militaire à qui Nous avons décerné Notre Décoration des Forces canadiennes, Gouverneur général et Commandant en chef du Canada.

À Notre Hôtel du Gouvernement, en Notre ville d'Ottawa, ce vingt-deuxième jour de décembre en l'an de grâce mil neuf cent quatre-vingt-six, le trente-cinquième de Notre règne.

Par Ordre,

Sous-registraire général du Canada

MARK R. DANIELS

DORS/87-544, art. 1; DORS/89-154, art. 1; DORS/89-250, art. 1; DORS/2007-196, art. 1; DORS/2013-144, art. 1.

SCHEDULE

INTERPRETATION

1. In this schedule,
- “Act” means the *Farm Products Agencies Act*; (*Loi*)
- “Agency” means Canadian Hatching Egg Producers; (*Office*)
- “broiler hatching egg” means an egg that is suitable for incubation and is to be hatched as a chick for chicken production; (*œuf d’incubation de poulet de chair*)
- “chick” means a chick hatched from a broiler hatching egg from the time of hatch until it is placed in the facilities of a chicken producer for raising and not for resale; (*poussin*)
- “Commodity Board” means, in respect of the Province of
- (a) Ontario, the Ontario Broiler Hatching Egg & Chick Commission,
 - (b) Quebec, le Syndicat des producteurs d’œufs d’incubation du Québec,
 - (c) Manitoba, Manitoba Chicken Producers,
 - (d) British Columbia, the British Columbia Broiler Hatching Egg Commission,
 - (e) Saskatchewan, the Saskatchewan Broiler Hatching Egg Producers’ Marketing Board, and
 - (f) Alberta, the Alberta Hatching Egg Producers; (*office provincial de commercialisation*)
- “marketing”, in relation to broiler hatching eggs and chicks, means selling and offering for sale and buying, hatching, pricing, assembling, packing, transporting, delivering, receiving, storing and reselling; (*commercialisation*)
- “non-signatory provinces” means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador as well as Yukon, the Northwest Territories and Nunavut; (*provinces non signataires*)
- “Plan” means the marketing plan the terms of which are set out in Part II of this schedule; (*plan*)
- “producer” means a person engaged in the production of broiler hatching eggs; (*producteur*)
- “quota” means
- (a) in respect of broiler hatching eggs, the number of broiler hatching eggs that a person is entitled to market in interprovincial or export trade under the quota system during a specified period, and
 - (b) in respect of chicks, the number of chicks produced in a non-signatory province that a person is entitled to market into a signatory province under the quota system during a specified period; (*contingent*)
- “quota system” means
- (a) in respect of broiler hatching eggs, a system established by the Agency by which

ANNEXE

DÉFINITIONS

1. Les définitions qui suivent s’appliquent à la présente annexe.
- «commercialisation» En ce qui concerne les œufs d’incubation de poulet de chair et les poussins, les opérations suivantes : vente, mise en vente, achat, incubation, fixation des prix, assemblage, emballage, transport, livraison, réception, entreposage et revente. (*marketing*)
- «contingent»
- a) En ce qui concerne les œufs d’incubation de poulet de chair, le nombre d’œufs d’incubation de poulet de chair qu’une personne est autorisée à commercialiser sur le marché interprovincial ou international durant une période déterminée, dans le cadre du système de contingentement;
 - b) en ce qui concerne les poussins, le nombre de poussins produits dans une province non signataire qu’une personne est autorisée à commercialiser dans une province signataire durant une période déterminée, dans le cadre du système de contingentement. (*quota*)
- «Loi» La *Loi sur les offices des produits agricoles*. (*Act*)
- «œuf d’incubation de poulet de chair» Œuf propre à l’incubation et duquel sortira un poussin destiné à la production de poulets. (*broiler hatching egg*)
- «Office» Les Producteurs d’œufs d’incubation du Canada. (*Agency*)
- «office provincial de commercialisation»
- a) En Ontario, la Ontario Broiler Hatching Egg & Chick Commission;
 - b) au Québec, le Syndicat des producteurs d’œufs d’incubation du Québec;
 - c) au Manitoba, les Manitoba Chicken Producers;
 - d) en Colombie-Britannique, la British Columbia Broiler Hatching Egg Commission;
 - e) en Saskatchewan, le Saskatchewan Broiler Hatching Egg Producers’ Marketing Board;
 - f) en Alberta, les Alberta Hatching Egg Producers. (*Commodity Board*)
- «plan» Le plan de commercialisation dont les modalités sont énoncées à la partie II de la présente annexe. (*Plan*)
- «poussin» Poussin issu d’un œuf d’incubation de poulet de chair, du temps de l’éclosion jusqu’à son placement dans les installations d’un producteur de poulets pour l’élevage et non pour la revente. (*chick*)
- «producteur» Personne qui se livre à la production d’œufs d’incubation de poulet de chair. (*producer*)
- «provinces non signataires» Les provinces de la Nouvelle-Écosse, du Nouveau-Brunswick, de l’Île-du-Prince-Édouard et de Terre-Neuve-et-Labrador ainsi que le Yukon, les Territoires du Nord-Ouest et le Nunavut. (*non-signatory provinces*)
- «provinces signataires» Les provinces d’Ontario, de Québec, du Manitoba, de la Colombie-Britannique, de la Saskatchewan et d’Alberta. (*signatory provinces*)

(i) in respect of a non-signatory province, the Agency allots quotas to persons engaged in the marketing of broiler hatching eggs produced in the non-signatory province and marketed into a signatory province, thus enabling the Agency to fix and determine the quantity, if any, of broiler hatching eggs of any variety, class or grade that may be marketed by such persons into a signatory province, and

(ii) in respect of a signatory province, the Agency allots quotas to producers in the signatory province, thus enabling the Agency to fix and determine the quantity, if any, of broiler hatching eggs of any variety, class or grade that may be marketed by such producers in interprovincial or export trade from the signatory province, and

(b) in respect of chicks, a system established by the Agency in respect of a non-signatory province by which the Agency allots quotas to persons engaged in the marketing of chicks produced in the non-signatory province and marketed into a signatory province, thus enabling the Agency to fix and determine the quantity, if any, of chicks that may be marketed by such persons into a signatory province; (*système de contingentement*)

“signatory provinces” means the Provinces of Ontario, Quebec, Manitoba, British Columbia, Saskatchewan and Alberta. (*provinces signataires*)

SOR/87-544, s. 2; SOR/89-154, s. 2; SOR/89-250, s. 2; SOR/2007-196, s. 2; SOR/2013-144, s. 2.

PART I

AGENCY

2. (1) The Governor in Council shall appoint as the first members of the Agency the existing directors of the Canadian Broiler Hatching Egg Producers Association that are from the signatory provinces and such members shall hold office until the expiration of the first fiscal year of the Agency, as fixed by by-law of the Agency.

(2) Subject to subsections (1) and (5), the members of the Agency shall be appointed as follows to hold office for a term of two years:

(a) the Commodity Board of each signatory province shall appoint one member, who is a resident of Canada, from among those of the Commodity Board’s directors who are actively engaged in the production of broiler hatching eggs and, where that member is involved in the setting of broiler hatching eggs in incubators, the hatchery of that member shall be licensed by the provincial Commodity Board that is authorized to license or, in the case of the Province of Quebec, shall be covered by an association of hatcheries accredited by that province’s supervisory board;

(b) where there are four or fewer provincial commodity board members, the Canadian Hatchery Federation shall appoint one person as a member who is a resident of Canada; and

(c) where there are five or more provincial commodity board members, the Canadian Hatchery Federation shall appoint two persons as members who are residents of Canada, one of whom shall represent the region west of the Ontario-Manitoba border and one

«système de contingentement»

a) En ce qui concerne les œufs d’incubation de poulet de chair, un système établi par l’Office selon lequel :

(i) pour une province non signataire, l’Office attribue des contingents aux personnes qui se livrent à la commercialisation d’œufs d’incubation de poulet de chair produits dans cette province pour être commercialisés dans une province signataire, lui permettant ainsi de fixer et de déterminer la quantité d’œufs d’incubation de poulet de chair de toute variété, classe ou qualité qui peut être commercialisée par elles dans une province signataire,

(ii) pour une province signataire, l’Office attribue des contingents aux producteurs de cette province, lui permettant ainsi de fixer et de déterminer la quantité d’œufs d’incubation de poulet de chair de toute variété, classe ou qualité qui peut être commercialisée sur le marché interprovincial ou international, en provenance de cette province;

b) en ce qui concerne les poussins, un système établi par l’Office selon lequel, pour une province non signataire, l’Office attribue des contingents aux personnes qui se livrent à la commercialisation des poussins produits dans cette province pour être commercialisés dans une province signataire, lui permettant ainsi de fixer et de déterminer la quantité de poussins qui peut être commercialisée par elles dans une province signataire. (*quota system*)

DORS/87-544, art. 2; DORS/89-154, art. 2; DORS/89-250, art. 2; DORS/2007-196, art. 2; DORS/2013-144, art. 2.

PARTIE I

L’OFFICE

2. (1) Le gouverneur en conseil nomme comme premiers membres de l’Office les administrateurs de l’Association canadienne des producteurs d’œufs d’incubation de poulet de chair qui représentent les provinces signataires; les premiers membres exercent leurs fonctions jusqu’à la fin du premier exercice financier de l’Office, établi par ce dernier par voie de règlement administratif.

(2) Sous réserve des paragraphes (1) et (5), les membres de l’Office sont nommés pour un mandat de deux ans de la façon suivante :

a) l’office provincial de commercialisation de chaque province signataire nomme un membre, qui réside au Canada, parmi ceux de ses administrateurs qui se livrent activement à la production d’œufs d’incubation de poulet de chair et, si ce membre participe à la mise en incubation d’œufs d’incubation de poulet de chair, son couvoir doit faire l’objet d’une licence délivrée par l’office provincial de commercialisation qui est habilité à le faire ou, dans le cas du Québec, appartenir à l’association des couvoirs agréée par la réglementation provinciale;

b) lorsque le nombre des membres est de quatre ou moins, la Fédération canadienne des couvoirs nomme une personne qui réside au Canada;

c) lorsque le nombre des membres est de cinq ou plus, la Fédération canadienne des couvoirs nomme deux personnes qui résident au Canada, l’une représentant la région située à l’ouest de la frontière entre l’Ontario et le Manitoba et l’autre la région située à l’est de cette frontière.

of whom shall represent the region east of the Ontario-Manitoba border.

(2.1) Persons appointed under paragraph (2)(b) or (c) shall be from a hatchery that is located in a signatory province and shall be experienced in the business or trade of the hatching of chicks for chicken production. The persons shall be active members of the staff of the hatchery and shall not be employed by the same business entity or corporate family. In each case the hatchery must be licensed by the Commodity Board where the province's Commodity Board is authorized to license or, in the case of the Province of Quebec, shall be covered by an association of hatcheries accredited by that Province's Supervisory Board.

(3) A Commodity Board or the Canadian Hatchery Federation may appoint a person with the same qualifications for membership as are required for a member to be appointed by the Board or Federation to be a temporary substitute member to act in the place of each member appointed by it when that member is absent, is unable to act or is elected Chairperson of the Agency and to hold office as a temporary substitute member until the member in whose place the temporary substitute member is appointed to act ceases to be a member.

(4) A temporary substitute member appointed under subsection (3) shall hold office during pleasure.

(5) The members of the Agency first appointed under subsection (2) shall assume office on the expiration of the term of office of the members appointed under subsection (1) and shall hold office for a term of two years, except that the first members appointed under paragraph (2)(a) by the Commodity Boards of the Provinces of Ontario and Quebec shall hold office for a term of only one year.

(6) [Repealed, SOR/2013-144, s. 3]
SOR/2007-196, s. 3; SOR/2013-144, s. 3.

3. The members of the Agency shall, at their first meeting and annually thereafter at the first meeting next following each annual meeting of the Agency, elect from among themselves a chairman and a vice-chairman of the Agency, and the chairman and vice-chairman so elected shall hold office as such until their successors are elected in accordance with this section.

4. The head office of the Agency shall be in the National Capital Region described in the schedule to the *National Capital Act*.

PART II

PLAN

QUOTA SYSTEM — BROILER HATCHING EGGS

5. (1) The Agency shall, by order or regulation, establish a quota system in respect of the signatory provinces pursuant to which quotas are allotted to all producers to whom quotas in intraprovincial trade have been allotted by the appropriate Commodity Board.

(2) The Agency may, by order or regulation, establish a quota system in respect of any non-signatory province pursuant to which quotas are allotted by the Agency, on the basis of the production in the non-signatory province reflected in the table to this section, to any person in a non-signatory province engaged in the marketing of broil-

(2.1) Les personnes nommées aux termes des alinéas (2)b) ou (c) doivent exercer des activités dans un couvoir situé dans une province signataire et avoir l'expérience des activités commerciales ou professionnelles de mise en incubation pour la production de poulets. Elles doivent être des membres actifs du personnel du couvoir et ne pas être des employés de la même entreprise ou du même groupe de sociétés. Dans tous les cas, le couvoir doit faire l'objet d'une licence délivrée par l'office provincial de commercialisation qui est habilité à le faire ou, dans le cas du Québec, appartenir à l'association des couvoirs agréée par la régie provinciale.

(3) Tout office de commercialisation ou la Fédération canadienne des couvoirs peut nommer à titre de membre suppléant une personne possédant les compétences nécessaires pour être membre de cet office ou de cette fédération, pour remplacer tout membre nommé par lui qui est absent ou incapable de remplir ses fonctions ou a été nommé président de l'office; le membre suppléant exerce ses fonctions jusqu'à l'expiration du mandat du membre qu'il remplace.

(4) Le membre suppléant visé au paragraphe (3) occupe sa charge à titre amovible.

(5) À l'exception des premiers membres nommés en vertu de l'alinéa (2)a) par les offices provinciaux de commercialisation de l'Ontario et du Québec, dont le mandat est de un an, les premiers membres nommés en vertu du paragraphe (2) ont un mandat de deux ans et commencent à exercer leurs fonctions dès la fin du mandat des membres visés au paragraphe (1).

(6) [Abrogé, DORS/2013-144, art. 3]
DORS/2007-196, art. 3; DORS/2013-144, art. 3.

3. Le président et le vice-président de l'Office sont choisis par les membres de l'Office à l'occasion de leur première réunion et par la suite lors de la première réunion suivant la réunion annuelle de l'Office. Le président et le vice-président occupent leur charge jusqu'à ce que leurs successeurs soient choisis conformément au présent article.

4. Le siège social de l'Office est situé dans la région de la Capitale nationale décrite à l'annexe de la *Loi sur la Capitale nationale*.

PARTIE II

PLAN

SYSTÈME DE CONTINGENTEMENT — ŒUFS D'INCUBATION DE POULET DE CHAIR

5. (1) L'Office doit, par règlement ou ordonnance, instituer pour les provinces signataires un système de contingentement selon lequel des contingents sont attribués aux producteurs à qui l'office provincial de commercialisation a attribué des contingents dans le commerce intraprovincial.

(2) L'Office peut, par règlement ou ordonnance, instituer pour les provinces non signataires un système de contingentement selon lequel l'Office attribue des contingents à toute personne dans une province non signataire qui commercialise des œufs d'incubation de poulet de chair à destination d'une province signataire, permettant

er hatching eggs in interprovincial trade, but not for export, into a signatory province thus enabling the Agency to determine the quantity of broiler hatching eggs that may be so marketed and the conditions under which they may be so marketed.

(3) Subject to section 6, the Agency, in establishing the quota system pursuant to subsection (1), shall provide for the allotment of quotas in such a manner that the maximum number of broiler hatching eggs produced in a province and authorized pursuant to quotas to be marketed in interprovincial or export trade in the twelve month period commencing on the effective date of regulations made by the Agency for the purpose of implementing the quota system when taken together with the number of broiler hatching eggs produced in the province and authorized pursuant to quotas allotted by the Commodity Board of the province to be marketed in intraprovincial trade in the same period, and the number of broiler hatching eggs produced in the province and anticipated to be marketed in the same period as authorized other than by such quotas will equal the total number of broiler hatching eggs set out for the province in the table to this section.

TABLE

Province	Total Number of Broiler Hatching Eggs
Ontario.....	109,871,351
Quebec.....	102,350,032
Nova Scotia.....	10,588,592
New Brunswick.....	14,808,161
Manitoba.....	14,567,564
British Columbia.....	38,653,284
Prince Edward Island.....	625,402
Saskatchewan.....	9,091,518
Alberta.....	44,610,485
Newfoundland and Labrador.....	24,056
Yukon.....	0
Northwest Territories.....	0
Nunavut.....	0

SOR/89-250, s. 3; SOR/2007-196, s. 4.

6. The Agency shall not make any order or regulation that would have the effect of increasing or decreasing the aggregate of

- (a) the total number of broiler hatching eggs produced and authorized by quotas referred to in subsection 5(3) to be marketed in interprovincial, export and intraprovincial trade, and
- (b) the total number of broiler hatching eggs produced and anticipated to be marketed in interprovincial, export and intraprovincial trade as authorized other than by such quotas

ainsi à l'Office de déterminer la quantité d'œufs d'incubation de poulet de chair qui peut être commercialisée en provenance d'une province non signataire à destination d'une province signataire, ainsi que les conditions de cette commercialisation. Le système de contingentement est établi en s'appuyant sur la production dans la province non signataire indiquée au tableau qui suit le présent article.

(3) Sous réserve de l'article 6, l'Office doit, en instituant le système de contingentement visé au paragraphe (1), prévoir l'attribution de contingents de façon que le nombre maximal d'œufs d'incubation de poulet de chair produits dans une province et autorisés selon les contingents à être commercialisés dans le commerce interprovincial ou le commerce d'exportation au cours d'une période de 12 mois commençant à la date d'entrée en vigueur du règlement pris par l'Office pour mettre en œuvre le système de contingentement, une fois ajouté au nombre d'œufs d'incubation de poulet de chair produits dans la province et autorisés, selon les contingents attribués par l'office provincial de commercialisation à être commercialisés dans le commerce intraprovincial au cours de la même période, ainsi qu'au nombre d'œufs d'incubation de poulet de chair produits dans la province et dont la commercialisation est prévue au cours de la même période et est autorisée autrement que par de tels contingents, est égal au nombre total d'œufs d'incubation de poulet de chair prévu pour la province dans le tableau ci-après :

TABEAU

Province	Œufs d'incubation de poulet de chair
Ontario.....	109 871 351
Québec.....	102 350 032
Nouvelle-Écosse.....	10 588 592
Nouveau-Brunswick.....	14 808 161
Manitoba.....	14 567 564
Colombie-Britannique.....	38 653 284
Île-du-Prince-Édouard.....	625 402
Saskatchewan.....	9 091 518
Alberta.....	44 610 485
Terre-Neuve-et-Labrador.....	24 056
Yukon.....	0
Territoires du Nord-Ouest.....	0
Nunavut.....	0

DORS/89-250, art. 3; DORS/2007-196, art. 4.

6. L'Office ne prend aucune ordonnance et aucun règlement qui auraient pour effet d'augmenter ou de réduire à la fois :

- a) le nombre total d'œufs d'incubation de poulet de chair produits et autorisés selon les contingents visés au paragraphe 5(3) à être commercialisés dans le commerce intraprovincial, le commerce interprovincial et le commerce d'exportation,
- b) le nombre total d'œufs d'incubation de poulet de chair produits et dont la commercialisation est prévue dans le commerce intraprovincial, le commerce interprovincial et le commerce d'exportation et est autorisée autrement que par de tels contingents,

to a number that in any twelve month period or, for the first allocation of the Agency, a portion thereof is more or less than, as the case may be, the total number of broiler hatching eggs set out in the table to section 5 for the province unless the Agency has applied the allocation system set out in Schedule “B” annexed to the Federal Provincial Agreement authorized to be entered into by the Minister of Agriculture for Canada by Order in Council P.C. 1986-2653 of November 27, 1986*.

QUOTA SYSTEM — CHICKS

6.1 (1) The Agency may, by order or regulation, establish a quota system in respect of the non-signatory provinces pursuant to which quotas are allotted by the Agency to persons engaged in the marketing of chicks produced in a non-signatory province and marketed into a signatory province.

(2) Subject to section 6.2, the Agency, in establishing a quota system pursuant to subsection (1), shall provide for the allotment of quotas in such a manner that the maximum number of chicks produced in a non-signatory province or in an area that comprises non-signatory provinces and authorized pursuant to quotas to be marketed into a signatory province, during the 12 month period commencing on the effective date of the order or regulation made by the Agency for the purpose of implementing the quota system, will equal the total number of chicks set out for the province or area in the table to this section.

TABLE

Province or Area	Total Number of Chicks
Atlantic Provinces.....	172,702
Yukon.....	0
Northwest Territories.....	0
Nunavut.....	0

SOR/89-250, s. 4; SOR/2007-196, s. 5; SOR/2013-144, s. 4.

6.2 The Agency shall not make any order or regulation that would have the effect of increasing or decreasing the total number of chicks produced in a non-signatory province or in an area that comprises non-signatory provinces and authorized pursuant to quotas referred to in subsection 6.1(2) to be marketed into a signatory province to a number that, in any 12 month period or, for the first allocation of the Agency, a portion thereof, is more or less than, as the case may be, the total number of chicks set out in the table to section 6.1 in respect of the province or area unless

(a) the Agency increases or decreases the total number of chicks for the province by the same percentage as the Agency increases or decreases, as the case may be, for that period, or portion thereof, the total number of broiler hatching eggs set out in the table to section 5 in respect of the province; or

(b) the Agency increases or decreases the total number of chicks for the area by the average percentage the Agency increases or decreases, as the case may be, for that period, or portion thereof, the

à un nombre qui, au cours d'une période de 12 mois, ou d'une période inférieure dans le cas de la première attribution de contingents par l'Office, est supérieur ou inférieur, selon le cas, au nombre total d'œufs d'incubation de poulet de chair indiqué au tableau pour la province à l'article 5, à moins que l'Office n'ait appliqué le système de contingentement prévu à l'annexe «B» de l'entente fédérale-provinciale autorisée à être conclue par le ministre de l'Agriculture du Canada en vertu du décret C.P. 1986-2653 du 27 novembre 1986*.

SYSTÈME DE CONTINGEMENT — POUSSINS

6.1 (1) L'Office peut, par règlement ou ordonnance, instituer pour les provinces non signataires un système de contingentement selon lequel il attribue des contingents aux personnes qui se livrent à la commercialisation des poussins produits dans une province non signataire pour être commercialisés dans une province signataire.

(2) Sous réserve de l'article 6.2, l'Office doit, en instituant le système de contingentement visé au paragraphe (1), prévoir l'attribution de contingents de façon que le nombre maximal de poussins produits dans une province non signataire ou dans une région regroupant des provinces non signataires et autorisés à être commercialisés dans une province signataire selon les contingents soit, au cours de la période de 12 mois à compter de la date d'entrée en vigueur du règlement ou de l'ordonnance instituant le système de contingentement, égal au nombre total de poussins prévu pour la province ou la région dans le tableau du présent article.

TABLEAU

Province ou région	Nombre total de poussins
Provinces atlantiques.....	172 702
Yukon.....	0
Territoires du Nord-Ouest.....	0
Nunavut.....	0

DORS/89-250, art. 4; DORS/2007-196, art. 5; DORS/2013-144, art. 4.

6.2 L'Office ne peut prendre aucune ordonnance et aucun règlement qui auraient pour effet d'augmenter ou de réduire le nombre total de poussins produits dans une province non signataire ou dans une région regroupant des provinces non signataires et autorisés à être commercialisés dans une province signataire selon les contingents visés au paragraphe 6.1(2), à un nombre qui, au cours d'une période de 12 mois ou d'une période inférieure dans le cas de l'attribution initiale de contingents par lui, est supérieur ou inférieur, selon le cas, au nombre total de poussins prévu au tableau de l'article 6.1 pour la province ou la région, à moins que cette augmentation ou réduction ne corresponde, selon le cas :

a) au pourcentage d'augmentation ou de réduction, pour la même période, du nombre total d'œufs d'incubation de poulet de chair prévu pour la province au tableau de l'article 5;

b) au pourcentage moyen d'augmentation ou de réduction, pour la même période, du nombre total d'œufs d'incubation de poulet de

* Not published in the *Canada Gazette* Part II

* Non publié dans la *Gazette du Canada* Partie II

total number of broiler hatching eggs set out in the table to section 5 in respect of the provinces the area comprises.

SOR/87-544, s. 3; SOR/89-250, s. 4.

LICENSING

7. (1) The Agency, by order or regulation,

(a) shall, in respect of a signatory province, establish a system of licensing of persons engaged in the marketing in interprovincial or export trade of broiler hatching eggs or chicks produced in any signatory province for chicken production; and

(b) may, in respect of a non-signatory province, establish a system of licensing of persons engaged in the interprovincial marketing from the non-signatory province into a signatory province, but not for export, of broiler hatching eggs or chicks produced in the non-signatory province for chicken production.

(2) The Agency, in establishing a licensing system pursuant to subsection (1), shall prescribe the terms and conditions to which each licence issued pursuant to the system is subject, including

(a) a condition that the person to whom the licence is issued shall at all times during the term of the licence comply with the orders, regulations or requirements of the Agency or of the National Farm Products Marketing Council that are applicable to that person;

(b) the terms and conditions with respect to the collection and reporting of information in respect of the marketing of broiler hatching eggs or chicks produced for chicken production; and

(c) the terms and conditions under which the licence may be suspended or cancelled.

(3) The Agency, in establishing a licensing system pursuant to subsection (1), shall establish the terms and conditions under which a licence may be granted, refused or renewed and the fees payable to the Agency in respect of each licence or class of licence.

LEVIES AND CHARGES

8. (1) The Agency may, in respect of broiler hatching eggs produced in a signatory province and marketed in interprovincial or export trade and in respect of broiler hatching eggs produced in a non-signatory province and marketed in interprovincial trade, but not for export, into any signatory province, by order or regulation,

(a) impose levies or charges on persons engaged in the marketing of broiler hatching eggs and any order or regulation made pursuant to this paragraph may group such persons into classes, specify the levies or charges, if any, payable by the members of each such class and provide for the manner of collection of the levies or charges imposed; and

(b) impose additional charges on persons who market broiler hatching eggs in interprovincial or export trade in excess of their authorized quotas.

chair prévu pour les provinces comprises dans la région au tableau de l'article 5.

DORS/87-544, art. 3; DORS/89-250, art. 4.

PERMIS

7. (1) L'Office, par ordonnance ou règlement :

a) doit établir pour les provinces signataires un système d'octroi de permis pour les personnes se livrant, dans le commerce interprovincial ou le commerce d'exportation, à la commercialisation d'œufs d'incubation de poulet de chair ou de poussins destinés à la production de poulets provenant des provinces signataires;

b) peut établir pour les provinces non signataires un système d'octroi de permis pour les personnes se livrant, dans le commerce interprovincial, à la commercialisation d'œufs d'incubation de poulet de chair ou de poussins destinés à la production de poulets en provenance des provinces non signataires à destination des provinces signataires, à des fins autres que l'exportation.

(2) En établissant un système d'octroi de permis en application du paragraphe (1), l'Office doit prévoir les modalités et les conditions afférentes à chaque permis, y compris les suivantes :

a) la condition portant que le titulaire du permis doit, pendant la durée de validité du permis, se conformer aux ordonnances, règlements ou exigences de l'Office ou du Conseil national de commercialisation des produits de ferme qui le visent;

b) les modalités régissant la collecte et la présentation des renseignements concernant la commercialisation des œufs d'incubation de poulet de chair ou les poussins destinés à la production de poulets;

c) les modalités régissant la suspension ou l'annulation du permis.

(3) En établissant un système d'octroi de permis en application du paragraphe (1), l'Office doit préciser les modalités et les conditions régissant l'octroi, le refus ou le renouvellement d'un permis et fixer les droits payables à l'Office pour chaque permis ou catégorie de permis.

REDEVANCES ET FRAIS

8. (1) L'Office peut, par ordonnance ou règlement, en ce qui concerne les œufs d'incubation de poulet de chair produits dans une province signataire et commercialisés dans le commerce interprovincial ou le commerce d'exportation, et en ce qui concerne les œufs d'incubation de poulet de chair produits dans une province non signataire et commercialisés dans le commerce interprovincial, à des fins autres que l'exportation, à destination d'une province signataire :

a) imposer des redevances ou droits aux personnes qui se livrent à la commercialisation des œufs d'incubation de poulet de chair et classer en groupes ces personnes en précisant les redevances ou frais, le cas échéant, payables par les membres de chacun de ces groupes, et prévoir la manière de les percevoir;

b) imposer des frais supplémentaires aux personnes qui commercialisent dans le commerce interprovincial ou le commerce d'exportation un nombre d'œufs d'incubation de poulet de chair supérieur à leurs contingents respectifs autorisés.

(2) Levies or charges referred to in paragraph (1)(a) shall be established at levels that are calculated to produce in each year a return to the Agency that is sufficient in amount to defray its administrative and marketing expenses and costs, as estimated by it, for a year and the charges referred to in paragraph (1)(b) shall be a charge on persons for marketings in excess of their authorized quota allotments.

(3) The Agency, in estimating its administrative and marketing expenses and costs for a year, may allow for the creation of reserves as the Agency considers appropriate and for any other expenses and costs deemed essential by the Agency for the realization of its objectives.

INTERPROVINCIAL PRICING

9. The Agency may, by order or regulation, establish a pricing system that will enable the Agency, from time to time, to fix the price at which any variety, class or grade of broiler hatching eggs may

(a) in the case of broiler hatching eggs produced in a signatory province, be marketed therefrom in interprovincial or export trade; and

(b) in the case of broiler hatching eggs produced in a non-signatory province, be marketed therefrom into any signatory province for other than export.

CO-OPERATION

10. The Agency shall take all reasonable steps to promote a high degree of co-operation between itself and each Commodity Board and, without limiting the generality of the foregoing, shall

(a) make available to each Commodity Board the records, minutes and decisions of the Agency and such other information as may reasonably be required by the Commodity Board for the exercise of its powers and responsibilities;

(b) allow an officer or employee of the Commodity Board of a signatory province, who is designated by the Commodity Board of that province for such purpose, to attend meetings of the Agency at which any matter that is of concern to the Commodity Board is likely to be discussed and, where an officer or employee is so designated, the Agency shall give notice of such meetings to the officer or employee; and

(c) give notice of each order or regulation that it proposes to make to each Commodity Board that is likely to be affected in its operation by the making of the order or regulation.

ANNUAL MEETING AND REVIEW OF MARKETING PLAN

11. (1) The Agency shall hold an annual meeting in each year for the purpose of reviewing the terms of the Plan and the terms of any orders and regulations made under the Act to implement the Plan with a view to determining whether or not any modifications are required in order to facilitate the carrying out by the Agency of its objects and shall hold such other meetings as it considers necessary or as required by subsection (2).

(2) Where the Agency receives, from the Commodity Board for each of at least two provinces, a request for the holding of a meeting, other than the annual meeting, for the purpose referred to in subsection (1), the Agency shall hold such other meeting as soon as is reasonably convenient after receipt of the request.

(2) Les redevances ou droits visés à l'alinéa (1)a) sont fixés aux taux voulus pour assurer chaque année à l'Office des recettes suffisantes pour couvrir le montant estimatif de ses frais annuels d'administration et de commercialisation, et les droits mentionnés à l'alinéa (1)b) sont des frais imposés aux personnes pour la commercialisation de quantités supérieures aux contingents autorisés.

(3) Dans le calcul du montant estimatif de ses frais annuels d'administration et de commercialisation, l'Office peut prévoir des sommes pour la création des fonds de réserve qu'il juge indiqués et tenir compte des autres dépenses et frais qu'il juge essentiels à la réalisation de ses objectifs.

PRIX INTERPROVINCIAL

9. L'Office peut, par ordonnance ou règlement, établir un système de prix qui lui permettra de fixer le prix auquel toute variété, classe ou catégorie d'œufs d'incubation de poulet de chair peut :

a) dans le cas des œufs d'incubation de poulet de chair produits dans une province signataire, être commercialisée dans le commerce interprovincial ou le commerce d'exportation;

b) dans le cas des œufs d'incubation de poulet de chair produits dans une province non signataire, être commercialisée à destination d'une province signataire, à des fins autres que l'exportation.

COLLABORATION

10. L'Office doit prendre toutes les mesures raisonnables pour favoriser une excellente collaboration entre lui et chaque office provincial de commercialisation et, à cette fin :

a) mettre à la disposition de chaque office provincial de commercialisation ses propres comptes rendus, procès-verbaux et décisions, ainsi que tout renseignement dont les offices provinciaux de commercialisation peuvent raisonnablement avoir besoin dans l'exercice de leurs pouvoirs et responsabilités;

b) autoriser un agent ou un employé d'un office provincial de commercialisation d'une province signataire, désigné à cet effet par ce dernier, à assister aux réunions de l'Office au cours desquelles peut être traitée toute question intéressant l'office provincial de commercialisation et, à cette fin, aviser de ces réunions l'agent ou l'employé ainsi désigné;

c) informer de tout projet d'ordonnance ou de règlement l'office provincial de commercialisation dont le fonctionnement pourrait être touché par la prise de l'ordonnance ou du règlement.

RÉUNION ANNUELLE ET EXAMEN DU PLAN

11. (1) L'Office doit tenir une réunion annuelle tous les ans afin d'examiner le plan ainsi que les ordonnances et règlements pris en vertu de la Loi pour la mise à exécution du plan, et déterminer s'il y a lieu d'y apporter des modifications pouvant faciliter la réalisation des objectifs de l'Office; il doit également tenir des réunions chaque fois qu'il le juge nécessaire ainsi que dans les circonstances mentionnées au paragraphe (2).

(2) L'Office doit, si au moins deux offices provinciaux de commercialisation lui demandent de tenir une réunion, autre que la réunion annuelle, aux fins mentionnées au paragraphe (1), tenir une telle réunion le plus tôt possible après réception de la demande.



CANADA

CONSOLIDATION

CODIFICATION

Canadian Broiler
Hatching Egg and Chick
Licensing Regulations

Règlement sur l'octroi de
permis visant les oeufs
d'incubation de poulet de
chair et les poussins du
Canada

SOR/87-516

DORS/87-516

Current to September 30, 2015

À jour au 30 septembre 2015

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OFFICIAL STATUS
OF CONSOLIDATIONS

CARACTÈRE OFFICIEL
DES CODIFICATIONS

Subsections 31(1) and (3) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Les paragraphes 31(1) et (3) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit :

Published
consolidation is
evidence

31. (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

31. (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Codifications
comme élément
de preuve

...

[...]

Inconsistencies
in regulations

(3) In the event of an inconsistency between a consolidated regulation published by the Minister under this Act and the original regulation or a subsequent amendment as registered by the Clerk of the Privy Council under the *Statutory Instruments Act*, the original regulation or amendment prevails to the extent of the inconsistency.

(3) Les dispositions du règlement d'origine avec ses modifications subséquentes enregistrées par le greffier du Conseil privé en vertu de la *Loi sur les textes réglementaires* l'emportent sur les dispositions incompatibles du règlement codifié publié par le ministre en vertu de la présente loi.

Incompatibilité
— règlements

NOTE

This consolidation is current to September 30, 2015. The last amendments came into force on December 23, 2013. Any amendments that were not in force as of September 30, 2015 are set out at the end of this document under the heading “Amendments Not in Force”.

NOTE

Cette codification est à jour au 30 septembre 2015. Les dernières modifications sont entrées en vigueur le 23 décembre 2013. Toutes modifications qui n'étaient pas en vigueur au 30 septembre 2015 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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Registration
SOR/87-516 August 14, 1987

FARM PRODUCTS AGENCIES ACT

Canadian Broiler Hatching Egg and Chick Licensing Regulations

Whereas the Governor in Council has, by the *Canadian Broiler Hatching Egg Marketing Agency Proclamation*^{*}, established the Canadian Broiler Hatching Egg Marketing Agency, pursuant to subsection 17(1) of the *Farm Products Marketing Agencies Act*^{**};

And Whereas the Canadian Broiler Hatching Egg Marketing Agency has been empowered to implement a marketing plan pursuant to the *Canadian Broiler Hatching Egg Marketing Agency Proclamation*^{*};

Therefore, the Canadian Broiler Hatching Egg Marketing Agency, pursuant to paragraph 23(1)(f) of the *Farm Products Marketing Agencies Act*^{**} and section 7 of the schedule to the *Canadian Broiler Hatching Egg Marketing Agency Proclamation*^{*}, hereby makes the annexed *Regulations respecting the establishment of a system of licensing of persons engaged in the marketing in interprovincial or export trade of broiler hatching eggs or chicks produced for chicken production*, effective October 1, 1987.

Ottawa, Ontario, June 30, 1987

The National Farm Products Marketing Council, pursuant to paragraph 7(1)(e) of the *Farm Products Marketing Agencies Act*^{*}, being satisfied that the annexed Regulations are necessary for the administration of the marketing plan that the Canadian Broiler Hatching Egg

Enregistrement
DORS/87-516 Le 14 août 1987

LOI SUR LES OFFICES DES PRODUITS AGRICOLES

Règlement sur l'octroi de permis visant les oeufs d'incubation de poulet de chair et les poussins du Canada

Attendu qu'en vertu du paragraphe 17(1) de la *Loi sur les offices de commercialisation des produits de ferme*^{*}, le gouverneur en conseil a, par la *Proclamation visant l'Office canadien de commercialisation des œufs d'incubation de poulet de chair*^{**}, établi l'Office canadien de commercialisation des œufs d'incubation de poulet de chair;

Attendu que l'Office a le pouvoir d'exécuter un plan de commercialisation conformément à cette proclamation;

À ces causes, en vertu de l'alinéa 23(1)f) de la *Loi sur les offices de commercialisation des produits de ferme*^{*} et de l'article 7 de l'annexe de la *Proclamation visant l'Office canadien de commercialisation des œufs d'incubation de poulet de chair*^{**}, l'Office canadien de commercialisation des œufs d'incubation de poulet de chair prend, à compter du 1^{er} octobre 1987, le *Règlement concernant l'établissement d'un système d'octroi de permis pour les personnes se livrant, dans le commerce interprovincial ou le commerce d'exportation, à la commercialisation des œufs d'incubation de poulet de chair ou des poussins destinés à la production de poulets*, ci-après.

Ottawa, le 30 juin 1987

En vertu de l'alinéa 7(1)e) de la *Loi sur les offices de commercialisation des produits de ferme*^{*}, le Conseil national de commercialisation des produits de ferme, étant convaincu que le projet de règlement ci-après est nécessaire à la mise en œuvre du plan de commercialisation

^{*} SOR/87-40, 1987 *Canada Gazette* Part II, p. 317

^{**} S.C. 1970-71-72, c. 65

^{*} S.C. 1970-71-72, ch. 65

^{**} DORS/87-40, *Gazette du Canada* Partie II, 1987, p. 317

Marketing Agency is authorized to implement, hereby approves the annexed *Regulations respecting the establishment of a system of licensing of persons engaged in the marketing in interprovincial or export trade of broiler hatching eggs or chicks produced for chicken production*, made by the Canadian Broiler Hatching Egg Marketing Agency on June 30, 1987.

Ottawa, Ontario, August 13, 1987.

que l'Office canadien de commercialisation des œufs d'incubation de poulet de chair est autorisé à exécuter, approuve le *Règlement concernant l'établissement d'un système d'octroi de permis pour les personnes se livrant, dans le commerce interprovincial ou le commerce d'exportation, à la commercialisation des œufs d'incubation de poulet de chair ou des poussins destinés à la production de poulets*, ci-après, pris par l'Office canadien de commercialisation des œufs d'incubation de poulet de chair le 30 juin 1987.

Ottawa, le 13 août 1987

REGULATIONS RESPECTING THE ESTABLISHMENT OF A SYSTEM OF LICENSING OF PERSONS ENGAGED IN THE MARKETING IN INTERPROVINCIAL OR EXPORT TRADE OF BROILER HATCHING EGGS OR CHICKS PRODUCED FOR CHICKEN PRODUCTION

SHORT TITLE

1. These Regulations may be cited as the *Canadian Broiler Hatching Egg and Chick Licensing Regulations*.

INTERPRETATION

2. (1) In these Regulations,
- “Agency” [Repealed, SOR/2013-254, s. 1]
- “broiler hatching egg” [Repealed, SOR/2013-254, s. 1]
- “buyer” means a chicken producer, dealer or hatchery operator who buys broiler hatching eggs or chicks produced for chicken production; (*acheteur*)
- “chick” [Repealed, SOR/2013-254, s. 1]
- “licence” means a buyer’s licence or a seller’s licence issued pursuant to section 5; (*permis*)
- “marketing” [Repealed, SOR/2013-254, s. 1]
- “non-signatory provinces” [Repealed, SOR/2013-254, s. 1]
- “producer” [Repealed, SOR/2013-254, s. 1]
- “seller” means a producer, dealer or hatchery operator who sells broiler hatching eggs or chicks produced for chicken production; (*vendeur*)
- “signatory provinces” [Repealed, SOR/2013-254, s. 1]

RÈGLEMENT CONCERNANT L’ÉTABLISSEMENT D’UN SYSTÈME D’OCTROI DE PERMIS POUR LES PERSONNES SE LIVRANT, DANS LE COMMERCE INTERPROVINCIAL OU LE COMMERCE D’EXPORTATION, À LA COMMERCIALISATION DES OEUFS D’INCUBATION DE POULET DE CHAIR OU DES POUSSINS DESTINÉS À LA PRODUCTION DE POULETS

TITRE ABRÉGÉ

1. *Règlement sur l’octroi de permis visant les oeufs d’incubation de poulet de chair et les poussins du Canada.*

DÉFINITIONS

2. (1) Les définitions qui suivent s’appliquent au présent règlement.
- «acheteur» Tout couvoirier, négociant ou producteur de poulets qui achète des oeufs d’incubation de poulet de chair ou des poussins destinés à la production de poulets. (*buyer*)
- «commercialisation» [Abrogée, DORS/2013-254, art. 1]
- «oeuf d’incubation de poulet de chair» [Abrogée, DORS/2013-254, art. 1]
- «Office» [Abrogée, DORS/2013-254, art. 1]
- «permis» Permis d’acheteur ou de vendeur délivré conformément à l’article 5. (*licence*)
- «poussin» [Abrogée, DORS/2013-254, art. 1]
- «producteur» [Abrogée, DORS/2013-254, art. 1]
- «provinces non signataires» [Abrogée, DORS/2013-254, art. 1]
- «provinces signataires» [Abrogée, DORS/2013-254, art. 1]
- «vendeur» Tout couvoirier, négociant ou producteur qui vend des oeufs d’incubation de poulet de chair ou des poussins destinés à la production de poulets. (*seller*)

(2) Unless otherwise provided, the definitions in section 1 of the schedule to the *Canadian Hatching Egg Producers Proclamation* apply in these Regulations.

SOR/87-698, s. 1; SOR/90-28, s. 1; SOR/2008-11, s. 1; SOR/2013-254, s. 1.

APPLICATION

3. These Regulations apply

(a) to persons engaged in the marketing in inter-provincial or export trade of broiler hatching eggs or chicks produced in a signatory province for chicken production; and

(b) to persons engaged in the interprovincial marketing from a non-signatory province into a signatory province of broiler hatching eggs or chicks produced in the non-signatory province for chicken production.

3.1 (1) These Regulations do not apply to buyers — whose province of operation is set out in column 1 of the table to this subsection — engaged in the interprovincial trade of chicks produced for chicken production and who, in a calendar year, purchase for on-farm consumption no more than the permitted number of chicks set out in column 2.

TABLE

	Column 1	Column 2
Item	Province	Permitted Number of Chicks per Calendar Year
1.	Ontario	300
2.	Quebec	100
3.	Nova Scotia	50
4.	New Brunswick	200
5.	Manitoba	999
6.	British Columbia	200
7.	Prince Edward Island	500
8.	Saskatchewan	999
9.	Alberta	2,000
10.	Newfoundland and Labrador	100

(2) Sauf disposition contraire, les définitions qui figurent à l'article 1 de l'annexe de la *Proclamation visant Les Producteurs d'oeufs d'incubation du Canada* s'appliquent au présent règlement.

DORS/87-698, art. 1; DORS/90-28, art. 1; DORS/2008-11, art. 1; DORS/2013-254, art. 1.

APPLICATION

3. Le présent règlement s'applique aux personnes suivantes :

a) les personnes se livrant, dans le commerce inter-provincial ou le commerce d'exportation, à la commercialisation d'oeufs d'incubation de poulet de chair ou de poussins destinés à la production de poulets provenant des provinces signataires;

b) les personnes se livrant, dans le commerce inter-provincial, à la commercialisation d'oeufs d'incubation de poulets de chair ou de poussins destinés à la production de poulets en provenance des provinces non signataires à destination des provinces signataires.

3.1 (1) Le présent règlement ne s'applique pas à l'acheteur qui fait le commerce interprovincial de poussins destinés à la production de poulets et qui, au cours d'une année civile, n'achète pas plus que le nombre maximal de poussins prévu, pour sa province, au tableau du présent paragraphe pour consommation à la ferme.

TABLEAU

	Colonne 1	Colonne 2
Article	Province	Nombre maximal de poussins par année civile
1.	Ontario	300
2.	Québec	100
3.	Nouvelle-Écosse	50
4.	Nouveau-Brunswick	200
5.	Manitoba	999
6.	Colombie-Britannique	200
7.	Île-du-Prince-Édouard	500
8.	Saskatchewan	999
9.	Alberta	2000
10.	Terre-Neuve-et-Labrador	100

(2) Buyers referred to in subsection (1) must not knowingly engage in the marketing in interprovincial trade of chicks produced for chicken production except with a person who holds an appropriate licence issued by the Agency under these Regulations and, in the case of chicks produced in a non-signatory province, unless the person holds an orderly marketing quota issued under the *Canadian Broiler Hatching Egg and Chick Orderly Marketing Regulations*.

SOR/2008-12, s. 1.

3.2 These Regulations apply to the sellers of chicks who sell to the buyers referred to in subsection 3.1(1).

SOR/2008-12, s. 1.

PROHIBITION

4. (1) No buyer shall engage in the marketing in interprovincial or export trade of broiler hatching eggs or chicks produced in a signatory province for chicken production unless the buyer holds a buyer's licence.

(2) No seller shall engage in the marketing in interprovincial or export trade of broiler hatching eggs or chicks produced in a signatory province for chicken production unless the seller holds a seller's licence.

(3) No buyer shall engage in the interprovincial marketing from a non-signatory province into a signatory province of broiler hatching eggs or chicks produced for chicken production unless the buyer holds a buyer's licence.

(4) No seller shall engage in the interprovincial marketing from a non-signatory province into a signatory province of broiler hatching eggs or chicks produced for chicken production unless the seller holds a seller's licence.

(2) L'acheteur visé au paragraphe (1) ne doit sciemment se livrer au commerce interprovincial de poussins destinés à la production de poulets, qu'avec des personnes détenant le permis approprié délivré par l'Office conformément au présent règlement et, dans le cas de poussins produits dans une province non signataire, des personnes détenant un contingent de commercialisation attribué conformément au *Règlement canadien sur la commercialisation des oeufs d'incubation de poulet de chair et des poussins*.

DORS/2008-12, art. 1.

3.2 Le présent règlement s'applique aux vendeurs de poussins qui vendent à l'acheteur visé au paragraphe 3.1(1).

DORS/2008-12, art. 1.

INTERDICTION

4. (1) Nul acheteur ne peut commercialiser dans le commerce interprovincial ou le commerce d'exportation des oeufs d'incubation de poulet de chair ou des poussins destinés à la production de poulets provenant des provinces signataires à moins de détenir un permis d'acheteur.

(2) Nul vendeur ne peut commercialiser dans le commerce interprovincial ou le commerce d'exportation des oeufs d'incubation de poulet de chair ou des poussins destinés à la production de poulets provenant des provinces signataires à moins de détenir un permis de vendeur.

(3) Nul acheteur ne peut commercialiser dans le commerce interprovincial des oeufs d'incubation de poulet de chair ou des poussins destinés à la production de poulets en provenance des provinces non signataires à destination des provinces signataires à moins de détenir un permis d'acheteur.

(4) Nul vendeur ne peut commercialiser dans le commerce interprovincial des oeufs d'incubation de poulet de chair ou des poussins destinés à la production de poulets en provenance des provinces non signataires à destination des provinces signataires à moins de détenir un permis de vendeur.

LICENCE

5. Subject to section 8, the Agency shall issue a licence to any person who applies for one.

SOR/88-580, s. 1.

6. A licence

(a) expires on December 31 of the year for which it is issued; and

(b) is not transferable.

7. A licence is subject to the following terms and conditions:

(a) the person to whom a licence is issued

(i) at all times during the term of the licence complies with the orders, regulations or requirements of the Agency or the National Farm Products Council that are applicable to that person,

(ii) at all times during the term of the licence complies with the orders, regulations or directives made pursuant to a provincial broiler hatching egg marketing plan referred to in the *Federal-Provincial Agreement for Broiler Hatching Eggs*, authorized by Order in Council P.C. 1986-2653*, that are applicable to that person,

(iii) submits to the Agency in respect of the period set out in the licence a report containing the information set out in the schedule, and

(iv) keeps complete and accurate books and records of all matters related to the marketing in interprovincial or export trade of broiler hatching eggs or chicks produced for chicken production by the person and retains the books and records for a period of not less than six years after the day of the last entry therein; and

(b) the person to whom a licence is issued does not knowingly engage

(i) in the marketing in interprovincial trade of chicks except with a person who holds an appropri-

PERMIS

5. Sous réserve de l'article 8, l'Office délivre un permis à toute personne qui en fait la demande.

DORS/88-580, art. 1.

6. Tout permis :

a) d'une part, expire le 31 décembre de l'année pour laquelle il a été délivré;

b) d'autre part, ne peut être cédé.

7. Le permis est assujéti aux modalités et conditions suivantes :

a) le titulaire du permis :

(i) se conforme aux ordonnances, règlements ou exigences de l'Office ou du Conseil national des produits agricoles qui le visent,

(ii) se conforme aux ordonnances, règlements ou directives pris en vertu d'un plan provincial de commercialisation d'oeufs d'incubation de poulet de chair visé à l'*Entente fédérale-provinciale sur les oeufs d'incubation de poulet à chair*, autorisée par le décret C.P. 1986-2653*, qui le visent,

(iii) présente à l'Office, pour chaque période indiquée dans le permis, un rapport comportant les renseignements visés à l'annexe,

(iv) tient des registres complets et exacts sur toutes les questions touchant ses activités de commercialisation des oeufs d'incubation de poulet de chair ou des poussins destinés à la production de poulets dans le commerce interprovincial ou le commerce d'exportation et conserve ces registres pendant au moins six ans à compter de la dernière inscription;

b) le titulaire du permis ne commercialise pas sciemment :

(i) des poussins destinés à la production de poulets dans le commerce interprovincial, sauf avec une personne qui détient un permis approprié ou qui est l'acheteur visé au paragraphe 3.1(1),

* Not published in the *Canada Gazette*, Part II.

* Non publié dans la *Gazette du Canada* Partie II

ate licence or who is a buyer referred to in subsection 3.1(1),

(ii) in the marketing in interprovincial or export trade of broiler hatching eggs produced in a signatory province, except for broiler hatching eggs that have been produced by a producer who has been allotted an interprovincial quota or export quota pursuant to the *Canadian Hatching Egg Producers Quota Regulations*, or

(iii) in the interprovincial marketing from a non-signatory province into a signatory province of broiler hatching eggs produced in the non-signatory province, except for broiler hatching eggs that have been marketed by a person who has been allotted an orderly marketing quota pursuant to the *Canadian Broiler Hatching Egg and Chick Orderly Marketing Regulations*.

SOR/88-580, s. 2; SOR/2008-11, s. 2; SOR/2008-12, s. 2; SOR/2013-254, s. 2.

8. (1) The Agency may refuse to issue a licence to an applicant

(a) who is a producer, if the applicant has not been allotted a quota by the Agency pursuant to the *Canadian Broiler Hatching Egg and Chick Orderly Marketing Quota Regulations* or the *Canadian Hatching Egg Producers Quota Regulations*;

(b) if the applicant does not comply with any order, regulation or requirement of the Agency or the National Farm Products Council that is applicable to the applicant; or

(c) if the applicant does not comply with any order, regulation or directive made pursuant to a provincial broiler hatching egg marketing plan referred to in the *Federal-Provincial Agreement for Broiler Hatching Eggs*, authorized by Order in Council P.C. 1986-2653*, that is applicable to the applicant.

(ii) dans le commerce interprovincial ou le commerce d'exportation, des oeufs d'incubation de poulet de chair produits dans une province signataire par un producteur à qui un contingent interprovincial ou un contingent d'exportation n'a pas été attribué conformément au *Règlement des Producteurs d'oeufs d'incubation du Canada sur le contingentement*,

(iii) dans le commerce interprovincial, d'une province non signataire à destination d'une province signataire, des oeufs d'incubation de poulet de chair produits dans la province non signataire par un producteur à qui un contingent de commercialisation n'a pas été attribué conformément au *Règlement canadien sur la commercialisation des oeufs d'incubation de poulet de chair et des poussins*.

DORS/88-580, art. 2; DORS/2008-11, art. 2; DORS/2008-12, art. 2; DORS/2013-254, art. 2.

8. (1) L'Office peut refuser de délivrer un permis à un demandeur :

a) qui est producteur, si celui-ci ne détient pas un contingent attribué conformément au *Règlement des Producteurs d'oeufs d'incubation du Canada sur le contingentement* ou au *Règlement canadien sur la commercialisation des oeufs d'incubation de poulet de chair et des poussins*;

b) si celui-ci ne se conforme pas aux ordonnances, règlements ou exigences de l'Office ou du Conseil national des produits agricoles qui le visent;

c) si celui-ci ne se conforme pas aux ordonnances, règlements ou directives pris en vertu d'un plan provincial de commercialisation d'oeufs d'incubation de poulet de chair visé à l'*Entente fédérale-provinciale sur les oeufs d'incubation de poulet à chair*, autorisée par le décret C.P. 1986-2653*, qui le visent.

* Not published in the *Canada Gazette* Part II.

* Non publié dans la *Gazette du Canada* Partie II

(2) Where a person to whom a licence was issued fails to comply with any term or condition to which the licence is subject, the Agency may suspend, cancel or refuse to renew the licence.

SOR/2008-11, s. 2; SOR/2013-254, s. 3.

9. (1) Where the Agency intends to refuse to issue or renew a licence or intends to suspend or cancel a licence, the Agency shall give notice of its intention to the applicant or the person to whom the licence was issued by personal service or registered mail.

(2) The notice referred to in subsection (1) shall set out

(a) the grounds on which the Agency bases its intention; and

(b) the day on which and the time and place at which the applicant or the person to whom the licence was issued may show cause why the licence should be issued or renewed or should not be suspended or cancelled.

(3) The day referred to in paragraph (2)(b) shall be not less than 30 days after the day of the service or mailing of the notice.

(2) L'Office peut suspendre, annuler ou refuser de renouveler un permis si le titulaire n'a pas respecté l'une des conditions ou modalités du permis.

DORS/2008-11, art. 2; DORS/2013-254, art. 3.

9. (1) Lorsque l'Office envisage de ne pas délivrer ou renouveler, de suspendre ou d'annuler un permis, il en fait part au demandeur ou au titulaire du permis par un avis qui lui est remis en mains propres ou expédié par courrier recommandé.

(2) L'avis visé au paragraphe (1) précise ce qui suit :

a) les raisons qui motivent la mesure envisagée par l'Office;

b) les jour, heure et lieu où le demandeur ou le titulaire du permis pourra se présenter devant l'Office pour faire valoir ses arguments à l'encontre de cette mesure.

(3) Le jour visé à l'alinéa (2)b) doit être au moins 30 jours après le jour de remise ou de mise à la poste de l'avis.

SCHEDULE I
[Revoked, SOR/88-580, s. 3]

ANNEXE I
[Abrogée, DORS/88-580, art. 3]

SCHEDULE
(Subparagraph 7(a)(iii))

INFORMATION

1. Name, address and licence number of the person to whom the licence was issued.
2. The quantity of broiler hatching eggs or chicks, marketed in interprovincial or export trade during the period set out in the licence.
3. The name, address and licence number of the licensee from whom the broiler hatching eggs or chicks were bought or to whom the broiler hatching eggs or chicks were sold.
4. In the case of broiler hatching eggs, the price at which the broiler hatching eggs were bought or sold.
5. In the case of broiler hatching eggs for export, the name and address of the buyer, the name of the transporter, the date of export and the place of final destination.

SOR/88-580, s. 4; SOR/2013-254, ss. 4(F), 5(E).

ANNEXE
(sous-alinéa 7a)(iii))

RENSEIGNEMENTS

1. Nom, adresse et numéro de permis du titulaire du permis.
2. Nombre d'œufs d'incubation de poulet de chair ou de poussins destinés à la production de poulets commercialisés dans le commerce interprovincial ou le commerce d'exportation durant la période indiquée dans le permis.
3. Nom, adresse et numéro de permis du titulaire du permis à qui les œufs d'incubation de poulet de chair ou les poussins destinés à la production de poulets ont été achetés ou à qui ils ont été vendus.
4. Le prix des œufs d'incubation de poulet de chair achetés ou vendus.
5. Dans le cas d'œufs d'incubation de poulet de chair destinés à l'exportation, les nom et adresse de l'acheteur, le nom du transporteur, la date de l'exportation et la destination finale.

DORS/88-580, art. 4; DORS/2013-254, art. 4(F) et 5(A).



CANADA

CONSOLIDATION

CODIFICATION

Canadian Broiler
Hatching Egg and Chick
Orderly Marketing
Regulations

Règlement canadien sur
la commercialisation des
œufs d'incubation de
poulet de chair et des
poussins

SOR/2000-283

DORS/2000-283

Current to September 30, 2015

À jour au 30 septembre 2015

Last amended on December 23, 2013

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OFFICIAL STATUS
OF CONSOLIDATIONS

CARACTÈRE OFFICIEL
DES CODIFICATIONS

Subsections 31(1) and (3) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Les paragraphes 31(1) et (3) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit:

Published
consolidation is
evidence

31. (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

31. (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Codifications
comme élément
de preuve

...

[...]

Inconsistencies
in regulations

(3) In the event of an inconsistency between a consolidated regulation published by the Minister under this Act and the original regulation or a subsequent amendment as registered by the Clerk of the Privy Council under the *Statutory Instruments Act*, the original regulation or amendment prevails to the extent of the inconsistency.

(3) Les dispositions du règlement d'origine avec ses modifications subséquentes enregistrées par le greffier du Conseil privé en vertu de la *Loi sur les textes réglementaires* l'emportent sur les dispositions incompatibles du règlement codifié publié par le ministre en vertu de la présente loi.

Incompatibilité
— règlements

NOTE

This consolidation is current to September 30, 2015. The last amendments came into force on December 23, 2013. Any amendments that were not in force as of September 30, 2015 are set out at the end of this document under the heading “Amendments Not in Force”.

NOTE

Cette codification est à jour au 30 septembre 2015. Les dernières modifications sont entrées en vigueur le 23 décembre 2013. Toutes modifications qui n'étaient pas en vigueur au 30 septembre 2015 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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Registration
SOR/2000-283 June 30, 2000

FARM PRODUCTS AGENCIES ACT

Canadian Broiler Hatching Egg and Chick Orderly Marketing Regulations

Whereas the Governor in Council has, by the *Canadian Broiler Hatching Egg Marketing Agency Proclamation*^a, established the Canadian Broiler Hatching Egg Marketing Agency pursuant to subsection 16(1)^b of the *Farm Products Agencies Act*;

Whereas the Canadian Broiler Hatching Egg Marketing Agency has been empowered to implement a marketing plan pursuant to that Proclamation;

Whereas that Proclamation was amended on May 8, 1989^d to authorize the Canadian Broiler Hatching Egg Marketing Agency to establish a quota system for persons engaged in the marketing of chicks produced in a non-signatory province and marketed into a signatory province;

Whereas the proposed annexed *Canadian Broiler Hatching Egg and Chick Orderly Marketing Regulations* are regulations of a class to which paragraph 7(1)(d)^e of that Act applies by reason of section 2 of the *Agencies' Orders and Regulations Approval Order*^f, and have been submitted to the National Farm Products Council pursuant to paragraph 22(1)(f) of that Act;

And whereas, pursuant to paragraph 7(1)(d)^e of that Act, the National Farm Products Council is satisfied that the proposed regulations are necessary for the implementation of the marketing plan that the Canadian Broiler Hatching Egg Marketing Agency is authorized to implement, and has approved the proposed regulations;

^a SOR/87-40

^b S.C. 1993, c. 3, par. 13(b)

^c S.C. 1993, c. 3, s. 2

^d SOR/89-250

^e S.C. 1993, c. 3, s. 7(2)

^f C.R.C., c. 648

Enregistrement
DORS/2000-283 Le 30 juin 2000

LOI SUR LES OFFICES DES PRODUITS AGRICOLES

Règlement canadien sur la commercialisation des œufs d'incubation de poulet de chair et des poussins

Attendu que, en vertu du paragraphe 16(1)^a de la *Loi sur les offices des produits agricoles*^b, le gouverneur en conseil a, par la *Proclamation visant l'Office canadien de commercialisation des œufs d'incubation de poulet de chair*^c, créé l'Office canadien de commercialisation des œufs d'incubation de poulet de chair;

Attendu que l'Office est habilité à mettre en œuvre un plan de commercialisation, conformément à cette proclamation;

Attendu que cette proclamation a été modifiée le 8 mai 1989^d afin d'autoriser l'Office à constituer un système de contingentement pour les personnes qui se livrent à la commercialisation des poussins produits dans une province non signataire pour être commercialisés dans une province signataire;

Attendu que le projet de règlement intitulé *Règlement canadien sur la commercialisation des œufs d'incubation de poulet de chair et des poussins*, ci-après, relève d'une catégorie à laquelle s'applique l'alinéa 7(1)(d)^e de cette loi, conformément à l'article 2 de l'*Ordonnance sur l'approbation des ordonnances et règlements des offices*^f, et a été soumis au Conseil national des produits agricoles, conformément à l'alinéa 22(1)(f) de cette loi;

Attendu que, en vertu de l'alinéa 7(1)(d)^e de cette loi, le Conseil national des produits agricoles, étant convaincu que le projet de règlement est nécessaire à l'exécution

^a L.C. 1993, ch. 3, al. 13b)

^b L.C. 1993, ch. 3, art. 2

^c DORS/87-40

^d DORS/89-250

^e L.C. 1993, ch. 3, par. 7(2)

^f C.R.C., ch. 648

Therefore, the Canadian Broiler Hatching Egg Marketing Agency, pursuant to paragraph 22(1)(f) of the *Farm Products Agencies Act*^c and subsections 5(2) and 6.1(1)^d of the schedule to the *Canadian Broiler Hatching Egg Marketing Agency Proclamation*^a, hereby makes the annexed *Canadian Broiler Hatching Egg and Chick Orderly Marketing Regulations*.

Ottawa, Ontario, June 30, 2000

du plan de commercialisation que l'Office est habilité à mettre en œuvre, a approuvé ce projet,

À ces causes, en vertu de l'alinéa 22(1)f) de la *Loi sur les offices des produits agricoles*^b et des paragraphes 5(2) et 6.1(1)^d de l'annexe de la *Proclamation visant l'Office canadien de commercialisation des œufs d'incubation de poulet de chair*^c, l'Office canadien de commercialisation des œufs d'incubation de poulet de chair prend le *Règlement canadien sur la commercialisation des œufs d'incubation de poulet de chair et des poussins*, ci-après.

Ottawa (Ontario), le 30 juin 2000

^c S.C. 1993, c. 3, s. 2

^d SOR/89-250

^a SOR/87-40

^c DORS/87-40

^d DORS/89-250

^a L.C. 1993, ch. 3, al. 13b)

CANADIAN BROILER HATCHING EGG AND
CHICK ORDERLY MARKETING
REGULATIONS

INTERPRETATION

1. (1) The definitions in this section apply in these Regulations.

“Act” [Repealed, SOR/2013-255, s. 1]

“Agency” [Repealed, SOR/2013-255, s. 1]

“broiler hatching egg” [Repealed, SOR/2013-255, s. 1]

“chick” [Repealed, SOR/2013-255, s. 1]

“dealer” means a person, other than a producer or hatchery operator, engaged in the marketing in interprovincial trade into a signatory province of broiler hatching eggs or chicks produced in a non-signatory province. (*négo-ciant*)

“hatchability” means the percentage of saleable chicks obtained from the incubation of broiler hatching eggs as established for each province by the Department of Agriculture and Agri-Food and published by that Department in the *Hatchery Review*. (*coefficient d’éclosion*)

“hatchery operator” means a person who incubates broiler hatching eggs into chicks. (*couvoirier*)

“marketing” [Repealed, SOR/2013-255, s. 1]

“non-signatory provinces” [Repealed, SOR/2013-255, s. 1]

“orderly marketing quota” means the number of broiler hatching eggs or chicks produced in a non-signatory province that a producer, dealer or hatchery operator is authorized under these Regulations to market in interprovincial trade into a signatory province during a year. (*contingent de commercialisation*)

“producer” means a person engaged in the production of broiler hatching eggs in a non-signatory province. (*producteur*)

“qualifying period” means

RÈGLEMENT CANADIEN SUR LA
COMMERCIALISATION DES ŒUFS
D’INCUBATION DE POULET DE CHAIR ET
DES POUSSINS

DÉFINITIONS

1. (1) Les définitions qui suivent s’appliquent au présent règlement.

«coefficient d’éclosion » Le pourcentage de poussins vendables obtenus de l’incubation d’œufs d’incubation de poulet de chair que le ministère de l’Agriculture et de l’Agroalimentaire établit pour chaque province et publie dans la *Revue sur les couvoirs*. (*hatchability*)

«commercialisation» [Abrogée, DORS/2013-255, art. 1]

«contingent de commercialisation» Le nombre d’œufs d’incubation de poulet de chair ou de poussins produits dans une province non signataire qu’un producteur, un négociant ou un couvoirier est autorisé, aux termes du présent règlement, à commercialiser durant une année sur le marché interprovincial à destination d’une province signataire. (*orderly marketing quota*)

«couvoirier» Personne qui fait éclore des œufs d’incubation de poulet de chair pour en produire des poussins. (*hatchery operator*)

«Loi» [Abrogée, DORS/2013-255, art. 1]

«négociant» Personne, autre qu’un producteur ou un couvoirier, qui commercialise sur le marché interprovincial à destination d’une province signataire les œufs d’incubation de poulet de chair ou les poussins produits dans une province non signataire. (*dealer*)

«œuf d’incubation de poulet de chair» [Abrogée, DORS/2013-255, art. 1]

«Office» [Abrogée, DORS/2013-255, art. 1]

«période de référence»

a) En ce qui a trait aux œufs d’incubation de poulet de chair, la période commençant le 27 novembre 1985 et se terminant le 26 novembre 1986;

b) en ce qui a trait aux poussins, la période commençant le 1^{er} août 1988 et se terminant le 31 juillet 1989. (*qualifying period*)

(a) in relation to broiler hatching eggs, the period beginning on November 27, 1985 and ending on November 26, 1986; and

(b) in relation to chicks, the period beginning on August 1, 1988 and ending on July 31, 1989. (*période de référence*)

“signatory provinces” [Repealed, SOR/2013-255, s. 1]

(2) Unless otherwise provided, the definitions in section 1 of the schedule to the *Canadian Hatching Egg Producers Proclamation* apply in these Regulations.

SOR/2008-9, s. 1; SOR/2013-255, s. 1.

MARKETING RESTRICTIONS

2. No producer, dealer or hatchery operator shall engage in the marketing of broiler hatching eggs or chicks produced in a non-signatory province in interprovincial trade into a signatory province unless that producer, dealer or hatchery operator

(a) holds an orderly marketing quota for that signatory province; and

(b) markets a number of broiler hatching eggs or chicks that is not in excess of the orderly marketing quota referred to in paragraph (a).

3. (1) Section 2 does not apply to a producer, dealer or hatchery operator where

(a) broiler hatching eggs produced in a non-signatory province are marketed by the producer, dealer or hatchery operator in a non-signatory province into a signatory province;

(b) a number of chicks, equivalent to 96% of the number of broiler hatching eggs referred to in paragraph (a), will be returned by the hatchery operator in the signatory province to the producer in the province in which the eggs were produced or to the dealer or hatchery operator from whom the eggs were received;

(c) the producer, dealer or hatchery operator in a non-signatory province applies for, and receives from the

«poussin» [Abrogée, DORS/2013-255, art. 1]

«producteur» Personne qui se livre à la production d’œufs d’incubation de poulet de chair dans une province non signataire. (*producer*)

«provinces non signataires» [Abrogée, DORS/2013-255, art. 1]

«provinces signataires» [Abrogée, DORS/2013-255, art. 1]

(2) Sauf disposition contraire, les définitions qui figurent à l’article 1 de l’annexe de la *Proclamation visant Les Producteurs d’œufs d’incubation du Canada* s’appliquent au présent règlement.

DORS/2008-9, art. 1; DORS/2013-255, art. 1.

RESTRICTIONS

2. Il est interdit à tout producteur, négociant ou couvoirier de commercialiser sur le marché interprovincial à destination d’une province signataire des œufs d’incubation de poulet de chair ou des poussins produits dans une province non signataire, à moins :

a) d’une part, de détenir un contingent de commercialisation à l’égard de cette province signataire;

b) d’autre part, de respecter les limites de ce contingent de commercialisation.

3. (1) L’article 2 ne s’applique ni au producteur ni au négociant ni au couvoirier lorsque les conditions suivantes sont réunies :

a) les œufs d’incubation de poulet de chair produits dans une province non signataire sont commercialisés sur le marché d’une province signataire par le producteur, le négociant ou le couvoirier d’une province non signataire;

b) un nombre de poussins équivalant à 96 % des œufs d’incubation de poulet de chair visés à l’alinéa a) sera retourné par le couvoirier de la province signataire au producteur de la province dans laquelle les œufs ont été produits ou au négociant ou au couvoirier de qui proviennent les œufs;

Agency, authorization to market a designated quantity of broiler hatching eggs;

(d) the producer, dealer or hatchery operator in a non-signatory province markets broiler hatching eggs only to the extent of the Agency authorization granted; and

(e) the broiler hatching eggs are marketed pursuant to a contract that is in the form provided by the Agency and that

(i) specifies the number of broiler hatching eggs to be marketed and the number of chicks to be returned to the province in which the eggs were produced, and

(ii) provides that the parties shall comply with any applicable Order, Regulation or requirement of the Agency.

(2) The application referred to in paragraph (1)(c) shall

(a) be in the form provided by the Agency;

(b) be completed and signed by the applicant;

(c) contain information relevant to the marketing of the broiler hatching eggs and chicks, including

(i) the number of eggs to be marketed and the number of chicks to be returned to the province in which the eggs were produced, and

(ii) the price at which any such eggs shall be marketed;

(d) be accompanied by invoices, sales receipts or other documents evidencing the number of broiler hatching eggs marketed by the applicant in the year prior to the year for which the application is being made; and

(e) be filed with the Agency

(i) for the year 2000, on or before September 1, 2000, and

c) sur présentation d'une demande, le producteur, le négociant ou le couvoirier d'une province non signataire obtient de l'Office l'autorisation de commercialiser une quantité déterminée d'œufs d'incubation de poulet de chair;

d) le producteur, le négociant ou le couvoirier d'une province non signataire commercialise les œufs d'incubation de poulet de chair conformément à l'autorisation;

e) les œufs d'incubation de poulet de chair sont commercialisés aux termes d'un contrat présenté sur le formulaire fourni par l'Office, lequel spécifie :

(i) le nombre d'œufs d'incubation de poulet de chair à commercialiser et le nombre de poussins à retourner à la province dans laquelle les œufs ont été produits,

(ii) l'obligation pour les parties au contrat de se conformer aux ordonnances, règlements ou exigences applicables de l'Office.

(2) La demande d'autorisation :

a) est présentée sur le formulaire fourni par l'Office;

b) est remplie et signée par le demandeur;

c) comprend des renseignements relatifs à la commercialisation des œufs d'incubation de poulet de chair et des poussins, notamment :

(i) le nombre d'œufs qui seront commercialisés et le nombre de poussins qui seront retournés à la province dans laquelle les œufs ont été produits,

(ii) le prix auquel les œufs seront commercialisés;

d) est accompagnée des factures, reçus ou autres pièces justificatives établissant le nombre d'œufs d'incubation de poulet de chair commercialisés par le demandeur pendant l'année précédant celle visée par la demande;

e) doit être présentée à l'Office :

(i) au plus tard le 1^{er} septembre 2000, pour l'année 2000,

(ii) for subsequent years, on or before October 1 of the year preceding the year for which the authorization is sought.

(3) The Agency shall grant an authorization if the applicant meets the requirements set out in this section.

(4) An authorization issued under this section expires on December 31 of the year for which it is issued.

ORDERLY MARKETING QUOTAS

4. (1) A producer, dealer or hatchery operator who, during the qualifying period, marketed into a signatory province broiler hatching eggs or chicks produced in a non-signatory province and who wishes to obtain an orderly marketing quota shall

(a) apply to the Agency for a licence, pursuant to the *Canadian Broiler Hatching Egg and Chick Licensing Regulations*, for the year to which the quota applies; and

(b) apply to the Agency for a quota no later than September 30 of the year preceding the year in respect of which the quota applies.

(2) An application for an orderly marketing quota referred to in subsection (1) shall

(a) be in the form provided by the Agency;

(b) be completed and signed by the applicant; and

(c) in the case of an application by an applicant to whom an orderly marketing quota has not previously been allotted, be accompanied by invoices, sales receipts or other evidence of the number of broiler hatching eggs or chicks produced in a non-signatory province and marketed by the applicant in interprovincial trade into the signatory province during the qualifying period.

(3) An applicant referred to in paragraph (2)(c) shall make the applicant's books and records available for examination in order that the Agency may verify the accuracy of the information given pursuant to that paragraph.

(ii) au plus tard le 1^{er} octobre précédant l'année à laquelle s'applique l'autorisation, pour les années subséquentes.

(3) L'Office accorde l'autorisation si le demandeur satisfait aux exigences du présent article.

(4) L'autorisation donnée en vertu du présent article expire le 31 décembre de l'année qu'elle vise.

CONTINGENT DE COMMERCIALISATION

4. (1) Tout producteur, négociant ou couvoirier qui, durant la période de référence, a commercialisé dans une province signataire des œufs d'incubation de poulet de chair ou des poussins produits dans une province non signataire et qui désire obtenir un contingent de commercialisation doit à la fois :

a) présenter à l'Office, conformément au *Règlement sur l'octroi de permis visant les œufs d'incubation de poulet de chair et les poussins du Canada*, une demande de permis pour l'année visée par le contingent;

b) présenter à l'Office une demande de contingent au plus tard le 30 septembre de l'année précédant celle visée par le contingent.

(2) La demande de contingent de commercialisation :

a) est présentée sur le formulaire fourni par l'Office;

b) est remplie et signée par le demandeur;

c) dans le cas où aucun contingent de commercialisation n'a été attribué auparavant au demandeur, est accompagnée des factures, reçus ou autres pièces justificatives établissant le nombre d'œufs d'incubation de poulet de chair ou de poussins produits dans une province non signataire que le demandeur a commercialisés sur le marché interprovincial à destination de la province signataire pendant la période de référence.

(3) Le demandeur visé à l'alinéa (2)c) doit permettre à l'Office d'examiner ses registres afin de vérifier l'exactitude des renseignements fournis conformément à cet alinéa.

5. (1) The Agency shall allot an orderly marketing quota to any applicant who meets the requirements of section 4 and is a holder of a licence under the *Canadian Broiler Hatching Egg and Chick Licensing Regulations* for the year in respect of which the orderly marketing quota applies.

(2) The orderly marketing quota in respect of a signatory province allotted to an applicant under subsection (1) for a year shall be equal to the number of broiler hatching eggs and chicks, adjusted to take into account the principle of comparative advantage of production, determined by the formula

$$X \times Y$$

where

X represents the percentage change, from the year the signatory province was first referred to in the definition “signatory provinces” in section 1 of the schedule to the *Canadian Hatching Egg Producers Proclamation* to the year in respect of which the orderly marketing quota is to apply, in the amount that is the total number of broiler hatching eggs and chicks subject to limits for that signatory province as set out in the schedule to the *Canadian Hatching Egg Producers Quota Regulations*, and

Y represents the number of broiler hatching eggs and chicks that were marketed during the qualifying period by the applicant into that signatory province.

SOR/2008-9, s. 2.

6. (1) An orderly marketing quota shall be expressed in a number of broiler hatching eggs.

(2) For the purpose of marketing chicks, the number of broiler hatching eggs in the orderly marketing quota shall be converted into the number of chicks by multiplying the number of broiler hatching eggs in the quota by the hatchability for the province of production during the year preceding the year in which the chicks are marketed.

5. (1) L’Office attribue un contingent de commercialisation à tout demandeur qui satisfait aux exigences de l’article 4 et qui détient un permis délivré en vertu du *Règlement sur l’octroi de permis visant les œufs d’incubation de poulet de chair et les poussins du Canada* pour l’année visée par le contingent.

(2) Le contingent de commercialisation pour une province signataire attribué à un demandeur pour une année en vertu du paragraphe (1) est égal au nombre d’œufs d’incubation de poulet de chair et de poussins, rajusté pour tenir compte du principe des avantages comparatifs de production, calculé selon la formule suivante :

$$X \times Y$$

où :

X représente la variation, exprimée en pourcentage, du nombre total d’œufs d’incubation de poulet de chair et de poussins assujettis, dans une province signataire, aux limites prévues à l’annexe du *Règlement des Producteurs d’œufs d’incubation du Canada sur le contingentement* au cours de la période allant de l’année où la province signataire figure pour la première fois dans la définition de «provinces signataires», à l’article 1 de l’annexe de la *Proclamation visant Les Producteurs d’œufs d’incubation du Canada*, à l’année visée par le contingent de commercialisation;

Y le nombre d’œufs d’incubation de poulet de chair et de poussins que le demandeur a commercialisés dans cette province signataire durant la période de référence.

DORS/2008-9, art. 2.

6. (1) Tout contingent de commercialisation est exprimé en nombre d’œufs d’incubation de poulet de chair.

(2) Pour la commercialisation des poussins, le nombre d’œufs d’incubation de poulet de chair du contingent de commercialisation est converti en nombre de poussins de la façon suivante : le nombre d’œufs est multiplié par le coefficient d’éclosion applicable à la province de production pour l’année précédant celle de la commercialisation des poussins.

7. An orderly marketing quota expires on December 31 of the year for which it is allotted.

8. (1) No producer, dealer or hatchery operator shall sell, give as security, lease or assign an orderly marketing quota.

(2) Where a producer, dealer or hatchery operator ceases to carry on business, the Agency may, on application, re-allot any orderly marketing quota held by that producer, dealer or hatchery operator on such terms and conditions as are necessary for the orderly marketing of broiler hatching eggs or chicks.

REDUCTION OF ORDERLY MARKETING QUOTAS

9. Where a producer, dealer or hatchery operator markets broiler hatching eggs or chicks produced in a non-signatory province in interprovincial trade into a signatory province in excess of that producer's, dealer's or hatchery operator's orderly marketing quota for that signatory province for a year, the Agency shall reduce, in such manner and to such extent as are necessary for the orderly marketing of broiler hatching eggs and chicks, that producer's, dealer's or hatchery operator's orderly marketing quota for that signatory province for the following year.

SUSPENSION AND CANCELLATION OF ORDERLY MARKETING QUOTAS

10. If a licence issued by the Agency to a producer, dealer or hatchery operator pursuant to the *Canadian Broiler Hatching Egg and Chick Licensing Regulations* is suspended or cancelled, the orderly marketing quota for that producer, dealer or hatchery operator shall be suspended or cancelled, as the case may be.

NEW ENTRANTS

11. The Agency shall, on application, on such terms and conditions as are necessary for the orderly marketing of broiler hatching eggs and chicks, allot orderly marketing quotas for a signatory province to persons in a non-

7. Le contingent de commercialisation expire le 31 décembre de l'année pour laquelle il est attribué.

8. (1) Il est interdit au producteur, négociant ou couvoirier de vendre, donner en garantie, louer ou céder son contingent de commercialisation.

(2) Dans le cas où un producteur, un négociant ou un couvoirier cesse d'exploiter son entreprise, l'Office peut attribuer le contingent de commercialisation détenu par celui-ci à quiconque en fait la demande, suivant les modalités qui sont nécessaires pour la commercialisation des œufs d'incubation de poulet de chair ou des poussins.

RÉDUCTION DU CONTINGENT DE COMMERCIALISATION

9. Si un producteur, un négociant ou un couvoirier commercialise sur le marché interprovincial à destination d'une province signataire un nombre d'œufs d'incubation de poulet de chair ou de poussins produits dans une province non signataire supérieur à son contingent de commercialisation à l'égard de la province signataire pour l'année, l'Office réduit le contingent à l'égard de la province signataire pour l'année suivante, suivant les modalités et dans la mesure nécessaires pour la commercialisation des œufs d'incubation de poulet de chair et des poussins.

SUSPENSION OU ANNULATION DU CONTINGENT DE COMMERCIALISATION

10. Si l'Office suspend ou annule le permis délivré au producteur, au négociant ou au couvoirier en vertu du *Règlement sur l'octroi de permis visant les œufs d'incubation de poulet de chair et les poussins du Canada*, le contingent de commercialisation détenu par celui-ci est, selon le cas, suspendu ou annulé.

NOUVEAUX PARTICIPANTS

11. L'Office attribue, sur demande et suivant les modalités qui sont nécessaires pour la commercialisation des œufs d'incubation de poulet de chair ou des poussins, des contingents de commercialisation à l'égard

signatory province who did not market broiler hatching eggs or chicks produced in the non-signatory province in interprovincial trade into the signatory province during the qualifying period, if

- (a) the market for broiler hatching eggs or chicks in the signatory province has increased; and
- (b) the Agency has assigned a number of broiler hatching eggs or chicks for the allotment of orderly marketing quotas.

COMING INTO FORCE

12. These Regulations come into force on the day on which they are registered.

d'une province signataire à des personnes d'une province non signataire qui, pendant la période de référence, n'ont pas commercialisé sur le marché interprovincial à destination de la province signataire des œufs d'incubation de poulet de chair ou des poussins produits dans la province non signataire, lorsque les conditions suivantes sont réunies:

- a) le marché des œufs d'incubation de poulet de chair ou des poussins a crû dans la province signataire;
- b) l'Office a affecté un nombre d'œufs d'incubation de poulet de chair ou de poussins pour l'attribution des contingents de commercialisation.

ENTRÉE EN VIGUEUR

12. Le présent règlement entre en vigueur à la date de son enregistrement.

This Agreement entered into on the 27th day of *November*, 1986.

BETWEEN:

The Minister of Agriculture for Canada
(hereinafter referred to as the "Minister")

AND:

The Province of Ontario as represented by
The Minister of Agriculture and Food for Ontario

The Province of Quebec as represented by
Le Ministre de l'Agriculture, des Pêcheries et de
l'Alimentation du Québec

-and-

Le Ministre délégué aux affaires intergouvernementales
canadiennes

The Province of Manitoba as represented by
The Minister of Agriculture for Manitoba

-and-

(hereinafter collectively referred to as the "Provincial
Ministers")

AND:

The Farm Products Marketing Board (Ontario)

La Régie des Marchés Agricoles du Québec

The Manitoba Natural Products Marketing Council

(hereinafter collectively referred to as the "Boards")

AND:

The Ontario Broiler and Roaster Hatching Egg and
Chick Commission

Le Syndicat Spécialisé des Producteurs d'oeufs
d'incubation du Québec

The Manitoba Broiler Hatching Egg Commission

(hereinafter collectively referred to as the
"Commodity Boards")

AND:

The Canadian Broiler Hatching Egg Marketing Agency
(hereinafter called the "Agency")

FEDERAL PROVINCIAL AGREEMENT FOR BROILER HATCHING EGGS

✓ WHEREAS the parties to this Agreement deem it expedient to establish a Comprehensive Broiler Hatching Egg Marketing Program for Canada in order to ensure a strong, efficient and competitive production and marketing industry for broiler hatching eggs in Canada and a dependable supply of the product to the chicken industry;

AND WHEREAS the parties to this Agreement deem it expedient to provide for the licensing of persons engaged in the marketing of chicks for the purpose of better implementing the Canadian Broiler Hatching Egg Marketing Program;

AND WHEREAS the parties hereto in order to facilitate and assist in the implementation of a Comprehensive Broiler Hatching Egg Marketing Program have determined that it would be desirable to provide for the performance by a federal marketing agency, on behalf of the provinces acting as signatories to this Agreement, of certain functions relating to intraprovincial trade in broiler hatching eggs;

AND WHEREAS the parties hereto in order to facilitate and assist in the implementation of a Comprehensive Broiler Hatching Egg Marketing Program have determined that it would be desirable to provide for the performance by Commodity Boards, on behalf of the Agency acting as signatory to this Agreement, of certain functions relating to interprovincial and export trade in broiler hatching eggs;

AND WHEREAS the parties hereto have the necessary legislative and regulatory powers when used in cooperation with one another to create such a Comprehensive Broiler Hatching Egg Marketing Program and make it operate;

AND WHEREAS the Minister is authorized pursuant to Section 32 of the Farm Products Marketing Agencies Act* to enter into this Agreement on behalf of the Government of Canada;

AND WHEREAS the Provincial Ministers, the Boards and the Commodity Boards are also authorized pursuant to their respective provincial Acts to enter into this Agreement;

NOW THEREFORE the parties agree as follows:

* S.C. 1970-71-72, c. 65

Interpretation

1. In this Agreement;

- (a) "Comprehensive Broiler Hatching Egg Marketing Program" means this Agreement, the Proclamation and the Plan as set out in Schedule "A", ~~annexed hereto, the methodology~~ as set out in Schedule "B" annexed hereto, the provisions for agreements with non-signatory provinces as set out in Schedule "C" annexed hereto and all the necessary Federal and Provincial orders or regulations and policies made to regulate the marketing of broiler hatching eggs through the cooperation of all parties to this Agreement who will have exercised all the necessary powers under the respective Federal and Provincial legislation; (programme global de commercialisation des oeufs d'incubation de poulet à chair)
- (b) "Board" and "Commodity Board" mean the signatory parties designated as such in this Agreement; (Regies des marches et Office Provincial de commercialisation)
- (c) "Council" means the National Farm Products Marketing Council; (Conseil)
- (d) "member" means a person appointed to the Agency in accordance with Part I to Schedule I to Schedule "A" annexed hereto; (membre)
- (e) "non-signatory province" means the Provinces of Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, Saskatchewan, Alberta, Newfoundland and the Yukon and North West Territories; (province non-signataire)
- (f) "Plan" means the marketing plan set out in Part II to Schedule I to Schedule "A" annexed hereto; (plan)
- (g) "signatory province" means the Provinces of Ontario, Quebec and Manitoba; (province signataire)

PART I General

2. Canadian Broiler Hatching Egg Marketing Agency

- (1) There shall be an Agency established by proclamation, made pursuant to Section 17 of the Farm Products Marketing Agencies Act, which shall be known as the Canadian Broiler Hatching Egg Marketing Agency (hereinafter referred to as the "Agency").
- (2) The Minister shall recommend to the Governor-in-Council that the Proclamation, be made and that such Proclamation shall be substantially in the same form and content as the draft Proclamation and Plan annexed to this Agreement and marked as Schedule "A".

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3. Agency Functions

The Minister shall recommend to the Governor-in-Council that the Agency be permitted to delegate authority to the Commodity Boards to perform on behalf of the Agency, such Agency functions as may be listed in Part II of this Agreement.

4. Provincial Functions

Each provincial minister shall recommend to his respective Lieutenant Governor-in-Council or, as the case may be, undertake to cooperate in ensuring that the Agency be authorized to perform on behalf of the Commodity Board such functions of the Commodity Board relating to intraprovincial trade, as may be listed in Part II of this Agreement.

5. Provincial Marketing Plans

Each provincial minister shall recommend to his respective Lieutenant Governor-in-Council or, as the case may be, undertake to cooperate in ensuring that such amendments to each province's respective provincial marketing plans, orders or regulations as may be required to implement this Agreement, if any, shall be made or shall be caused to be made.

6. Coming into force

This Agreement shall come into full force and effect on the date of execution of this Agreement by the Federal Minister, Provincial Ministers, Boards and Commodity Boards for the provinces who have chosen to join the Comprehensive Broiler Hatching Egg Marketing Program and the Agency.

7. Changes to the Federal Provincial Agreement

The parties agree that no changes shall be made to the Agreement and the Schedules hereto without the unanimous consent of all parties to this Agreement save and except that the methodology as set out in Schedule "B" annexed hereto may be amended in accordance with section 14(5) of this Agreement.

8. Participation

All signatories to this Agreement agree to remain in the Plan for at least two years from the date of the establishment of the Agency.

9. Added Parties

The parties agree that any or all of the other provinces or territories of Canada may be added to this Agreement by executing this Federal-Provincial Agreement as it may be amended from time to time.

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10. Interprovincial and Intraprovincial Marketing

The parties to this Agreement agree that intraprovincial and interprovincial marketing of broiler hatching eggs and chicks shall not be restricted in any manner which is inconsistent with the provisions of the Comprehensive Broiler Hatching Egg Marketing Program and any applicable legislation.

PART II

Functions

11(1) For the purpose of ensuring the necessary cooperation in the implementation of the Canadian Broiler Hatching Egg Marketing Program, the following functions shall be exercised by the Agency and by the Commodity Boards upon the appropriate mechanism referred to in sections 3, 4 and 5 of this Agreement being made. The functions set out in subsection 11(2) below arise upon the appropriate delegation being made and in the absence of delegation, the parties agree to cooperate to achieve the objectives of this agreement.

(2) The Agency shall perform the following functions on behalf of the Commodity Boards:

- (a) The determination of the provincial component of provincial allocations;
- (b) the imposition of levies in intra-provincial trade where authorized;
- (c) the monitoring of the provincial component of provincial allocations; and

(3) Each Commodity Board shall perform the following functions on behalf of the Agency in each province:

- (a) The administration of quotas in inter-provincial or export trade;
- (b) the collection of levies imposed by the Agency;
- (c) the collection of information received from the licensees of the Agency;
- (d) the interprovincial or export pricing of broiler hatching eggs; and
- (e) the interprovincial or export aspect of any surplus removal program, if any, implemented by the Commodity Board.

PART III
Operations

12. Commodity Boards

The Commodity Boards agree, within provincial jurisdiction and as authorized by or pursuant to their enabling legislation, to cooperate in the implementation of the Comprehensive Broiler Hatching Egg Marketing Program and, in particular:

(1) General

to appoint their members to the Agency, to enact any regulation or order necessary in the exercise of their own authority or in the exercise of a delegated authority in order to implement this Agreement;

(2) Quota System

to limit the total quantity of broiler hatching eggs in their respective provinces and marketed in intra-provincial, inter-provincial or export trade to the provincial allocation as determined from time to time by the Agency in accordance with this Agreement;

(3) Liquidated Damages

(a) to be responsible for ensuring that the total quantity of broiler hatching eggs produced in the province and marketed in intraprovincial, interprovincial or export trade, including any quantity of broiler hatching eggs marketed in breach of the quota system in the province, does not exceed the provincial allocation determined by the Agency, from time to time, and, if unable to do so, to pay the Agency liquidated damages for any marketings beyond provincial allocation at the rate and in the manner prescribed from time to time by the Agency in its liquidated damages procedure resolution which resolution is subject to Council approval;

(b) any amount determined as liquidated damages, by the Agency or by the Council, in the event of an appeal to Council, constitutes a debt due and payable to the Agency by the provincial commodity board affected and, if not paid within the time prescribed by the Agency, any amount outstanding maybe sued for and recovered as such by the Agency in any court of competent jurisdiction;

- 7 -

- (c) in order to ensure compliance with the provincial allocation, to provide a security bond or guarantee acceptable to both the Agency and the Council;
- (4) Levies and Charges
- (a) where delegation of provincial levy imposition authority has not been made to the Agency, the Commodity Boards shall establish, collect and remit to the Agency in accordance with provincial law a levy on broiler hatching eggs marketed in intraprovincial trade at the same rate to be effective on the same day as the levy imposed by the Agency in interprovincial or export trade;
- (b) where neither delegation nor the system described in subsection (4)(a) above is made, the Commodity Board or other relevant provincial authority shall enter into a service contract with the Agency whereby the Commodity Board agrees to pay the Agency for services rendered, a service fee at the same amount as the Agency's levy and to be effective on the day as specified in the service contract;
- (c) to remit or pay to the Agency, at such times as may be prescribed by the Agency, without deduction whatsoever, all levies, charges or service fees imposed and collected for Agency purposes;
- (d) if required by the Agency, to collect on behalf of the Agency, any levies or charges imposed by the Agency;
- (e) either to be legally responsible for all uncollected levies, charges or service fees imposed for Agency purposes or to appoint the Agency as its agent for the purpose of collecting such levies, charges or service fees;
- (5) Licensing, Verification and Information
- (a) to make available to the Agency all documents pertaining to the registering and licensing of producers;
- (b) subject to subsection (5)(d) to make regulations and orders requiring persons engaged in the production of broiler hatching eggs or chicks to record production and marketing information, including the filing of information returns with the Commodity Board and to make available to the Agency when requested all information necessary to the Agency to monitor production and marketing;

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- (c) subject to subsection (5)(d) to establish a verification system for production and marketing of broiler hatching eggs and chicks and at the request of the Agency to provide all information obtained from the system;
 - (d) where the Commodity Board is not empowered to make the regulations or orders contemplated in subsection (5)(b), or, for whatever reason, is unable to establish the verification system provided for in subsection (5) (c), then the Commodity Board shall request the appropriate Board to make the necessary orders or regulations or to establish the verification system or to cooperate with the appropriate provincial authorities to make the information referred to in subsections (5)(b) or (5)(c) available to the Commodity Board;
 - (e) to provide all information obtained from the implementation of the system referred to in subsections (5)(b), (5)(c) and (5)(d) to the Agency when requested;
 - (f) to forward to the Agency from time to time as determined by the Agency, a list of all current individual quotas issued to producers showing their allocations;
- (6) Pricing
- (a) to be responsible for establishing or negotiating the prices to be paid for broiler hatching eggs to be marketed in intraprovincial trade and where authorized, on behalf of the Agency, the price in interprovincial and export trade;
 - (b) to notify promptly the Agency of any and all price changes for broiler hatching eggs within their respective provinces and the reasons therefor;
- (7) Cooperation
- to take all reasonable steps to promote a high degree of co-operation between all Commodity Boards and the Agency, and, without limiting the generality of the foregoing, shall
- (a) make available to the Agency the records, extracts of minutes or decisions of the Commodity Board, relating to the operation of the Agency; and

- (b) allow an officer or employee of the Agency who is designated by the Agency for such purpose to attend meetings of the Commodity Board at which any matter that is of concern to the Agency is likely to be discussed and for such purpose shall give notice of all such meetings to the officer or employee so designated.

13. THE AGENCY

The Agency shall, for the effective operation of the Comprehensive Broiler Hatching Egg Marketing Program formulate, develop, implement and support the following policies:

(1) General

do all things necessary to implement the Plan;

(2) Agency By-Laws

enact by-laws which shall include the following provisions:

- (a) Each member of the Agency shall be entitled to one vote;
- (b) a quorum for meetings of the Agency shall be 60% of the members, representing not less than 60% of the total provincial base quota allotment for the member provinces;
- (c) that all motions considered at meetings of the Agency shall not be passed unless supported by 60% of the members and representing not less than 60% of the total provincial base quota allotment;
- (d) that the executive of the Agency shall be elected by the members of the Agency from amongst themselves;
- (e) that the Agency shall establish its global allocations at open meetings;
- (f) that the Agency may establish provincial allocations in closed or in-camera meetings with the proviso that any party to this Memorandum of Agreement and a representative of the Council shall have the right to attend as an observer;

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(3) Quota System

determine global and maximum provincial quota allocations in accordance with Schedule B to this Agreement;

(4) Liquidated Damages

establish by resolution of the Agency, subject to Council approval, a system whereby liquidated damages are to be paid by a Commodity Board in the event that its provincial allocation in any year has been exceeded and to assess such liquidated damages based on broiler hatching eggs statistics as published in Agriculture Canada's Hatchery Review;

(5) Information

establish an efficient communication system among Commodity Boards, the Agency, broiler hatching egg producers and producer groups in order to facilitate the exchange of information necessary to make the Comprehensive Broiler Hatching Egg Marketing Program work;

(6) Interprovincial Pricing

enact a regulation, for the control of interprovincial pricing of broiler hatching eggs which shall include provisions designed to achieve the objects expressed hereinbelow:

With respect to broiler hatching eggs shipped in inter-provincial trade and not for export:

- (a) from a signatory province marketed into another signatory province, no person shall sell broiler hatching eggs in inter-provincial trade at a price that is less than the aggregate of the current price for broiler hatching eggs published from time to time by the Commodity Board of the province of production and the price charged by the commercial carrier who transports the broiler hatching eggs from the province of production to the province where the broiler hatching eggs are purchased;
- (b) from a non-signatory province marketed into any signatory province no person shall sell broiler hatching eggs in interprovincial trade at a price that is less than the aggregate of the weighted average price during the immediately preceding four week period charged by that person in the ordinary course of trade, to purchasers in a non-signatory province who are not controlled by or otherwise related to that person and the price charged by the commercial carrier who transports the broiler hatching eggs from the province of production to the province where the broiler hatching eggs are purchased;

- (c) from a non-signatory province marketed into any signatory province where a person selling the broiler hatching eggs has not made sales in the immediately preceding four week period in the fashion described in subparagraph (b) above, that person shall not sell broiler hatching eggs to a purchaser in a signatory province at a price less than the aggregate of the purchase price paid by that person in the ordinary course of trade and the cost of transportation set out in subparagraphs (b) or (d) herein;
- (d) In the event that no commercial carrier transports the broiler hatching eggs, the price of transportation shall be determined by the published tariffs filed by or on behalf of highway transport carriers with the appropriate provincial highway transport board.

(7) Committees

- (a) shall establish by by-law a supply management committee to advise on matters related to global allocation whose members shall represent affected parties including producers, hatcheries, allied industries and the public in general;
- (b) may establish by by-law a consultative committee to provide advice to the Agency on all other matters relating to the efficient operation of the Plan. The composition of the Committee shall include representation adequate in the view of the Council to represent the public interest. The committee shall meet at regular intervals and advise the Agency on matters of concern to it;

14. Provincial Allocations

(1) Parties to this Agreement agree that subject to subsection 14 (5) the base provincial allocation shall be as set out in Table I following:

Table I*

<u>Province</u>	<u>Broiler Hatching Eggs</u>
Ontario	109,871,351
Quebec	102,350,032
Nova Scotia	10,588,592
New Brunswick	14,808,161
British Columbia	38,653,284
Prince Edward Island	625,402
Manitoba	14,567,564
Saskatchewan	9,091,518
Alberta	44,610,485
Newfoundland	24,056
Yukon Territory	0
Northwest Territories	0

* The numbers of broiler hatching eggs set out in Table I were calculated on the following basis:

The five-year average (1981-1985) of the total number of broiler hatching eggs set in each province in each year calculated from Agriculture Canada's Hatchery Review published figures for the applicable five-year period less the number of broiler hatching eggs brought into the province through interprovincial movement and imports plus the number of broiler hatching eggs flowing out of the province by way of export and interprovincial movement in the same period.

(2) The parties agree that the effective date of the Plan shall be January 1, 1986.

(3) The parties agree that the export market of broiler hatching eggs which market is not addressed by the methodology set out in Schedule "B" to this Agreement:

(i) shall be allocated to a particular province if the market is gained through provincial effort or effort within the province.

(ii) that is gained as a result of Agency effort or Federal effort shall be distributed to participating members using the following criteria:

- a) Ability to produce for export markets; and
- b) transportation costs to market.

(4) It is agreed that the Agency shall establish maximum provincial allocations for any twelve month period and in the case of the first allocation of the Agency for a portion thereof, and that when considering increases or decreases in future provincial market allocation above or below the base, the Agency shall apply the methodology set out in Schedule "B" to this Agreement.

X (5) It is agreed between the parties hereto that the methodology set out in Schedule "B" to this Agreement shall be followed for a period of two years after which time the Agency may adjust (but not change the fundamental principles of the methodology) with the unanimous approval of the members of the Agency.

(6) The Council shall be the body to resolve disputes in regard to the allocation of provincial market shares and to finally resolve the determination of liquidated damages.

15. Surplus Policy

The parties hereto agree that a major objective of the Agency in establishing global and provincial allocations is to avoid the creation of surpluses. In order to achieve this and other objectives of the Canadian Broiler Hatching Egg Marketing Program, the following policies shall be adopted:

- (1) The Agency shall establish global and provincial allocations on a periodic basis and will strive to ensure that its allocations coordinate with the periodic allocations made by the Canadian Chicken Marketing Agency;

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- (2) The Commodity Boards agree to establish a surplus declaration system in order to identify surplus broiler hatching eggs produced within provincial allocation, but surplus to market demand and to inform the Agency of such declaration; and
- (3) The Agency shall coordinate the surplus declaration system referred to in subsection (2) for the purpose of maximizing the effective disposition of any surplus.

16. Supervisory Boards

- (1) The Boards agree to recommend any marketing plan or amendment, or to make any regulation or order necessary to ensure the implementation of this Agreement including the approval of orders or Regulations of the Commodity Boards provided that such order or regulation is consistent with and does not exceed the provisions of the applicable provincial legislation.
- (2) The Boards further agree that they shall undertake, when so requested by their respective Commodity Boards, to make the necessary orders or regulations, or establish the verification system, or cooperate with the appropriate provincial authorities as may be necessary pursuant to subsection 12(5)(d) of this Agreement.

17. The Agency and Amendment to the Program

The Agency agrees to accept any amendment to the Canadian Broiler Hatching Egg Marketing Program as may be agreed to from time to time by all of the other parties to this Agreement.

18. Signatory Meetings

Where a party to this Agreement is not satisfied with the implementation of any of the measures, orders, rules, regulations or policies made or proposed to be made this Agreement, the Agency or the party shall notify the Council and the respective Board and provincial minister, as appropriate, of such dissatisfaction and thereafter the following procedure shall apply:

- (1) the Council shall ensure that all appropriate signatories and the Agency are provided with copies of any notice received;
- (2) the Board and minister or the Council, as appropriate, shall exercise all the powers within their authority to resolve the dissatisfaction;
- (3) if after a period of forty-five days from the date of notification, the Agency or a party to this Agreement remains unsatisfied with the implementation of any of the measures, orders, rules, regulations or policies contemplated in this Agreement the Council shall be notified and the Council may convene a meeting of the parties from the appropriate province together with the parties from such other provinces as the Council deems necessary.

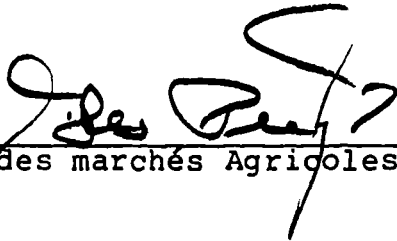
19. Withdrawal

- (1) Where a Commodity Board wishes to withdraw from the Agency, notice shall be given to the Agency;
 - (a) by the Commodity Board with the concurrence of its Board and its Provincial Minister of Agriculture during the months of August or September of any year following the second complete fiscal year of the establishment of the Agency;
 - (b) the notice referred to herein may be withdrawn by the Commodity Board with the concurrence of its Marketing Board and provincial Minister of Agriculture at any time thereafter but in any event no later than the first day of December in the year in which it was given;
 - (c) if the notice is not withdrawn before the time mentioned in paragraph (b) the Commodity Board which gives the notice shall cease to be a member of the Agency;
 - (d) a Commodity Board which has ceased to be a member of the Agency may be re-admitted at any time upon such terms and conditions as may be agreed upon by all signatories of this Agreement;
- (2) Notwithstanding subsection (1) where the Lieutenant-Governor-in-Council, the Minister or the Board for a signatory province revokes the marketing plan in that province or such of its marketing powers, which in the opinion of Council, substantially affect the operations of the Agency, the Commodity Board of the province shall cease to be a member of the Agency and the signatory province shall cease to be a party to this Agreement on the effective date of the revocation of the marketing plan or marketing powers.
- (3) A Commodity Board which withdraws from the Comprehensive Broiler Hatching Egg Marketing Program or ceases to be a member of the Agency shall forthwith pay to the Agency any levies or penalties payable to the Agency due and owing the date of withdrawal.

DELIVERED at *Ottawa* this *27th* day of *November*, 1986.

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The Farm Products Marketing Board (Ontario)

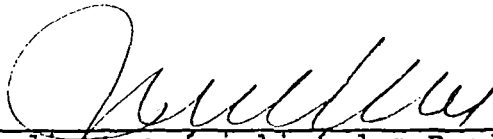
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La Régie des marchés Agricoles du Québec

Manitoba Natural Products Marketing Council

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Ontario Broiler and Roaster Hatching Egg
and Chick Commission



Le Syndicat spécialisé des Producteurs d'oeufs
d'incubation du Québec

Manitoba Broiler Hatching Egg Commission

Canadian Broiler Hatching Egg Marketing Agency

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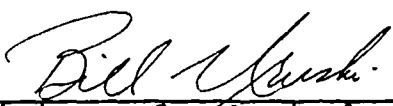

Minister of Agriculture for Canada

Minister of Agriculture and Food for Ontario

Le Ministre de l'Agriculture des Pêcheries et de l'Alimentation du Québec

-and-

Le Ministre délégué aux affaires intergouvernementales canadiennes


Minister for Agriculture for Manitoba

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The Farm Products Marketing Board (Ontario)

La Régie des marchés Agricoles du Québec

David Gustafson

Manitoba Natural Products Marketing Council


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Ontario Broiler and Roaster Hatching Egg
and Chick Commission

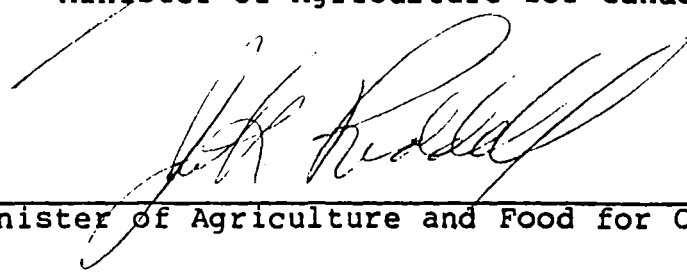
Le Syndicat spécialisé des Producteurs d'oeufs
d'incubation du Québec


Manitoba Broiler Hatching Egg Commission

Canadian Broiler Hatching Egg Marketing Agency



Minister of Agriculture for Canada



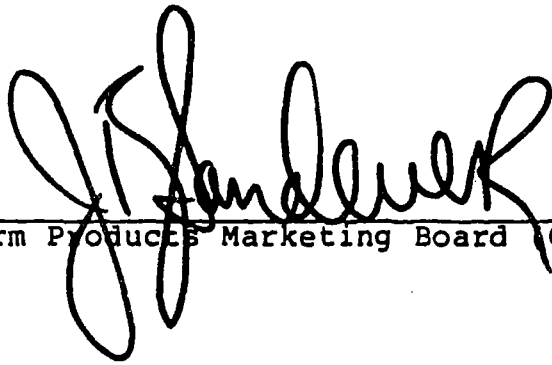
Minister of Agriculture and Food for Ontario

Le Ministre de l'Agriculture des Pêcheries et de l'Alimentation du Québec

-and-

Le Ministre délégué aux affaires intergouvernementales canadiennes

Minister for Agriculture for Manitoba



The Farm Products Marketing Board (Ontario)

La Régie des marchés Agricoles du Québec

Manitoba Natural Products Marketing Council

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Ontario Broiler and Roaster Hatching Egg
and Chick Commission

Le Syndicat spécialisé des Producteurs d'oeufs
d'incubation du Québec

Manitoba Broiler Hatching Egg Commission

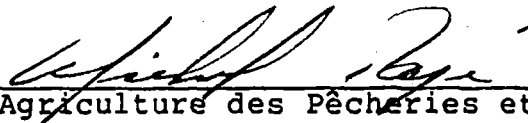
Canadian Broiler Hatching Egg Marketing Agency

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Minister of Agriculture for Canada

Minister of Agriculture and Food for Ontario



Le Ministre de l'Agriculture des Pêcheries et de l'Alimentation du Québec

-and-



Le Ministre délégué aux affaires intergouvernementales canadiennes

Minister for Agriculture for Manitoba

SCHEDULE "B"

METHODOLOGY FOR CALCULATING FORTHCOMING ANNUAL
PROVINCIAL ALLOCATIONS OF BROILER HATCHING EGGS

I. Introduction

The Methodology - The purpose of the methodology set out below is to determine the provincial allocations for broiler hatching eggs for a forthcoming year.

The fundamental principle for determining provincial allocations is to key such allocations to the over-all market demand for chicken as established by the Canadian Chicken Marketing Agency.

Under the methodology the provincial allocations are determined by aggregating three factors:

- (1) The base number of broiler hatching eggs set out in the Plan for a province;
- (2) The provincial equalization which reflects the difference between the previous year allocations as adjusted and the base for the same province;
- (3) The provincial market adjustment which reflects the difference between the number of broiler hatching eggs under the existing allocation for the previous year and the number required to meet the CCMA forthcoming allocation.

II. Calculations

1. The Base - This figure is fixed in the marketing plan and is in accordance with s. 24 of the Farm Products Marketing Agencies Act, that is, calculated in respect of the immediately preceding five-year average (1981-1985) for each province of broiler hatching eggs produced and marketed immediately prior to the effective date of the marketing plan, which date is January 1, 1986. No further calculations are required.

2. The Provincial Equalization - For 1986 only, this figure is the difference between the number of Broiler hatching eggs produced in a province¹ in 1985 (provincial eggs produced) and the base for that province. The number of broiler hatching eggs produced in the province for 1986 will be obtained from Agriculture Canada's Hatchery Review figures for eggs set in a province minus eggs brought into the province whether by way of interprovincial

movement in or imports plus broiler hatching eggs leaving the province whether by way of interprovincial movement out or export.

$$\begin{aligned} & \text{broiler hatching eggs produced in a province in 1985} \\ & - \text{base for the same province} \\ \hline & = \text{the provincial equalization} \end{aligned}$$

For 1987 and subsequent years, the provincial equalization is the difference between the previous year's provincial allocation established by the Agency as adjusted for actual production and as determined by the Agency, and the base for that province. In calculating a province's production as above, the Agency shall make such calculation in accordance with footnote 1.

$$\begin{aligned} & \text{provincial allocation in the previous year as adjusted} \\ & - \text{base for the same province} \\ \hline & = \text{the provincial equalization} \end{aligned}$$

3. The Provincial Market Adjustment - As explained above, the adjustment is, in conceptual terms, straightforward. It is, however, a complex number to determine and is keyed to the Canadian Chicken Marketing Agency's allocations for chicken. In determining the increase or decrease in the number of broiler hatching eggs required for setting the forthcoming provincial allocations, a ratio of chicken meat to broiler hatching eggs is used to dovetail the allocation of eggs with the demand for chicken meat.

The steps required to determine the provincial market adjustment are as follows:

Step I

Determine the provincial chicken meat-to-broiler hatching egg ratio (meat-to-egg ratio)

Method: The meat-to-egg ratio is calculated in two steps. First, a chicken meat-to-broiler chick (meat-to-chick) ratio is calculated based on chick placements in the province. Second, utilizing the provincial percentage of hatchability and the meat-to-chick ratio, the meat-to-egg ratio is then calculated:

- (a) To determine the provincial meat-to-chick ratio in a province, divide the province's immediately preceding year's chicken meat provincially produced² by the number of chicks placed³ in that same province: That is,

$$\frac{\text{chicken meat provincially produced (kg)}}{\text{number of chicks placed in the province}} = \text{provincial meat-to-chick ratio}$$

(b) To now determine the provincial chicken meat to broiler hatching egg ratio (meat-to-egg ratio), the province's chicken meat to broiler chick ratio above is multiplied by the same province's hatchability percentage for the immediately preceding year. (This hatchability rate also appears in Agriculture Canada's Hatchery Review.)

$$\begin{array}{l} \text{Provincial} \\ \text{meat-to-chick ratio} \\ \quad \times \\ \text{provincial} \\ \text{percent hatchability} \end{array} = \begin{array}{l} \text{provincial} \\ \text{meat-to-egg ratio} \end{array}$$

Step II

Determine the increase or decrease in the number of kilograms of chicken meat required in the forthcoming year to meet the Canadian Chicken Marketing Agency's provincial allocation.⁴

Method: This figure is determined from the difference between the number of kilograms of chicken meat CCMA has set out for its forthcoming yearly meat allocation for a province less the CCMA provincial allocation in the immediately preceding year. Hence,

$$\frac{\text{CCMA provincial allocation for the forthcoming year} - \text{the CCMA provincial allocation in the immediately preceding year}}{\text{year}}$$

= the increase or decrease in provincial chicken allocation of CCMA for the forthcoming year.

Step III

Determine the provincial market adjustment

Method: Convert CCMA's increase or decrease of provincial chicken allocation into broiler hatching eggs by utilizing the provincial meat-to-egg ratio as follows:

$$\frac{\text{Increase or decrease in CCMA provincial chicken allocation}}{\text{Provincial meat-to-egg ratio}}$$

= provincial market adjustment in broiler hatching eggs

III. The Provincial Allocation - is the aggregate of the base, the provincial equalization and the provincial market adjustment.

IV. Adjustments to Methodology - The Agency, in keying to CCMA's allocations for chicken will make periodic adjustments to its current provincial allocations to coincide with adjustments made by the Canadian Chicken Marketing Agency, whether on a periodic basis or otherwise, to its provincial allocations.

The Agency is aware that CCMA is proposing to change its global and provincial allocations from an eviscerated weight basis to a live weight basis. The Agency will modify the application of this methodology accordingly if and when that change occurs.

F O O T N O T E S

1. The Number of broiler hatching eggs produced in a province will be obtained by taking the number of broiler hatching eggs set in a province according to statistics from Agriculture Canada's Hatchery Review, minus the number of broiler hatching eggs brought into the province whether by way of interprovincial movement in or imports plus the number of broiler hatching eggs leaving the province whether by way of interprovincial movement out or export.

Number of broiler hatching eggs set in a province
- Number of broiler hatching eggs brought into the province
whether by way of interprovincial movement "in" or
imports
+ Number of broiler hatching eggs leaving the province
whether by way of interprovincial movement "out" or
exports
= Number of broiler hatching eggs produced in a province

2. The number of kilograms of chicken meat provincially produced is determined from Agriculture Canada's Poultry Market Review figures as follows. From the total chicken meat slaughtered for that province, deduct the number of kilograms of chicken meat representing live birds brought into the province whether by interprovincial trade or imports and add the number of kilograms of chicken meat representing live birds leaving the province in interprovincial trade or by way of exports. That is:

Total kilograms chicken meat slaughtered in a province
- kilograms representing interprovincial live chicken in
- kilograms representing live chicken imports
+ kilograms representing live interprovincial chicken out
+ kilograms representing live chicken exports
= chicken meat provincially produced

3. The number of chicks placed in a province is determined from Agriculture Canada's Hatchery Review figures for the total number of chicks hatched in a province and chicks brought into and leaving that province, as follows:

Total chicks hatched in the province
+ chicks brought into the province by interprovincial trade
+ chicks brought into the province by imports
- chicks leaving the province by interprovincial trade
- chicks leaving the province by export
= chicks placed in a province

4. Until such time as the Alberta Broiler Growers' Marketing Board becomes a member of the Canadian Chicken Marketing Agency, all references to CCMA's provincial allocations in this methodology shall, for the Province of Alberta, mean the Alberta Broiler Growers' Marketing Board's allocation to chicken producers in that province.

FEDERAL-PROVINCIAL AGREEMENT

FOR BROILER HATCHING EGGS

**AMENDMENT FOR THE PURPOSE OF REPEALING AND REPLACING
THE EXISTING SCHEDULE B METHODOLOGY**

May, 1990

This Agreement entered into as of the 1st day of January, 1990.

BETWEEN:

The Minister of Agriculture for Canada
(hereinafter referred to as the "Minister")

AND:

The Province of Ontario as represented by
The Minister of Agriculture and Food for Ontario

The Province of Québec as represented by
Le Ministre de l'Agriculture, des Pêcheries et de
l'Alimentation du Québec

- and -

Le Ministre délégué aux affaires intergouvernementales
canadiennes du Québec

The Province of Manitoba as represented by
The Minister of Agriculture for Manitoba

The Province of British Columbia as represented by
The Minister of Agriculture and Fisheries for British
Columbia

The Province of Alberta as represented by
The Minister of Agriculture for Alberta

- and -

The Minister of Federal and Intergovernmental Affairs for
Alberta

(hereinafter collectively referred to as the "Provincial
Ministers")

AND:

The Farm Products Marketing Commission (Ontario)

La Régie des Marchés Agricoles du Québec

The Manitoba Natural Products Marketing Council

The British Columbia Marketing Board

The Alberta Agricultural Products Marketing Council

(hereinafter collectively referred to as the "Boards")

AND:

The Ontario Hatching Egg and Chick Commission

Le Syndicat des Producteurs d'oeufs d'incubation du Québec

The Manitoba Broiler Hatching Egg Commission

The British Columbia Hatching Egg Commission

The Alberta Hatching Egg Marketing Board

(hereinafter collectively referred to as the "Commodity Boards")

AND:

The Canadian Broiler Hatching Egg Marketing Agency
(hereinafter called the "Agency")

WHEREAS the Minister and the Provincial Ministers, the Boards, the Commodity Boards for Ontario, Quebec and Manitoba and the Agency entered into a Federal-Provincial Agreement for Broiler Hatching Eggs on November 27th, 1986 (the Agreement).

AND WHEREAS the Provincial Ministers, the Boards and the Commodity Boards for British Columbia and Alberta subsequently adhered to the Agreement.

AND WHEREAS the Parties to the Agreement wish to repeal Schedule "B" of the Agreement providing for the methodology for determining provincial allocations and substitute therefor a new methodology.

AND WHEREAS all Parties to this amendment are authorized to enter into it.

NOW THEREFORE IT IS AGREED, EFFECTIVE JANUARY 1, 1990 that Schedule B to the Agreement is repealed and the following substituted therefor:

"SCHEDULE B"

METHODOLOGY FOR CALCULATING ANNUAL PROVINCIAL
ALLOCATIONS OF BROILER HATCHING EGGS

I. INTRODUCTION

The Methodology - The purpose of the methodology set out below is to determine the provincial allocations for broiler hatching eggs for a year.

The fundamental principle for determining provincial allocations is to key such allocations to the overall estimated market demand for chicken in Canada.

Under the methodology the provincial allocations are determined by aggregating three factors:

- (1) The base number of broiler hatching eggs set out in the Plan for a province;
- (2) The provincial equalization which reflects the difference between the previous year's provincial allocations of broiler hatching eggs and the base for the same province;
- (3) The provincial market adjustment which reflects the difference between the number of broiler hatching eggs (calculated in accordance with #1 and #2 above) and the number of broiler hatching eggs required to meet chicken demand estimates for the forthcoming year.

II. CALCULATIONS

- 1 - The Base - This figure is fixed in the marketing plan and is in accordance with

s.23 of the Farm Products Marketing Agencies Act.

- 2 - The Provincial Equalization -The provincial equalization is the difference between the previous year's provincial allocations of broiler hatching eggs and the base for that province.

- 3 - The Provincial Market Adjustment - The provincial market adjustment is calculated in the following manner:
 - A] The Agency shall determine the total domestic chicken meat demand for the relevant year by taking into account the recommendation of its industry advisory committee;

 - B] The Agency shall then determine total provincial chicken meat requirements for that year by multiplying the most recent yearly provincial chicken market shares as determined by C.C.M.A. adjusted by the

Agency, if required, in accordance with Footnote #2 by the total chicken meat demand established in [A] above.

- C] The Agency shall then determine total provincial hatching egg requirements by dividing the estimated provincial chicken meat requirements as determined above [B] by the meat-to-egg ratio for that province calculated in accordance with Footnote #1;

- D] The Agency shall then determine net provincial requirements of broiler hatching eggs by deducting from the total provincial requirements of broiler hatching eggs, the imports of broiler hatching eggs and chicks (converted into egg equivalents) in accordance with Footnote #3;

- E] The Agency shall determine the provincial market adjustment by subtracting from the net provincial requirements of broiler hatching eggs the base and the provincial equalization as calculated above.

FOOTNOTE #1:

The meat-to-egg ratio is calculated in the following manner:

$$\frac{\text{Net chicken meat provincially produced [a] (latest available Poultry Market Review)}}{\text{Eggs set + *1.27 X net chick movement [b] (latest available Hatchery Review)}} = \text{Ratio}$$

DEFINITIONS:

Net chick movement means: + interprovincial "IN"
 - interprovincial "OUT"
 - Export
 + Imports

* This figure will change to accord with the figure set out in the Notice of Importers issued from time to time by S.T.R.B.

FOOTNOTE #2:

"If a province is a non-member of C.C.M.A., all references in this methodology to C.C.M.A.'s provincial allocations shall mean the allocation to chicken producers in the province made by the provincial commodity board of the non-member province".

Minister of Agriculture for Canada

this day of , 1990

Minister of Agriculture and Food for Ontario

this day of , 1990

Le Ministre de l'Agriculture, des Pêcheries
et de l'Alimentation du Québec

this day of , 1990

Le Ministre délégué aux affaires
intergouvernementales canadiennes du Québec

this day of , 1990

Minister of Agriculture for Manitoba

this day of , 1990

Minister of Agriculture and Food for
British Columbia

this day of , 1990

Minister of Agriculture for Alberta

this day of , 1990

Minister of Federal and Intergovernmental
Affairs for Alberta

this day of , 1990

Farm Products Marketing Commission for Ontario

this day of , 1990

La Régie des marchés agricoles du Québec

this day of , 1990

The Manitoba Natural Products Marketing Council

this day of , 1990

The British Columbia Marketing Board

this day of , 1990

The Agricultural Products Marketing Council
for Alberta

this day of , 1990

The Ontario Broiler Hatching Egg and Chick Commission

this day of , 1990

Le Syndicat des producteurs d'oeufs
d'incubation du Québec

this day of , 1990

Manitoba Broiler Hatching Egg Commission

this day of , 1990

British Columbia Hatching Egg Commission

this day of , 1990

Alberta Hatching Egg Marketing Board

this day of , 1990

Canadian Broiler Hatching Egg Marketing Agency

this day of , 1990

CANADIAN BROILER HATCHING EGG MARKETING AGENCY

RESOLUTION WITH RESPECT TO SCHEDULE "B" METHODOLOGY

WHEREAS subsection 14(5) of the Federal-Provincial Agreement for Broiler Hatching Eggs (the Federal-Provincial Agreement) provides as follows:

"14(5) It is agreed between the parties hereto that the methodology set out in Schedule "B" to this Agreement shall be followed for a period of two years after which time the Agency may adjust but not change the fundamental principles of the methodology with the unanimous approval of the members of the Agency".

THEREFORE BE IT RESOLVED THAT Schedule "B", as amended effective January 1, 1990, to the Federal-Provincial Agreement is amended as follows:

1. To Footnote no. 1 to Schedule "B", the words "to the regulated area" are added to the words "minus interprovincial "OUT" in the definition of net chick movement.
2. Footnote no. 3 is repealed and the following is substituted therefor:

Provincial Adjustment for Imports

<u>Province</u>	<u>Percentage</u>
British Columbia	8.231%
Alberta	3.50%
Manitoba	6.191%
Ontario	45.50%
Quebec	27.843%
Non-Members	8.735%

3. This Resolution is effective commencing with the Agency's 1995 allocations.

UNANIMOUSLY adopted by the members of Agency at a meeting held in the City of Edmonton, in the Province of Alberta,
this 24th day of May, 1995.



Chairman

**OPERATIONAL PROCEDURES
JUNE 2000**

“SCHEDULE B”

**METHODOLOGY FOR CALCULATING
ANNUAL PROVINCIAL ALLOCATIONS
OF BROILER HATCHING EGGS**

I. INTRODUCTION

The Methodology – The purpose of the methodology set out below is to determine the provincial allocations for broiler hatching eggs for a year.

The fundamental principle for determining provincial allocations is to key such allocations to the overall estimated market demand for chicken in Canada.

Under the methodology the provincial allocations are determined as follows:

- A) The Agency shall determine the total domestic chicken meat demand for the relevant year by taking into account the recommendation of its industry advisory committee;
- B) The Agency shall then determine total provincial chicken meat requirements for that year by multiplying the total chicken demand established in (a) above with the most recent provincial chicken production market shares, as compiled on a 52 week rolling basis;
- C) The Agency shall then determine total provincial hatching egg requirements by dividing the estimated provincial chicken meat requirements as determined above (b) by the meat-to-egg ratio for that province calculated in accordance with Footnote #1:

**PROCÉDURES
OPÉRATIONNELLES
JUN 2000**

ANNEXE “B”

**MÉTHODE DE CALCUL DES
CONTINGENTS
PROVINCIAUX ANNUELS D’OEUFES
D’INCUBATION DE POULET À CHAIR**

I. INTRODUCTION

La méthode - L’objectif de la méthode prescrite dans les lignes qui suivent est de déterminer les contingents provinciaux d’oeufs d’incubation de poulet à chair pour une année.

Le principe fondamental de la détermination des contingents provinciaux est d’adapter lesdits contingents à l’ensemble de la demande estimative du marché du poulet au Canada.

Conformément à cette méthode, les contingents provinciaux sont déterminés de la façon suivante:

- A) L’Office détermine la demande totale intérieure de chair de poulet pour l’année pertinente en tenant compte des recommandations de son comité consultatif de l’industrie.
- B) L’Office détermine ensuite le besoin provincial total de chair de poulet pour l’année en question en multipliant la demande totale de poulet établie au paragraphe (a) ci-dessus par les parts les plus récentes du marché de la production de poulet calculées sur une base mobile de 52 semaines.
- C) L’Office établit ensuite le besoin provincial en oeufs d’incubation de poulet à chair en divisant le besoin provincial estimatif de chair de poulet obtenu en (b) ci-dessus, par le rapport chair-oeuf calculé pour la province selon la note 1.

D) The Agency shall then determine net provincial requirements of broiler hatching eggs by deducting from the total provincial requirements of broiler hatching eggs, the imports of broiler hatching eggs and chicks (converted into egg equivalents) in accordance with Footnote #2:

D) Ensuite, l'Office détermine le besoin provincial net en oeufs d'incubation de poulet à chair en soustrayant du besoin provincial total en oeufs d'incubation de poulet à chair, les importations d'oeufs d'incubation de poulet à chair et de poussins (converties en équivalents oeufs) conformément à la note 2:

FOOTNOTE #1:

The meat-to-egg ratio is calculated in the following manner:

Net chicken meat provincially produced (a) (the latest data, compiled on a 52 weeks rolling basis, available on the Agency's electronic statistical database.)

_____ = Ratio

Eggs set + 1.27¹ X net chick movement (b) (the latest data, compiled on a 52 weeks rolling basis, available on the Agency's electronic statistical database.)

DEFINITIONS:

Net chick movement means:

+ interprovincial "IN"
- interprovincial "OUT"
-Export
+ Imports

Provinces in the regulated area which have shipped chicks into the unregulated area during the latest 52 weeks will be credited with additional allocation at a rate of 1.27¹ eggs for every chick shipped. This credit will be added to a province's allocation after its provincial egg requirements and adjustment for imports have been calculated.

NOTE 1 :

Le rapport chair-oeuf est établi de la façon suivante:

Quantité provinciale nette de chair produite dans la province (a) (les données les plus récentes, compilées sur une base mobile de 52 semaines, qui figurent dans la base de données électronique de l'Office.)

_____ = Rapport

Mises en incubation + 1.27¹ X mouvement net de poussins (b) (les données les plus récentes, compilées sur une base mobile de 52 semaines, qui figurent dans la base de données électronique de l'Office.)

DÉFINITION :

Mouvement net de poussins désigne:

+ expéditions interprovinciales – "ENTRÉES"
- expéditions interprovinciales – "SORTIES"
- exportations
+ importations

Les provinces de la zone réglementée qui ont expédié des poussins dans la zone non-réglementée au cours des 52 dernières semaines seront créditées d'une allocation supplémentaire à raison de 1,27¹ oeufs pour chaque poussin expédié. Ce crédit sera ajouté à l'allocation de la province après le calcul des besoins provinciaux en oeufs et de l'ajustement pour importation.

The above credit excludes any chicks shipped from the regulated area to the unregulated area that are a result of a contact or other mechanism deemed appropriate by the Agency, which provides for the marketing of broiler hatching eggs from the unregulated area to the regulated area on condition that a pre-determined amount of broiler chicks is marketed from the regulated area to the unregulated area.

Le crédit ci-dessus exclut les poussins expédiés d'une zone réglementée vers une zone non-réglementée à la suite d'un contrat, ou de tout autre mécanisme que l'Office jugera indiqué, qui prévoit la commercialisation d'oeufs d'incubation de poulet à chair de la zone non-réglementée à la zone réglementée à condition que la quantité de poussins de poulet à chair prévue à l'avance soit commercialisée de la zone réglementée dans la zone non-réglementée.

¹ **This figure will change to accord with the figure set out in the Notice of Importers issued from time to time by E.I.C.B.**

¹ **Cette quantité sera modifiée conformément au chiffre établi dans l'Avis aux importateurs publié périodiquement par la D.G.C.E.I.**

FOOTNOTE #2:

PROVINCIAL ADJUSTMENT FOR IMPORTS

The adjustment for imports shall be calculated on a provincial rather than national basis with the goal of having all provinces, except Alberta, deduct 17.43% by the year 2002 from their provincial market requirement to accommodate imports. In the case of Alberta, the deduction for imports shall be 5.88% of its market requirement. Assuming a 4% annual market growth, ² the phase-in is as follows:

Province	Percentage			
	1999	2000	2001	2002
British Columbia	14.17%	13.45%	16.13%	17.43%
Alberta	5.88%	5.88%	5.88%	5.88%
Saskatchewan	20.85%	17.43%	17.43%	17.43%
Manitoba	24.98%	24.98%	22.00%	17.43%
Ontario	22.99%	21.95%	20.51%	17.43%
Quebec	17.49%	17.47%	17.45%	17.43%
Atlantic Provinces	11.53%	17.43%	17.43%	17.43%

² **When growth varies from 4% annually the percentages itemized above will vary slightly. Only when the variation exceeds 0.5% will the CBHEMA Board re-visit this resolution.**

NOTE 2 :

AJUSTEMENT PROVINCIAL POUR LES IMPORTATIONS

L'ajustement pour importation est calculé au niveau provincial et non national afin que toutes les provinces, à l'exception de l'Alberta, déduisent 17,43 % d'ici l'an 2002 des besoins de leur marché provincial respectif pour tenir compte des importations. Dans le cas de l'Alberta, la déduction pour importation est de 5,88 % des besoins de son marché. En supposant une croissance annuelle de 4 % du marché ², la mise en place progressive se fera comme suit:

Province	Pourcentage			
	1999	2000	2001	2002
Colombie-Britannique	14,71 %	13,45 %	16,13 %	17,43 %
Alberta	5,88 %	5,88 %	5,88 %	5,88 %
Saskatchewan	20,85 %	17,43 %	17,43 %	17,43 %
Manitoba	24,98 %	24,98 %	22,00 %	17,43 %
Ontario	22,99 %	21,95 %	20,51 %	17,43 %
Québec	17,49 %	17,47 %	17,45 %	17,43 %
Provinces atlantiques	11,53 %	17,43 %	17,43 %	17,43 %

² **Si la croissance annuelle est différente de 4 %, les pourcentages du tableau ci-dessus varieront légèrement. Le conseil d'administration de l'OCCOIPC ne révisera cette résolution que lorsque la variation sera supérieure à 0,5 %.**

“SCHEDULE B”

METHODOLOGY FOR CALCULATING QUOTA ALLOCATIONS OF BROILER HATCHING EGGS TO THE PROVINCES

1.00 Purpose

- 1.01 The purpose of the methodology set out below is to determine the quota allocations to the provinces for broiler hatching eggs for the relevant year or period as determined from time to time by CHEP.
- 1.02 If CHEP determines it to be appropriate, quota allocations may be determined by CHEP for a region of provinces in respect to the unregulated area, in which case references to “each province”, “provinces” or “provincial” in Schedule “B” includes a reference to “region of provinces”.

2.00 Fundamental Principles

- 2.01 The fundamental principle for determining national allocations is to derive such allocations by reference to the overall estimated kilograms of chicken meat production in Canada for the relevant year or period.
- 2.02 In addition to other factors which CHEP is required by law to consider, the fundamental principle for determining quota allocations to the provinces is to derive such allocations by reference to the overall estimated kilograms of chicken meat production in each province for the relevant year or period.
- 2.03 The determination of quota allocations, where the adjustment for imports may be less than 17.43% of the total provincial broiler hatching egg requirements for provinces which are admitted or readmitted to CHEP, will not constitute a change to the fundamental principles. An adjustment for imports at less than 17.43% for a province that is to be admitted or readmitted to CHEP will require the unanimous consent of the members of CHEP.

3.00 Methodology

- 3.01 Unless other factors which CHEP is required by law to consider indicate otherwise in the making of a particular quota allocation, the methodology to determine quota allocations to the provinces is as follows:

- (a) CHEP shall estimate the total kilograms of Canadian chicken meat production for the relevant year or period by taking into account the recommendation of its industry advisory committee. CHEP shall not be bound by the recommendation of the industry advisory committee¹ and, where appropriate, may take into account any other information considered by CHEP to be relevant;
- (b) CHEP shall then determine the total kilograms of provincial chicken meat production for that year or period by multiplying the total kilograms of Canadian chicken meat production estimated in (a) above by the most recent provincial chicken production market shares, as compiled on a 52 week rolling basis;
- (c) CHEP shall then determine the total provincial hatching egg requirements by dividing the total kilograms of provincial chicken meat production as determined in (b) above by the meat-to-egg ratio for that province calculated in accordance with Section 4;
- (d) CHEP shall then determine net provincial requirements of broiler hatching eggs as follows:
 - (i) For each signatory province which has met import requirements and provinces in the unregulated area, CHEP shall deduct from the total provincial requirements of broiler hatching eggs an amount representing 17.43% of the total provincial requirements of broiler hatching eggs to account for imports;²
 - (ii) For each province which is or will become a signatory and has not met import requirements at the time of being admitted or readmitted to CHEP, CHEP may deduct from the total provincial requirements of broiler hatching eggs an amount less than 17.43% of the total provincial requirements of broiler hatching eggs provided that the deduction to account for imports is not less than 10%.
 - (iii) In determining the percentage of the total provincial requirements of broiler hatching eggs to be deducted in section 3.01(d)(ii), CHEP shall, in addition to any other information it considers relevant, take into account the levels of imports in the three years immediately preceding admission or readmission of the province to CHEP.

¹ The industry advisory committee makes its recommendation based upon the total national chicken meat demand from both domestic and export production.

² The percentage reflects permitted access levels according to Canada's trade commitments.

- (iv) Where CHEP determines, at the time of admission or re-admission of a province as a signatory, to deduct an amount less than 17.43% to account for imports, the following steps shall apply in establishing quota allocations for that province for 10 years³ after admission into CHEP:
1. each year a minimum of 50% of any new provincial growth⁴ in broiler hatching egg demand must be met by imports;
 2. on a percentage basis, each year the adjustment for imports cannot be below the adjustment applied in the prior year or the actual level of imports into that province in the prior year, whichever is greater, and
 3. in any year where a province imports more than its adjustment for imports that, that province will have the opportunity to demonstrate to CHEP directors, that the actual import level was due to unforeseeable circumstances. Unforeseeable circumstances must satisfy the following preconditions:
 - (a) the event must not be reasonably foreseeable, and
 - (b) the event must be beyond the Board's control.
 4. When the adjustment for imports reaches 15.7%, CHEP shall deduct 17.43% to account for imports; and net provincial requirements for broiler hatching eggs will, thereafter, be calculated by deducting 17.43% of the total provincial requirements of broiler hatching eggs to account for imports.
 5. If a province's import adjustment has not reached 17.43% within 9 years after admission, CHEP will

³ Should a province join CHEP anytime after January 1 of a year, the first allocation made to it during the course of that year will count as its first of 10 years.

⁴ For each year "new provincial growth" will be calculated based on the prior year's total broiler hatching egg requirements for the province.

deduct 17.43% to account for imports for the 10th year and each subsequent year.

- (e) Provinces in the regulated area (i.e., the signatory provinces) which have shipped chicks into the unregulated area (i.e., the non-signatory provinces) during the latest 52 weeks will be credited with additional quota allocation for every chick shipped converted into egg equivalents. This credit will be added to a province's net requirements for broiler hatching eggs as determined in (d) above.

This credit excludes any chicks that were shipped from the regulated area to the unregulated area as a result of a contract or other mechanism deemed appropriate by CHEP, which provides for the marketing of broiler hatching eggs from the unregulated area to the regulated area on condition that a pre-determined amount of broiler chicks is marketed from the regulated area to the unregulated area.

- (f) The number which results from the application of this methodology is the quota allocation of broiler hatching eggs to each province.

4.00 Meat to Egg Ratio Calculation

- 4.01 The meat-to-egg ratio is calculated in the following manner for each province:

The total kilograms of chicken meat produced in the province based on the latest data compiled on a 52 week rolling basis by CHEP.

DIVIDED BY

The number of net broiler hatching eggs set⁵ in the province based on the latest data compiled on a 52 week rolling basis by CHEP.

A hypothetical illustration of the calculation of the quota allocation of broiler hatching eggs to a province is set out in the Annex to this Schedule.

⁵ The net broiler hatching egg set in a province represents all the eggs set in the province and adding (a) and (b), where (a) represents the net international movement of chicks for the province as determined by subtracting exports of chicks from imports of chicks, and where (b) represents the net interprovincial movement of chicks as determined by subtracting the movement of chicks out of a province from the movement of chicks into a province. Chick data is multiplied by 1.27 to establish a hatching egg equivalent which represents the number broiler hatching eggs required to produce one chick, taking into account hatchability. The broiler hatching egg equivalent factor of 1.27 may be changed in order to be the same as the figure set out in the Notice to Importers issued from time to time by International Trade Canada.

Annex “A”

Illustration of Quota Allocation Calculation

(All weight figures are in million kilograms eviscerated weight (Mkg) and egg figures are in million eggs (ME))

Step 1. Estimate the total kilograms of chicken meat production in Canada (3.01 (a)):

➤ **980 Mkg**

Step 2. Determine the provincial market share of Canadian chicken production (3.01 (b)):

➤ **15%**

Step 3. Take the product of Step 1 and Step 2 to determine the forecasted provincial share of chicken meat production (3.01 (b)):

➤ **980 Mkg x 15% = 147 Mkg**

Step 4. Determine the Meat to Egg ratio (See below):

➤ **1.2017**

Step 5. Determine the total hatching egg requirement by dividing Step 3 by Step 4 (3.01 (c)):

➤ **147 Mkg ÷ 1.2017 = 122.3 ME**

Step 6. Determine the net hatching egg requirement by subtracting imported eggs and chicks equal to 17.43% of Step 5 (3.01 (d)):

➤ **122.3 ME – (122.3 ME x 17.43%) = 101.0 ME**

Step 7. Determine the provincial quota allocation by adding chicks shipped to unregulated market (3.01 (e)):

➤ **101.0 ME + 2.1 ME = 103.1 ME**

Meat to Egg Ratio Calculation

Step 1. Determine the provincial chicken meat produced

➤ **143 Mkg**

Step 2. Add the provincial number of hatching eggs set to the net movement of chicks in the province (million eggs):

➤ **108 ME + 11 ME = 119 ME**

Step 3. Determine the meat to egg ratio by dividing Step 1 by Step 2

➤ **143 ME ÷ 119 ME = 1.2017**

CANADIAN BROILER HATCHING EGG MARKETING AGENCY

OFFICE CONSOLIDATION OF THE RESOLUTION (AND ITS AMENDMENTS OF FEBRUARY 22 AND NOVEMBER 20, 1993) RESPECTING THE DETERMINATION OF LIQUIDATED DAMAGES

WHEREAS paragraph 12 (3) of the Federal-Provincial Agreement for Broiler Hatching Eggs provides that the commodity boards shall be responsible for ensuring that the total quantity of broiler hatching eggs produced in the province and marketed in intraprovincial, interprovincial or export trade does not exceed the provincial allocation determined by the Agency and, if unable to do so, to pay the Agency liquidated damages for any marketings beyond provincial allocation at the rate and in the manner prescribed, from time to time, by the Agency in its liquidated damages procedure resolution which resolution is subject to the approval of the National Farm Products Marketing Council (hereinafter the Council).

AND WHEREAS paragraph 13(4) of that same Federal-Provincial Agreement provides that the Agency shall establish by resolution, subject to Council approval, a system whereby liquidated damages are to be paid by a commodity board in the event that its provincial allocation in any year has been exceeded and to assess such liquidated damages based on broiler hatching egg statistics as published in Agriculture Canada's Hatchery Review.

NOW THEREFORE BE IT RESOLVED THAT

Definitions

1. For the purposes of this resolution:

"Broiler hatching eggs" means

- (a) an egg that is suitable for incubation and is to be hatched as a chick for chicken meat production; or
- (b) eggs set by or for grandparent breeder broiler flock owners located in Canada.

"Marketed" means setting a broiler hatching egg in an incubator in Canada.

"~~Overmarketings~~" means the quantity of broiler hatching eggs produced in a province and marketed anywhere in Canada in a year in excess of the quantity of broiler hatching eggs shown opposite that to a province for that year in Column I of the Schedule to the Canadian Broiler Hatching Egg Marketing Agency Quota Regulations (hereinafter referred to as the "Regulations"), which quantity, ~~in the case of an Agency unanimously approved quota exchange,~~ shall be adjusted:

- (a) for the transmitting board, by reducing that quantity by the number of broiler hatching eggs leased in accordance with its agreement with the receiving board; and
- (b) for the receiving board, by increasing that quantity by the number of broiler hatching eggs obtained under its agreement with the transmitting board.

PART I - MARKETINGS IN CANADA

Liability for Overmarketings

2. In the event of overmarketings in a province in any year, the commodity board of the province is liable to pay the Agency, as liquidated damages, 17.5 cents for each and every broiler hatching egg that is:

- (a) produced in the province and marketed in Canada in a year in excess of 101% of the quantity allotted in that year to the province in Column I of the Schedule to the Regulations grossed up by
- (b) the number of broiler hatching eggs resulting from an increase in the meat to egg ratio from the time of the Agency's initial allocation to the province for that year to the Agency's final allocation to the province for that year.

Estimate of Liquidated Damages

3. The Agency hereby determines the sum of 17.5 cents per broiler hatching egg to be a fair and reasonable estimate of the cost the Agency will incur in dealing with overmarketings and said sum is hereby fixed.

4. Each commodity board is required to post with the Agency, at all times, a security document as defined in section 6 therein, in an amount equal to \$1 million multiplied by the percentage share which that commodity board's preliminary provincial allocation for the year bears to the total estimated production of broiler hatching eggs in the signatory provinces for that same year.

When Security Documents to be Filed

5. The Agency shall consider a commodity board in breach of its undertaking contained in paragraph 12(3)(c) of the Federal-Provincial Agreement if a commodity board does not post with the Agency a security document as defined in section 6 of this Resolution in order to meet its obligations under section 4 of this Resolution and the first such security document shall be posted by January 31, each year. The Agency shall advise Council if:

- (a) The commodity board does not post the security document by January 31, each year; or
- (b) After 30 days notice given by the Agency to the commodity board, the commodity board's security document is either not renewed or is not in an amount required by section 4 of this Resolution.

In communicating such advice to Council, the Agency may request Council to convene a signatories meeting.

Types of Security Documents

6. Pursuant to paragraph 12(3)(c) of the Federal-Provincial Agreement, the Agency determines that the following instruments are satisfactory to it as documents (hereinafter referred to as security documents) securing, in whole or in part, the commodity board's obligations under this Resolution:

- (i) a cash deposit in an account in the name of and under the control of the Agency;
- (ii) a bearer bond delivered to the Agency;
- (iii) a deposit with the Agency of bonds or other securities registered or transferred in the name of the Agency;
- (iv) the following irrevocable security instrument delivered to the Agency in favour of the Agency issued by a financial institution acceptable to the Agency and in a form acceptable to the Agency:
 - (a) a letter of credit;

- (b) a letter of guarantee;
- (c) a performance bond;
- (d) a security bond; or
- (v) any combination of (i), (ii), (iii) and (iv) above.

Required Clauses

7. Any irrevocable security instrument delivered by a commodity board to the Agency pursuant to paragraph 6(iv) shall contain a clause which enables the Agency to realize on the security instrument upon presentation of a certificate by the Chairman of the Agency.

Basis for Determination

8. Subject to section 10, the Agency shall use, as the basis for calculating the quantity of broiler hatching eggs produced in a province and marketed during a year in Canada, the total "eggs set for broiler stock" statistics as published in Agriculture Canada's Hatchery Review for the province for the year and shall adjust such figures to account for:

- (a) Interprovincial movements of broiler hatching eggs;
- (b) Imports of broiler hatching eggs into Canada; and
- (c) Exports from Canada of chicks, converted to broiler hatching eggs by the relevant provincial hatchability for the year, when the export of chicks are in a quantity in excess of chicks accounted for in the province's base figures of broiler hatching eggs set out in the Agency's Proclamation.

Procedure for Determination of Liquidated Damages - Consultations

9. As soon as possible after the Hatchery Review figures, as adjusted, are available for any year and, if the figures, as adjusted, show overmarketings by producers in a province in the regulated area, the staff of the Agency, under the direction of its General Manager, shall initiate the procedure for the determination of liquidated damages payable to the Agency by the commodity board of that province.

10. If a commodity board is of the opinion that the Hatchery Review figures are incorrect, the Agency staff shall, in accordance with section 11, consider such other information submitted by the commodity board for the purpose of establishing the number of broiler hatching eggs marketed by the producers of that province in the year.

11. The Agency staff shall only rely on information provided by a commodity board pursuant to section 10 of this Resolution, if the Agency's staff has been able to verify and audit to its satisfaction such information based on a full and complete disclosure by the commodity board of the records the commodity board relies on.

Hatchery Figures revised - Termination of Determination Process

12. If the staff of the Agency is satisfied, after consultation with the commodity board, that the Hatchery Review figures, as adjusted, according to Section 8, do not represent the actual quantity of broiler hatching eggs produced in the province and marketed anywhere in Canada during the year and that overmarketing by producers in the province did not occur, the General Manager of the Agency shall, as soon as practicable, submit a report to the members of the Agency containing:

- (a) The Hatchery Review figures, as adjusted;
- (b) The revised figures acceptable to the staff of the Agency; and
- (c) The reasons why the staff of the Agency is satisfied that the Hatchery Review figures, as adjusted, were not correct.

The Agency shall consider the General Manager's report made pursuant to this paragraph at its next meeting. At such meeting, if the Agency is satisfied that ~~overmarketings~~ did not occur, no liquidated damages shall be payable by the commodity board to the Agency for that year.

After Provincial Consultation - Continuation of Determination Process

13. If the staff of the Agency is satisfied, after consultation with the commodity board, that overmarketings have occurred in the province or if the members of the Agency request the General Manager to conduct a further review or to consider other factors following the Agency's consideration of the General Manager's report under paragraph 12, the General Manager shall, as soon as practicable, but, unless extended by resolution of the members of the Agency, no later than the first day of June in any year, submit a report to the members of the Agency containing:

- (a) The Hatchery Review figures, as adjusted.
- (b) The conclusions of the staff of the Agency as to the modifications, if any, to the Hatchery Review figures, as adjusted, proposed by the commodity board.
- (c) The calculation by the Agency's staff of the number of broiler hatching eggs which have been overmarketed in the relevant year and the reasons therefore.
- (d) The calculation of the total monetary amount of proposed liquidated damages payable by the commodity board.
- (e) A statement of the most recent interpretation by the Council of what constitutes force majeure and what conditions must exist for its application.
- (f) Any other information which the staff of the Agency considers relevant and appropriate to assist the members of the Agency.

14. The General Manager of the Agency shall, at the same time as the report referred to in paragraph 13 is forwarded to the members of the Agency, provide a copy of the report to the appropriate commodity board with a notice to the commodity board that the matter of the determination of liquidated damages shall be considered by the members of the Agency at its next meeting.

15. At the meeting of the Agency called to deal with the General Manager's report referred to in section 13, the interested commodity board shall be entitled to make representations to the members of the Agency as to why it should not be liable for liquidated damages.

16. At the meeting of the Agency referred to in paragraph 15, the members of the Agency shall consider the following matters:

- (a) The report of the staff of the Agency.
- (b) The submissions of the interested commodity board.
- (c) The reply of the staff of the Agency.

(d) Such other information as the members of the Agency consider relevant.

17. The members of the Agency shall, as soon as practicable but not later than June 30th in any year, unless extended by resolution of the Agency, decide:

(a) the overmarketings by any province; and

(b) any force majeure or other factors invoked by a commodity board in justification of overmarketings.

18. The Agency shall notify, in writing, all commodity boards and, at the same time, the Council of its decision whether or not to assess liquidated damages in respect of any commodity board. Where the Agency decides that a commodity board is liable to pay liquidated damages, the Agency shall also demand from that commodity board payment of the liquidated damages within 15 calendar days of such notification.

19. Any commodity board from a signatory province shall have 15 calendar days from the date of the Agency's notification, given under paragraph 18, to appeal to Council.

20. In the event the commodity board that has liquidated damages assessed to it by the Agency does not appeal the Agency's decision to Council, such commodity board shall make payment to the Agency in accordance with the demand made under section 18.

21. Where an appeal is made to Council, pursuant to section 19, and Council decides that liquidated damages are payable by the commodity board concerned, that commodity board shall pay the Agency, within 15 days of Council's decision, the total amount of liquidated damages so determined regardless whether the commodity board appeals or otherwise seeks review of Council's decision.

PART II - EXPORT MARKETINGS

22. While no liquidated damages are payable by a commodity board in the event the quantity of broiler hatching eggs produced in the province and marketed during the year outside of Canada is in excess of the quantity of broiler hatching eggs set out for the province in Column II of the Regulations, a commodity board shall be liable to pay to the Agency under Part I liquidated damages in the event that any broiler hatching eggs produced in the province for export purposes or broiler hatching eggs set in the province for export purposes from broiler hatching eggs produced in the province result in overmarketings by the producers of that province.

PART III - GENERAL

23. Any funds paid to the Agency on account of this resolution shall be deposited to the credit of the Agency in the Agency's bank account and shall be used for whatever lawful purposes the Agency sees fit.

24. This resolution shall come into force on the day upon Council's approval and shall continue in force until repealed or modified.

25. This resolution shall be effective for the 1988 and for subsequent calendar years.

This agreement made in five original copies, as of this 22 day of March , 2000.

BETWEEN:

THE ALBERTA HATCHING EGG PRODUCERS, a body corporate, incorporated pursuant to the provisions of the *Marketing of Agricultural Products Act (Alberta)*

PARTY OF THE FIRST PART

- and -

THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION, a body corporate, incorporated pursuant to the provisions of the *Natural Products Marketing Act (British Columbia)*

PARTY OF THE SECOND PART

- and -

THE MANITOBA BROILER HATCHING EGG COMMISSION, a body corporate, incorporated pursuant to the provisions of the *Natural Products Marketing Act (Manitoba)*

PARTY OF THE THIRD PART

- and -

THE ONTARIO BROILER HATCHING EGG AND CHICK COMMISSION, a body corporate, incorporated pursuant to the provisions of the *Farm Products Marketing Act (Ontario)*

PARTY OF THE FOURTH PART

- and -

LE SYNDICAT DES PRODUCTEURS D'OEUF D'INCUBATION DU QUEBEC, a body corporate, incorporated pursuant to the provisions of "An Act respecting the marketing of agricultural, food and fish products, R.S.Q., 1990, Chap. 35.1"

PARTY OF THE FIFTH PART

- and -

THE CANADIAN BROILER HATCHING EGG MARKETING AGENCY, a body corporate, incorporated pursuant to the provisions of the *Farm Products Agencies Act*

PARTY OF THE SIXTH PART

1.00 **INTERPRETATION**

1.01 In this agreement:

- (a) "Broiler hatching egg" means
 - (i) an egg that is suitable for incubation and is to be hatched as a chick for chicken meat production; or
 - (ii) an egg set by or for grandparent breeder broiler flock owners located in Canada.
- (b) "Marketed" means setting a broiler hatching egg in an incubator in Canada.
- (c) "Overmarketings" means the quantity of broiler hatching eggs produced in a province and marketed anywhere in Canada in a year in excess of the quantity of broiler hatching eggs shown opposite that to a province for that year in Column I of the Schedule to the Canadian Broiler Hatching Egg Marketing Agency Quota Regulations (hereinafter referred to as the "Regulations"), which quantity, in the case of an Agency unanimously approved quota exchange, shall be adjusted:
 - (i) for the transmitting board, by reducing that quantity by the number of broiler hatching eggs leased in accordance with its agreement with the receiving board; and
 - (ii) for the receiving board, by increasing that quantity by the number of broiler hatching eggs obtained under its agreement with the transmitting board.

2.00 **UNDERSTANDINGS**

2.01 All of the provincial parties hereto (hereinafter collectively called "the Boards" or individually called "each Board" or "the Board") are engaged in regulating the intraprovincial marketings of broiler hatching eggs within their respective provinces by allotting quota to broiler hatching egg producers with production facilities in their respective province thereby determining the quantity of broiler hatching eggs which may be produced in their respective provinces and marketed in intraprovincial trade during a calendar year.

- 2.02 The Canadian Broiler Hatching Egg Marketing Agency ("the Agency") is engaged in regulating the marketing of broiler hatching eggs and chicks in interprovincial and export trade by establishing a quota system pursuant to the Canadian Broiler Hatching Egg Marketing Agency Proclamation, being SOR/87-40, as amended thereby determining the quantity of broiler hatching eggs which may be marketed in interprovincial and export trade.
- 2.03 With the approval of the Governor-in-Council pursuant to subsection 23(3) of the Farm Products Marketing Agencies Act, the Agency has granted authority to the Boards to perform on behalf of the Agency the function of allotting and administering federal quotas to broiler hatching egg producers with production facilities in their respective provinces.
- 2.04 the Agency establishes for each calendar year and in respect of each member province the maximum number of broiler hatching eggs which may be marketed by hatching egg producers pursuant to the quota systems administered by each Board on its own behalf or on behalf of the Agency.
- 2.05 Each Board agrees, for each year, to use its best efforts to exercise its regulatory powers in such a manner that the number of broiler hatching eggs marketed during the year by broiler hatching egg producers with production facilities in their province will not be overmarketed.
- 2.06 Each Board agrees, subject to section 4.01, that any overmarketings of broiler hatching eggs during a year will have a detrimental effect on the stability of the broiler hatching egg industry in Canada and may require the expenditure of funds to mitigate or eliminate such detrimental effects.
- 2.07 The Boards agree that the Agency is the appropriate party to mitigate or eliminate the detrimental effects of overmarketings.
- 2.08 The Boards agree that where grandparent broiler breeder flocks exist, such flocks shall be dealt with in one of the two following ways:
- (a) marketings from such flocks, shall be calculated in that province's meat to egg ratio and shall be included in the calculation of that province's total marketings or production; or,
 - (b) the production of the flock, except for marketings which are intended for chicken meat production, shall be disregarded in all calculations.

3.00 PRINCIPLES OF THE AGREEMENT

- 3.01 In consideration of the mutual covenants and agreements contained herein, each Board agrees:
- 3.02 To use its best efforts to exercise its regulatory powers in such a manner that the total number of broiler hatching eggs produced in its province and marketed by broiler hatching egg producers with production facilities in its province in intraprovincial, interprovincial and export trade during a year will not be overmarketed.
- 3.03 To pay liquidated damages to the other Boards in accordance with this Agreement.
- 3.04 To assign to the Agency the liquidated damages payable to the Board under this Agreement.
- 3.05 That the Agency will be responsible to:
- (a) ensure that each Board complies with its obligations to post security documents in accordance with this agreement;
 - (b) calculate, in accordance with this Agreement, whether during a year hatching eggs producers in a province have overmarketed broiler hatching eggs for the province for that year and what liquidated damages may be payable by a Board to the other Boards;
 - (c) assess any force majeure or other factor;
 - (d) collect any liquidated damages which may be payable by a Board to the other Boards pursuant to this Agreement;
 - (e) expend the liquidated damages collected under this agreement.
- 3.06 That any dispute arising under this Agreement shall be adjudicated by the National Farm Products Council.
- 3.07 That a court may set aside a Council decision on appeal on the grounds set out in this Agreement.

4.00

LIQUIDATED DAMAGES

4.01

Subject to the terms of this Agreement, the Boards agree to pay to the other Boards who are parties to this Agreement 17.5 cents per broiler hatching egg that is produced in the province and marketed in Canada in a year in excess of 101% of the quantity allotted in that year to the province in column I of the schedule of the regulations grossed up by the number of broiler hatching eggs resulting from an increase in the meat to egg ratio from the time of the Agency's initial allocation to the province for that year to the Agency's final allocation to the province for that year.

Effective with the setting of the Agency's 2001 allocation and subsequent allocations thereafter, the grossing up of an allocation as a result of an increase in the meat to egg ratio will no longer be applicable.

4.02

Each Board may assert to the Agency a force majeure or other factor mitigating marketings of hatching eggs during a year beyond the allowable marketings of hatching eggs to the province for that period. Any force majeure or other factor shall be considered by the Agency in accordance with this Agreement. The Boards agree that a force majeure event mitigating the Board's obligation to ensure that broiler hatching eggs marketed by all broiler hatching egg producers of the Board's province during a year are not overmarketed, must satisfy all of the following pre-conditions:

- (a) The event alleged must render the performance of the Board's obligation impossible, not just difficult;
- (b) The event must not be reasonably foreseeable; and
- (c) The event must be beyond the Board's control.

4.03

All liquidated damages sums payable by each Board to the other Boards who are parties to this Agreement are acknowledged by each Board and all of the Boards to be fair and reasonable and such liquidated damages are hereby assigned by each Board and all Boards to the Agency to be used by the Agency for the benefit of the Boards that are parties to this Agreement, as it sees fit.

5.00 **DISPUTES**

- 5.01 The Boards agree that any and all disputes in connection with the assessment by the Agency that liquidated damages are payable by the Board under this Agreement shall be submitted to arbitration to the National Farm Products Council by the Board, giving to the Agency written notice of such dispute and demand for arbitration within 15 days of receiving notification of the Agency's assessment of overmarketings. The decision of the National Farm Products Council shall be final and binding upon the parties to the dispute who hereby covenant one with the other that such dispute shall be so decided by arbitration alone and not by recourse to any court by action at law, except as provided herein.
- 5.02 This Agreement constitutes an arbitration agreement under the *Arbitration Act of 1991 (Ontario)* and such Act shall govern the arbitration proceedings unless specifically dealt with in this Agreement.
- 5.03 All matters related to obligations of a Board to pay liquidated damages pursuant to this Agreement shall be adjudicated by arbitration provided for in this Agreement before it may be dealt with by a court of law.
- 5.04 A party to the arbitration proceedings may appeal an award to the Court on a question of law alone, and not on a question of fact nor a question of mixed law and fact. Specifically, the Boards agree that the Agency's assessment of a force majeure event is a question of fact.
- 5.05 A court may set aside an award on any of the grounds set out in section 46(1) of the *Arbitration Act of 1991 (Ontario)*.
- 5.06 An award is enforceable in accordance with the provisions of the *Arbitration Act of 1991 (Ontario)*.

6.00 **SECURITY FOR THE PAYMENT OF LIQUIDATED DAMAGES**

- 6.01 The Boards agree the sum of one million (\$1,000,000) dollars is the amount required to be placed under security with the Agency by all Boards collectively.
- 6.02 Each Board agrees to post with the Agency, at all times, a security document in an amount equal to one million dollars multiplied by the percentage share which that Board's preliminary provincial allocation for the year bears to the total estimated production of broiler hatching eggs in the provinces which are party to this Agreement for that same year. The Boards warrant to each other that, as of the date of this Agreement, they have lodged a security document with Agency in accordance with this Agreement.

- 6.03 If the Agency draws on a security document, the Board agrees, within 30 calendar days of such draw, to deposit with the Agency an amendment or replacement of its security document as required by this Agreement.
- 6.04 Each Board agrees to renew its security document no later than January 31 each year.
- 6.05 The Agency shall advise the Council if a Board does not post the security document by January 31 of the year, or if the document is not in the amount required or if a Board fails to amend or replace a document on which the Agency has drawn.
- 6.06 Each Board agrees, where a security document is not renewed by January 31 each year, to pay the Agency interest at a rate of 1% of the security required per month until the security document is lodged with the Agency.
- 6.07 The Board agrees to deposit with the Agency, in accordance with this Agreement, one of the following types of security documents:
- (a) a cash deposit in an account in the name of and under the control of the Agency;
 - (b) a bearer bond delivered to the Agency;
 - (c) a deposit with the Agency of bonds or other securities registered or transferred in the name of the Agency;
 - (d) the following irrevocable security documents deposited with the Agency in favour of the Agency issued by a financial institution acceptable to the Agency and in a form also acceptable to the Agency:
 - (i) a letter of credit;
 - (ii) a letter of guarantee;
 - (iii) a performance bond;
 - (iv) a security bond; or,
 - (v) any combination of (i), (ii), (iii) and (iv) above.
- 6.08 Each Board agrees that any irrevocable security instrument delivered by a Board to the Agency shall contain a clause which enables the Agency to realize on the security instrument upon presentation of a certificate by the Chairman of the Agency.

7.00 **BASIS FOR DETERMINATION**

7.01 Subject to section 8.02, the Agency shall use, as the basis for calculating the quantity of broiler hatching eggs produced in a province and marketed during a year in Canada, the total eggs set for broiler stock contained in the Agency's verified data¹ for that province for that year and shall adjust such data to account for:

- (a) Interprovincial movements of broiler hatching eggs;
- (b) Imports of broiler hatching eggs into Canada; and
- (c) Exports from Canada of chicks, converted to broiler hatching eggs by a factor of 1.27 eggs per chick, when the export of chicks are in a quantity in excess of chicks accounted for in the province's base figures of broiler hatching eggs set out in the Agency's Proclamation.

8.00 **PROCEDURE FOR DETERMINATION OF LIQUIDATED DAMAGES - CONSULTATIONS**

8.01 As soon as possible after the Agency's verified data, as adjusted according to section 7.00, are available for any year and, if the data, as adjusted, show overmarketings by producers in a province in the regulated area, the staff of the Agency, under the direction of its General Manager, shall initiate the procedure for the calculation of liquidated damages payable to the Agency by the Board of that province.

8.02 If a Board is of the opinion that the Agency's verified data are incorrect, the Agency staff shall, in accordance with section 8.03, consider such other information submitted by the Board for the purpose of establishing the number of broiler hatching eggs marketed by the producers of that province in the year.

8.03 The Agency staff shall only rely on information provided by a Board pursuant to section 8.02 of this Agreement, if the Agency's staff has been able to verify and audit to its satisfaction such information based on a full and complete disclosure by the Board of the records the Board relies on.

¹ This data must be derived from a data collection and verification system approved by the Agency's directors.

9.00

HATCHERY FIGURES REVISED - TERMINATION OF THE PROCESS

9.01

If the staff of the Agency is satisfied, after consultation with the Board, that the Agency's verified data, as adjusted, according to Section 7.00, do not represent the actual quantity of broiler hatching eggs produced in the province and marketed anywhere in Canada during the year and that overmarketing by producers in the province did not occur, the General Manager of the Agency shall, as soon as practicable, submit a report to the members of the Agency containing:

- (a) The Agency's verified data, as adjusted;
- (b) The revised data acceptable to the staff of the Agency; and
- (c) The reasons why the staff of the Agency is satisfied that the Agency's verified data, as adjusted, were not correct.

The Agency shall consider the General Manager's report made pursuant to this paragraph at its next meeting. At such meeting, if the Agency is satisfied that overmarketings did not occur, no liquidated damages shall be assessed the Board by the Agency for that year.

10.00

AFTER PROVINCIAL CONSULTATION - CONTINUATION OF THE PROCESS

10.01

If the staff of the Agency is satisfied, after consultation with the Board, that overmarketings have occurred in the province or if the members of the Agency request the General Manager to conduct a further review or to consider other factors following the Agency's consideration of the General Manager's report under Section 9.00, the General Manager shall, as soon as practicable, submit a report to the members of the Agency containing:

- (a) The Agency's verified data, as adjusted.
- (b) The conclusions of the staff of the Agency as to the modifications, if any, to the Agency's verified data, as adjusted, proposed by the Board.
- (c) The calculation by the Agency's staff of the number of broiler hatching eggs which have been overmarketed in the relevant year and the reasons therefore.
- (d) The calculation of the total monetary amount of proposed liquidated damages payable by the Board.

(e) A statement of the most recent interpretation by the Council of what constitutes force majeure and what conditions must exist for its application.

(f) Any other information which the staff of the Agency considers relevant and appropriate to assist the members of the Agency.

10.02 The General Manager of the Agency shall, at the same time as the report referred to in Section 10.01 is forwarded to the members of the Agency, provide a copy of the report to the appropriate Board with a notice to the Board that the matter of the determination of liquidated damages shall be considered by the members of the Agency at its next meeting.

10.03 At the meeting of the Agency called to deal with the General Manager's report referred to in section 10.01, the interested Board shall be entitled to make representations to the members of the Agency as to why it should not be liable for liquidated damages.

10.04 At the meeting of the Agency referred to in section 10.03, the members of the Agency shall consider the following matters:

(a) The report of the staff of the Agency.

(b) The submissions of the interested Board.

(c) The reply of the staff of the Agency.

(d) Such other information as the members of the Agency consider relevant.

10.05 The members of the Agency shall, as soon as practicable, decide:

(a) the overmarketings by any province; and

(b) any force majeure or other factors invoked by a Board in justification of overmarketings.

10.06 The Agency shall notify, in writing, all commodity boards and, at the same time, the Council of its decision whether or not to assess liquidated damages in respect of any Board. Where the Agency decides that a Board is liable to pay liquidated damages, the Agency shall also demand from that Board payment of the liquidated damages within 15 calendar days of such notification.

10.07 In the event the Board that has liquidated damages assessed to it by the Agency does not appeal the Agency's assessment to Council pursuant to section 5.00, such Board shall make payment to the Agency in accordance with the demand made under section 10.06. When an appeal is made to Council and Council decides that liquidated damages are payable by the Board concerned, the Board agrees to pay the Agency, within 15 days of Council's decision, the total amount of liquidated damages so determined, regardless of whether the Board appeals or otherwise seeks court review of Council's decision.

10.08 In the event that a board seeks a review of Council's decision through the courts, the Agency and the Board shall be bound by the decision of the court and the Agency shall, where the court finds in favour of the board, reimburse the board any money paid to the Agency pursuant to section 10.07.

11.00 GENERAL

11.01 The Parties hereto warrant each other that:

- (a) Each Party's proper officers, who have executed this Agreement, have been duly authorized to do so;
- (b) Each Party has the capacity to enter into this Agreement and the rights and obligations contained in it are valid and binding upon the Party.

11.02 This Agreement may only be amended by the unanimous consent of all of the Boards hereto, any such amendment being evidenced in writing and attached to this agreement provided, however, that such amendment shall not be effective unless approved in writing by all Boards.

11.03 This Agreement cannot be assigned by any of the Parties and is binding upon any successor or administrator of any of the Parties.

11.04 This Agreement shall be effective on the *22 March, 2000* and shall remain in effect for so long as the commodity board remains a signatory to the federal provincial agreement.

11.05 This Agreement shall be interpreted in accordance with the laws of Ontario.

IN WITNESS WHEREOF each party has executed this Agreement under the hands and seals of its proper officers duly authorized for this purpose and each Party's corporate seal has been affixed thereto:

WITNESS:

J. Falquet
P. Lecourt

WITNESS:

J. Falquet
P. Lecourt

WITNESS:

J. Falquet
P. Lecourt

WITNESS:

J. Falquet
P. Lecourt

WITNESS:

J. Falquet
P. Lecourt

WITNESS:

J. Falquet
P. Lecourt

THE ALBERTA HATCHING EGG PRODUCERS

PER: [Signature]
PER: [Signature]

THE BRITISH COLUMBIA BROILER HATCHING EGG COMMISSION

PER: [Signature]
PER: [Signature]

THE MANITOBA BROILER HATCHING EGG COMMISSION

PER: [Signature]
PER: S. Antonelli

THE ONTARIO BROILER HATCHING EGG AND CHICK COMMISSION

PER: [Signature]
PER: [Signature]

LE SYNDICAT DES PRODUCTEURS D'OEUF D'INCUBATION DU QUEBEC

PER: [Signature]
PER: [Signature]

THE CANADIAN BROILER HATCHING EGG MARKETING AGENCY

PER: [Signature]
PER: [Signature]

MEMO

PRIVILEGED AND CONFIDENTIAL

TO: Giuseppe Caminiti
FROM: David Wilson and Carmen Baru
DATE: October 3, 2014
RE: Quota Lease Pool and Overmarketings Sleeve

You asked for our legal perspective on the compatibility of the Quota Lease Pool (QLP) Policy and the 1% liquidated damages overmarketings sleeve (the sleeve) with the CHEP Proclamation, Federal-Provincial Agreement (FPA) and Liquidated Damages Agreement (LDA).

1. Overview of the statutory, contractual and resolution framework

The key documents that need to be considered in this context are:

- The Proclamation;
- Schedule "B" of the FPA;
- Other FPA provisions;
- The LDA and, in particular, the LDA sleeve;
- The QLP Policy; and
- *Canadian Hatching Egg Producers Quota Regulations (the Quota Regulations)*

It is useful to begin with an overview of relevant provisions in these documents.

a) Proclamation

Section 6 of the Schedule to the CHEP Proclamation¹ essentially requires CHEP to apply the allocation system in Schedule “B” of the FPA when making quota allocations. We will come back to the effect of s. 6 later in this opinion.

b) Schedule “B”

FPA Schedule “B”, as the purpose section indicates, provides the methodology for CHEP to establish provincial quota allocations.

c) Other FPA provisions

The CHEP FPA contains various commitments by provincial boards and by CHEP that are fundamental to the orderly marketing system for broiler hatching eggs and chicks. To paraphrase, these commitments include:

- Commitments by provincial boards in s. 12(2) to limit the total quantity of broiler hatching eggs produced in each province and marketed locally and extraprovincially as determined by CHEP².
- Commitments by provincial boards in s. 12(3)³ to pay liquidated damages if local and extraprovincial marketings of broiler hatching eggs exceed the provincial allocation determined by the Agency.

¹ Section 6 of the CHEP Proclamation provides as follows:

6. The Agency shall not make any order or regulation that would have the effect of increasing or decreasing the aggregate of

(a) the total number of broiler hatching eggs **produced and authorized by quotas** referred to in subsection 5(3) to be marketed in interprovincial, export and intraprovincial trade, and

(b) the total number of broiler hatching eggs **produced and anticipated** to be marketed in interprovincial, export and intraprovincial trade **as authorized other than by such quotas**

to a number that in any twelve month period or, for the first allocation of the Agency, a portion thereof is more or less than, as the case may be, the total number of broiler hatching eggs set out in the table to section 5 for the province **unless the Agency has applied the allocation system set out in Schedule “B” annexed to the Federal Provincial Agreement** authorized to be entered into by the Minister of Agriculture for Canada by Order in Council P.C. 1986-2653 of November 27, 1986.

² Section 12(2) of the FPA states:

12. Commodity Boards

The Commodity Boards agree, within provincial jurisdiction and as authorized by or pursuant to their enabling legislation, to cooperate in the implementation of the Comprehensive Broiler Hatching Egg Marketing Program and, in particular:

....

(2) **to limit the total quantity** of broiler hatching eggs in their respective provinces and marketed in intra-provincial, inter-provincial or export trade to the provincial allocation as determined from time to time by the Agency in accordance with this Agreement;

³ Section 12(3) states:

The Commodity Boards agree, within provincial jurisdiction and as authorized by or pursuant to their enabling legislation, to cooperate in the implementation of the Comprehensive Broiler Hatching Egg Marketing Program and, in particular:

...

(3) (a) **to be responsible for ensuring that the total quantity of broiler hatching eggs produced in the province and marketed** in intraprovincial, interprovincial or export trade, including any quantity of broiler

- Commitments by CHEP in s. 13(3) to develop policies to determine maximum provincial quota allocations in accordance with Schedule “B”⁴.

d) The LDA and the sleeve

The LDA is essentially a tool to reinforce the quota allocation system, both provincially and nationally, to support the orderly marketing objectives of the FPA, and to address the disruptive effects of overmarketing in or from a province.

For a number of years, the framework for liquidated damages was addressed by a liquidated damages resolution made by CHEP. However, the model of addressing liquidated damages through a resolution was re-examined in light of a 1992 Federal Court decision by Justice McGillis, which suggested that Chicken Farmers of Canada (then Canadian Chicken Marketing Agency) did not have authority to impose liquidated damages by resolution. Although we question whether the reasoning of Justice McGillis is sound, the decision was never appealed, and thus it remains as a precedent. CHEP directors concluded that it would be prudent (although perhaps not strictly required) to shift to an LDA model premised on an agreement of the provincial boards (in other words, to shift from the more “top down” resolution model to a “bottom up” provincial agreement model).

The first LDA was signed on October 24, 1996, and the current LDA was signed on March 22, 2000.

The LDA contemplates a unanimously approved quota exchange through the following definition of overmarketings:

(c) "Overmarketings" means the quantity of broiler hatching eggs produced in a province and marketed anywhere in Canada in a year in excess of the quantity of broiler hatching eggs shown opposite that to a province for that year in Column I of the

hatching eggs marketed in breach of the quota system in the province, **does not exceed the provincial allocation determined by the Agency, from time to time, and, if unable to do so, to pay the Agency liquidated damages** for any marketings beyond provincial allocation at the rate and in the manner prescribed from time to time by the Agency in its liquidated damages procedure resolution which resolution is subject to Council approval;

(b) any amount determined as liquidated damages, by the Agency or by the Council, in the event of an appeal to Council, constitutes a debt due and payable to the Agency by the provincial commodity board affected and, if not paid within the time prescribed by the Agency, any amount outstanding maybe sued for and recovered as such by the Agency in any court of competent jurisdiction;

(c) in order to ensure compliance with the provincial allocation, to provide a security bond or guarantee acceptable to both the Agency and the Council.

⁴ Section 13(3) of the FPA states:

13. The Agency shall, for the effective operation of the Comprehensive Broiler Hatching Egg Marketing Program formulate, develop, implement and support the following policies:

(3) determine global and **maximum provincial quota allocations in accordance with Schedule “B” to this Agreement.**

Schedule to the Canadian Broiler Hatching Egg Marketing Agency Quota Regulations (hereinafter referred to as the "Regulations"), **which quantity, in the case of an Agency unanimously approved quota exchange, shall be adjusted:**

(i) for the transmitting board, by reducing that quantity by the number of broiler hatching eggs leased in accordance with its agreement with the receiving board; and

(ii) for the receiving board, by increasing that quantity by the number of broiler hatching eggs obtained under its agreement with the transmitting board.

The LDA also provides for the sleeve. Liability for liquidated damages is triggered only when a province produces and markets "in excess of 101% of the quantity allotted in that year" (s. 4.01 of the LDA). Our understanding is that a sleeve has always been provided in connection with liquidated damages arrangements over the years in recognition that broiler hatching eggs are a live product having a degree of production variability.

It should be noted that the 2000 LDA has not been updated to reflect the entry of Saskatchewan and the re-entry of Alberta in the FPA.

e) The Quota Lease Pool Policy

The roots of the quota lease pool (QLP) date back to the early 1990s. The specific arrangements have changed over time, but our understanding is that the general objectives throughout have been to introduce some flexibility into the quota system, ensure efficient use of the national allocation, and minimize reliance on supplementary import permits to service the domestic market.

Initially, provinces that had quota to offer, and provinces that needed more quota, would seek each other out and bargain the price and quantities. Their agreement had to be unanimously approved by the signatory provinces. That system was modified with the introduction of a QLP Policy in 2001, and the QLP has undergone changes since that time. Under the current QLP model adopted in July 2012 and effective as of the 2013 allocation, there are two quota lease pools, at different rates. Unanimous approval is no longer required. CHEP surveys the provinces for offers and requests for the first pool. Quota offers and requests put in the first pool can no longer be withdrawn but must be forwarded to the second pool. As before, all unutilized quota for the production year must be offered in the last (i.e., the second) pool.

f) The Quota Regulations

It is also relevant to consider CHEP's *Quota Regulations*, which regulate broiler hatching eggs marketed in interprovincial trade. Section 6(1) of the *Quota Regulations*⁵ essentially directs

⁵ Section 6(1) states:

6. (1) Interprovincial quotas shall be allotted by the Commodity Board of each signatory province to producers in that province in such a manner that the total number of broiler hatching eggs produced in the province and

provincial boards to allot interprovincial quotas to producers such that broiler hatching egg volumes marketed under interprovincial quotas, combined with volumes marketed locally under quotas and quota exemptions, do not exceed provincial quota allocations set out in those regulations. This provision reflects and reinforces the FPA commitments described earlier.

2. Consistency of the sleeve and QLP with s. 6 of the Proclamation

In our view, for several reasons, there is no legal incompatibility between s. 6 of the Proclamation⁶ and either the QLP or the sleeve.

The first reason relates to the legal characteristics of the sleeve and the QLP. The limitation in s. 6 is on the making of an order or regulation by CHEP that would have the effect of increasing or decreasing broiler hatching egg marketings in a province relative to provincial allocation established pursuant to Schedule “B”. Neither the sleeve nor the QLP constitute a CHEP order or regulation.

The second and more substantive reason is that, in our view, neither the sleeve nor the QLP modify provincial quota allocations. The sleeve is a contract-based degree of flexibility used to determine when liquidated damages will potentially be triggered. In respect of the QLP, while CHEP centralizes the leases and requests, it does not authorize additional production beyond that set in the quota allocation.

The third reason relates to process. The QLP and the sleeve do not come into play until after the provincial allocations are determined through the application of the methodology in Schedule “B”. Thus, the precondition expressed in the words in s. 6 “unless the Agency has applied the allocation system set out in Schedule “B”” is satisfied.

3. Consistency of the sleeve and QLP with the FPA and LDA

The compatibility of the sleeve and QLP with s. 6 of the Proclamation is not the end of story. It is also necessary to consider whether there is any incompatibility with other instruments fundamental to the orderly marketing system.

In this respect, our views are different concerning the sleeve versus the QLP.

The sleeve is provided for in and flows directly from the LDA and thus we do not see any legal incompatibility between the sleeve and the LDA.

(a) authorized to be marketed under interprovincial quotas allotted on behalf of the Agency by the Commodity Board of the province,

(b) authorized to be marketed under provincial quotas allotted by the Commodity Board of the province, and

(c) expected to be marketed during the period set out in the schedule under quota exemptions granted in the province

will not exceed the number of broiler hatching eggs set out in Column I of the schedule in respect of that province.

⁶ See footnote 1, above.

It could be argued that the concept of a sleeve is contrary to the FPA commitments of provincial boards not to exceed quota allocations. However, in our view, the FPA does not preclude providing a limited, predetermined degree of latitude before liquidated damages are assessed. FPA commitments respecting overmarketings are not so inflexible as to preclude a sleeve.

Thus, we do not see a legal basis to question having a 1 percent sleeve before liquidated damages are assessed. The parties to the LDA could decide that the sleeve should be eliminated or modified, but we see this as a policy rather than a legal issue.

The only point we would raise in connection with the sleeve is whether it would be appropriate to distinguish between overmarketings (within the sleeve) stemming from unauthorized production in a province versus within sleeve overmarketings stemming from provincial board authorizations to producers. This may be predominantly a policy matter, but it may warrant further examination, taking into account the directive in s. 6(1) of the *Quota Regulations* not to authorize overmarketings.

In our view, the consistency of the QLP with the LDA and the FPA is more problematic.

For one thing, the LDA contemplates that quota exchange results will be unanimously approved. This unanimity requirement has been removed from the QLP Policy, with the result that making quota available for leasing through the second annual lease pool has become automatic and non-discretionary. This is inconsistent with the LDA, as currently written, notably, the “overmarketings” definition reproduced above. It would be possible to rewrite the LDA to eliminate the unanimity requirement, but as it stands there is an incompatibility between the two instruments on this score.

The QLP also appears to be incompatible with the commitment in the LDA by provincial boards to use best efforts to use their regulatory powers to avoid overmarketings. LDA s. 3.01 and 3.02 state as follows:

3.01 In consideration of the mutual covenants and agreements contained herein, each Board agrees:

3.02 **To use its best efforts to exercise its regulatory powers in such a manner** that the total number of broiler hatching eggs produced in its province and marketed by broiler hatching egg producers with production facilities in its province in intraprovincial, interprovincial and export trade during a year **will not be overmarketed**.

The QLP appears to weaken the obligation of a province to make best efforts to avoid overmarketings and to pay liquidated damages if overmarketings beyond the sleeve occur. Provided other provinces are in an undermarketing position, the QLP Policy creates a mechanism to avoid having to abide by overmarketing commitments and LDA disciplines. In other words, the mechanism available through the QLP seems to take precedence over the LDA commitments, as opposed to the other way around. These concerns are highlighted by s. 8 of the current QLP, which states:

8. Any leases will be accounted for in the LDA and in the allocation table.

We have similar concerns about the compatibility of the QLP with related FPA commitments. The obligation of provincial boards to endeavor to produce within their provincial quota allocations is central to the orderly marketing system. Flexibility in the administration of the quota system is desirable and indeed essential, but it should not be at the expense of this basic orderly marketing commitment.

A related concern we have is that there is no fixed limit as to how much a province can exceed its provincial quota allocation through the QLP mechanism without engaging LDA disciplines. Limiting overproduction becomes essentially a function of the interplay between two elements: the level of undermarketings in other provinces and other provinces' ability to make quota lease requests.

In addition, the QLP would appear to weaken the provincial board obligation in s. 6(1) of the *Quota Regulations*. To reiterate, s. 6(1) requires provincial boards to allot interprovincial quotas to producers such that broiler hatching egg volumes marketed under interprovincial quotas, combined with volumes marketed locally under quotas and quota exemptions, do not exceed provincial quota allocations.

As the discussion concerning the sleeve illustrates, there is considerable scope to design the components of the orderly marketing system to avoid rigidity and promote efficiencies. However, the components should work together and be harmonious, and should not operate at cross purposes. This suggests that greater effort is needed to integrate current QLP quota leasing arrangements with LDA and FPA commitments, taking into account the requirements in s. 6(1) of the *Quota Regulations*.

In addition, to the extent these arrangements are being examined, it is also necessary to update the LDA to reflect the FPA signatory status of Saskatchewan and Alberta.



Draft

**MINUTES OF THE
DIRECTORS ONLY MEETING**

Monday, November 17, 2014

Canada West Boardroom
21 Florence Street, Ottawa, Ontario

Present: Jack Greydanus, Chair; Calvin Breukelman, Vice-Chair, British Columbia; Kevin Tiemstra, Second Vice-Chair, Alberta; Hendrik vanSteenbergen, Saskatchewan; Dean Penner, Manitoba; Dick Ottens, Ontario; Gyslain Loyer, Quebec; Ernie Silveri, CHF; Christian Trottier, CHF; Giuseppe Caminiti, General Manager.

-
1. Jack Greydanus, CHEP Chair, welcomed everyone to the meeting and reminded them that David Wilson and Carmen Baru, CHEP legal counsel, would be joining the meeting at 10 am in order to review the legal memo provided and answer any questions Directors may have on issues. The meeting was called to order at 9:00 a.m.

Embauche

**PROJET DE PROCÈS-VERBAL
DE LA RÉUNION DES
ADMINISTRATEURS**

Le lundi 17 novembre 2014

Salle de conférence Canada West
21, rue Florence, Ottawa, Ontario

Présents: Jack Greydanus, président; Calvin Breukelman, vice-président, Colombie-Britannique; Kevin Tiemstra, deuxième vice-président, Alberta; Hendrik van Steenbergen, Saskatchewan; Dean Penner, Manitoba; Dick Ottens, Ontario; Gyslain Loyer, Québec; Ernie Silveri, FCC; Christian Trottier, FCC; Giuseppe Caminiti, directeur général.

-
1. Jack Greydanus, président des POIC, souhaite la bienvenue à tous les participants et leur rappelle que David Wilson et Carmen Baru, conseillers juridiques des POIC, se joindront à la réunion à 10 h afin de revoir la note juridique communiquée et de répondre aux questions des directeurs relativement à ces enjeux. La séance est ouverte à 9 h.

..

David Wilson and Carmen Baru, CHEP legal counsel, joined the meeting at 10 am.

5. **Legal Memo**

David Wilson reviewed the legal memo provided to the Board of Directors. In summary, he felt the current sleeve was defensible, however, he provided his concerns with the Quota Lease Pool (QLP) policy and its compatibility with the allocation system and the LDA. David indicated that ideas raised by a Director such as a sliding scale LDA could be examined.

In addition, in response to a question surrounding LDA, David indicated that the current LDA, which was signed by 5 provinces (including Alberta prior to leaving the Agency, but not Saskatchewan, as they were not members), may not be enforceable and recommended a new LDA, including all 6 member provinces, be signed as soon as possible.

David Wilson et Carmen Baru, conseillers juridiques des POIC, se joignent à la réunion à 10 h.

5. **Note juridique**

David Wilson examine le mémo juridique communiqué au Conseil d'administration. En résumé, David croit que la marge actuelle est défendable. Cependant, il soulève des préoccupations à l'égard de la politique relative au pool de location de quota et de la compatibilité de ce pool avec le système d'allocation et l'accord sur les dommages-intérêts. David souligne qu'on pourrait étudier les idées soulevées par un directeur, comme l'accord sur les dommages-intérêts à échelle mobile.

De plus, en réponse à une question concernant l'accord sur les dommages-intérêts, David souligne que l'accord actuel, qui a été signé par cinq provinces (y compris l'Alberta avant que cette province ne quitte l'organisation, mais pas la Saskatchewan étant donné qu'elle n'était pas membre), pourrait être impossible à appliquer. David recommande la signature d'un nouvel accord sur les dommages-intérêts comprenant les six provinces membres dans les plus brefs délais.

David Wilson and Carmen Baru left the meeting at 1:30 pm.

4. **LDA**

The draft LDA document distributed by Giuseppe Caminiti on July 28, 2014 for comment, along with the comments provided by Ontario, Quebec and Manitoba, were discussed, however, some provinces were not comfortable with signing a new LDA agreement at this time. Recognizing that the 2000 signed LDA may not be enforceable, as indicated by David Wilson, Directors requested that Giuseppe: 1) distribute the 2000 signed agreement to Directors; and 2) request CHEP legal counsel to draft an addendum to the 2000 LDA to include Alberta and Saskatchewan and distribute to Directors for their review.

5. **Legal Memo**

Further discussions among Directors continued surrounding the legal memo in an attempt to determine how to move forward. This has been an issue for quite some time and was raised as part of the discussions held with Francois Lemieux, David Wilson and the Board of Directors at that time.

David Wilson et Carmen Baru quittent la réunion à 13 h 30.

4. **Accord sur les dommages-intérêts**

On discute de l'ébauche de l'accord sur les dommages-intérêts diffusée par Giuseppe le 28 juillet 2014 pour commentaires ainsi que ceux formulés par l'Ontario, le Québec et le Manitoba. Cependant, certaines provinces ne se sentaient pas à l'aise de signer le nouvel accord sur les dommages-intérêts à ce moment-ci. Comme l'a indiqué David Wilson, les directeurs reconnaissent que l'accord signé en 2000 pourrait être impossible à appliquer et demandent que Giuseppe effectue les tâches suivantes : 1) diffuser l'accord signé en 2000 aux directeurs, et 2) demander aux conseillers juridiques des POIC de rédiger une ébauche d'addenda à l'accord sur les dommages-intérêts de 2000 afin d'y inclure l'Alberta et la Saskatchewan, et diffuser l'ébauche aux directeurs aux fins d'examen.

5. **Note juridique**

Des discussions approfondies ont lieu entre les directeurs au sujet de la note juridique afin de tenter de déterminer la façon d'aller de l'avant. Cette question a duré depuis un certain temps et elle a été soulevée dans le cadre de discussions avec François Lemieux, David Wilson et le Conseil d'administration à l'époque.

Different ideas, such as ensuring all provinces produce their allocation, eliminate the QLP, change the sleeve (sliding scale / base amount), lease and sleeve combination, increase lease rate, another meeting between Ontario and Quebec, among others were proposed.

It was agreed to extend the meeting until 5 pm.

Following these discussions, it was agreed to postpone the discussions on the QLP until the next meeting and attempt to sign a LDA as soon as possible. The following motions were made:

MOVED (*D. Penner*), SECONDED (*D. Ottens*) and CARRIED to distribute the CHEP legal memo to Directors and allow them to provide to their respective provincial boards/commissions, provincial staff and provincial legal counsels.

MOVED (*C. Breukelman*), SECONDED (*D. Penner*) and CARRIED to respect the current Quota Lease Pool (QLP) policy for 2014, while on a parallel track, request CHEP legal counsel develop language to make the current QLP policy legally compliant in all regulations, policies and the LDA.

On a proposé différentes idées, comme celles de veiller à ce que les provinces produisent leur allocation, d'éliminer le pool de location de quota, de changer la marge (échelle mobile / montant de base), de combiner la location et la marge, d'augmenter le taux de location et de tenir une autre réunion entre le Québec et l'Ontario.

Il est décidé que la réunion sera prolongée jusqu'à 17 h.

À la suite de ces discussions, il est décidé que les discussions sur le pool de location de quota seront remises à la prochaine réunion et qu'on tentera de signer un nouvel accord sur les dommages-intérêts dans les plus brefs délais. Les motions suivantes sont déposées :

IL EST PROPOSÉ (*D. Penner*), APPUYÉ (*D. Ottens*) et ADOPTÉ de diffuser la note juridique des POIC aux directeurs afin de leur permettre de la transmettre à leurs offices ou commissions, à leur personnel des provinces et à leurs conseillers juridiques provinciaux respectifs.

IL EST PROPOSÉ (*C. Breukelman*), APPUYÉ (*D. Penner*) et ADOPTÉ de respecter la politique actuelle relative au pool de location de quota pour l'année 2014 et, dans le même ordre d'idées, demander aux conseillers juridiques des POIC d'élaborer une formulation pour rendre la politique actuelle relative au pool de location de quota conforme aux règlements, aux politiques et à l'accord sur les dommages-intérêts.

At the last meeting, Directors requested discussing the Executive Committee's decision to request the legal memo. Directors agreed that it was the Executive Committee's responsibility to ensure due diligence was being met. Directors concerns were addressed and no further action is required.

7. &

6. **Review of Allocation System & Interprovincial Movement**

It was agreed to combine the allocation system and the IPM items together as they are directly related. Due to the lack of time, incomplete documentation and progress made in other areas, it was decided to postpone these discussions until the next Directors Only meeting. In addition, Kevin Tiemstra reported that AHEP have hired Bob Burden to review the allocation system on behalf of Alberta.

Au cours de la dernière réunion, les directeurs ont demandé de discuter de la décision du comité de direction concernant la demande de note juridique. Les directeurs sont d'accord sur le fait que le comité de direction est chargé de veiller à ce qu'il soit fait preuve de diligence raisonnable. Les préoccupations des directeurs sont dissipées, et aucune autre mesure n'est requise.

7.

et 6. **Examen du système d'allocation et du mouvement interprovincial**

Il est décidé de combiner les points du système d'allocation et du mouvement interprovincial étant donné que ces derniers sont directement liés. En raison du manque de temps, des documents incomplets et du progrès effectué sur d'autres points, il est décidé de reporter ces discussions au cours de la prochaine réunion des administrateurs. De plus, Kevin Tiemstra signale que l'AHEP a engagé Bob Burden pour revoir le système d'allocation au nom de l'Alberta.

INCOBEC

Longueuil, January 15, 2014

BY E-MAIL

Jack Greydanus, President
Canadian Hatching Egg Producers

Re: Request for Changes to Schedule B of the Federal-Provincial Agreement

Dear Jack,

As we begin 2014, first, allow me to extend to you and your family, my best wishes for health, happiness and prosperity!

As you know, none of the many attempts made over the last number of years, to solve the problems that arise from the interprovincial trade in chicks between the signatory provinces of the Federal Provincial Agreement (FPA), have gotten very far. Following the October 23, 2013 meeting of the Executive Committees of the Ontario Broiler Hatching Egg and Chick Commission (OBHECC), Canadian Hatching Egg Producers (CHEP) and the Syndicat des producteurs d'œufs d'incubation du Québec (SPOIQ), on this matter, we reported to our Board on the discussions that took place and here are the principal elements that came out of the discussions that took place:

- The members of SPOIQ's Board of Directors are concerned with the results obtained nationally over the past five years (2008 to 2012) with regard to the utilisation of the National hatching-egg production quota set by CHEP in keeping with Schedule B of the FPA (between 97.1% and 99.0%), the use of tariff-rate quota that resulted from it and which is delivered to the hatcheries (95.3% and 109.3%) and, lastly, the regular recourse to supplementary import permits;
- Since the creation of CHEP in 1986, Schedule B has been changed many times in order to address changes within the industry. The development of the situation over the past few years would suggest that it is once again time to change this methodology in order to improve the efficiency and overall performance of the existing supply management system.
- The results of the last few years show that Québec is experiencing chronic instability and imbalance when it comes to the supply of hatching eggs to its processing sector and, as a result of this situation:

Maison de l'UPA
555, boul. Roland-Therrien, bureau 515
Longueuil (Québec) J4H 4E7

Syndicat des producteurs
d'œufs d'incubation du Québec
Téléphone: 450 679-0530 / 40
Télécopieur: 450 679-3652
Courriel: incobec@upa.qc.ca

- o Québec hatcheries must regularly turn to unused tariff-rate quotas that they obtain from other provinces' hatcheries. They also have to regularly obtain supplementary import permits to meet their needs;
 - o Québec farmers, for their part, frequently produce more than the quota issued to Québec by CHEP, and SPOIQ has to resort to a policy of interprovincial quota rental to correct the situation;
- This being said, SPOIQ wants to reiterate that they totally subscribe to the principle of division between production and imports in each province, according to proportions representing, respectively, 82.57% and 17.43% of market needs. Results obtained for the period 2008 to 2012 clearly show that the desired balance has simply never been obtained. During this period, Québec's level of production, compared to its market needs, varied between 76.84% and 81.81% and the level of Québec hatchery imports was between 18.19% and 23.16%. In these two cases, the spread between the targeted level is significant and, in addition, the targeted levels of 82.57% for production and 17.43% for imports have never been obtained;
 - As for imports, the level of usage of tariff-rate quotas issued to Québec hatcheries from 2008 to 2012 varied between 97.3% and 126.6%, with 2011 being the only year in which tariff rate quota was used less than 100%;
 - As for supplementary imports, in every year in the period 2008 to 2012, Québec hatcheries had to resort to supplementary import permits. These requests resulted in supplementary imports with annual amounts that varied between 360,000 eggs and 7,574,232 eggs;
 - The preceding analysis leads SPOIQ to question the basis of calculation in Schedule B. In fact, provincial chicken production, currently used as the basis of calculation, cannot, in and of itself, adequately reflect a province's hatcheries' needs for hatching eggs.
 - To reach the goal of a division that would have production and imports with respective percentages of 82.57% and 17.43%, and also to better satisfy the needs of each province's hatcheries, the basis of calculating production allocations must take into account the needs of the hatcheries operating in its territory. In other sectors under supply management, for example the chicken and dairy sectors, the production quotas issued to the provinces take this indispensable parameter into account.

Consequently, SPOIQ asks CHEP to take another look at the basis of calculating Schedule B and to introduce, into this method of calculating allocations, adjustments that will allow us to take into consideration not only each province's chicken production but also the needs of the hatcheries operating in its territory. By so doing, the performance of the supply management system, in the hatching egg sector, will be greatly improved.

Since this is a fundamental question and is political in nature, I would ask that this request be put on the agenda of the telephone conference for the directors of CHEP, scheduled for January 23, 2014, so they can start to think about SPOIQ's request, as well as the steps that will have to be taken to address it.

Sincerely,

Gyslain Loyer, President

c. c. Françoise Gauthier, President, Régie des marchés agricoles et alimentaires du Québec
Laurent Pellerin, President, Farm Products Council of Canada
M. Christian Trottier, President, Les couvoiriers du Québec inc.



Ontario Broiler Chicken Hatching Egg Producers Association

February 25, 2014

BY EMAIL

Jack Greydanus, Chair
Canadian Hatching Egg Producers (CHEP)

Re: Request for Change to Schedule B of the Federal Provincial Agreement

Dear Jack,

The goal of Schedule B is to allocate domestic production of hatching eggs to provinces / areas to meet the market requirements for chicken meat as determined by Chicken Farmers of Canada. Hatcheries, feedmills, litter suppliers, etc. are important stakeholders in the quality production of the supply managed products as they proceed through the production chain.

OBCHEPA is a central stakeholder in the Ontario and Canadian chicken hatching egg producers' Supply Managed industry.

As an equal partner in O.B.H.E.C.C., OBCHEPA has proudly supported a fair, cost effective hatching egg production system that has brought economic stability to the producer sector and quality inputs to the chicken meat production industry, in Ontario. OBCHEPA has been an active supporter of national supply management for hatching eggs and worked tirelessly for the formation of CBHEMA (now CHEP). Since its inception in 1987, CHEP has worked very hard to match the supply of chicken hatching eggs plus planned imports (TRQ) to the annual requirement of chicks for the Chicken Farmers of Canada. This process of matching supply and demand has required the signatories of CHEP to continuously review production planning and maintain a close liaison with CFC. The result has been an unique production system where the consumer receives a very high quality product for a very reasonable cost.

As the foundation block of the chicken meat production chain, CHEP has used the following tools to achieve success:

1. Participated in the chicken volume discovery process to learn the scope of the planned market for chicken meat;
2. Translated the CFC provincial market requirements into allocations for each area of the country (not all provinces produce hatching eggs or chicks);
3. Based on most recent data, applied the Meat : Egg ratio to determine the number of hatching eggs required to produce the CFC live weight of market ready chicken;
4. Determined provincial / regional production allocations by applying Schedule B;

5. Worked with DFAIT to improve the effectiveness and efficiency of the domestic and TRQ sourcing system for hatching eggs and chicks to supply hatchery applications for supplemental import quota;
6. Convened special meetings to adjust provincial allocations to meet catastrophic situations such as the mandated culling of breeders exposed to Bird Flu.

In Ontario, O.B.H.E.C.C. has operated a responsive efficient system of hatching egg production and broiler chick marketing since 1983. The successful operation of the Ontario supply management system for hatching eggs and chicks relies on many key components, including:

- ✓ A Hatching Egg Market Share (HEMS) which licenses an entity to produce replacement pullets and / or hatching eggs;
- ✓ Regulations defining minimum husbandry standards;
- ✓ Licensing for hatcheries;
- ✓ Regulations establishing the Contract and its Terms and Conditions between the entities (Pullet Producer, Hatching Egg Producer and Hatchery, respectively) for each flock allocated by O.B.H.E.C.C.;
- ✓ Enforcement of regulations and on-site inspections;
- ✓ Setting of annual production levels to match CHEP's allocation;
- ✓ Monitoring current production levels to meet market demand within the provincial allocation.

Schedule B is an efficient method of allocating provincial / area marketshares for hatching egg production. It has effectively achieved the supply management goal of matching historic supply managed hatching egg production with future supply managed chicken meat production.

O.B.H.E.C.C. has over 30 years of experience regulating a provincial hatching egg allocation and production system for domestic production plus TRQ to meet the broiler chick requirements for chicken meat production in Ontario.

If a hatchery wishes to expand its market share in Ontario or Canada, it must acquire a domestic supply of hatching eggs to fill approximately 80% of its sales – the balance coming from TRQ. In Ontario, O.B.H.E.C.C. has implemented a methodology which will reassign hatching egg producers from licensed hatcheries that have lost marketshare to licensed hatcheries that have gained market share.

If the goal of INCOBEC is to see its hatchery processors stay within Canada's Supply Management System, it should be encouraging them to contract the hatching egg production necessary for expansion in Ontario. This will benefit all Canadian hatching egg producers by reducing supplemental imports and effectively reducing future imports that are based on historic levels.

OBHECC has several options available for Quebec hatchery processors needing hatching eggs to maintain or expand chick sales to Ontario's chicken farmers:

1. Build or buy a hatchery in Ontario and apply to O.B.H.E.C.C. for a Hatchery license (the license is FREE) and then receive Ontario hatching egg production through the annual redistribution of hatching egg producers based on Ontario market share;

2. Request an OBHECC hatchery license with an exemption to the in-province provision and accept all standards and regulations respecting the license to then receive Ontario hatching egg production through the market share allocation process;
3. Either through ownership, partnership or relationship purchase HEMS and move the production facility to a desirable location in Ontario.

These options ensure equality of opportunity for any hatchery processor to compete for Ontario day-old chick market share without appropriating HEMS from fellow hatching egg producers. In fact, because Ontario's hatching egg Cost Of Production is the lowest in Canada, any of these options may make Quebec hatcheries more competitive in the Ontario marketplace.

The bottom line: market forces including hatchery competition must operate within the Supply Managed system and respect the integrity of the system. Adding additional criteria for determining provincial allocations based on uncontrolled capacity of a hatchery processor will destabilize Supply Management of the regulated product and cause economic harm to fellow Hatching Egg Producers.

As an example of upholding provincial historic rights to produce a regulated product, you need look no further than the Farm Products Council of Canada's decisions to reject appeals from processors and further processors for a greater share of total national production of chicken closer to their processing capacity.

Schedule B must only consider the provincial / area requirement for hatching eggs based on the market for day-old chicks as determined by the planned chicken meat production of CFC. Ontario's chicken market is growing and the production of Ontario Hatching Eggs should grow at the same rate adjusted for performance traits.

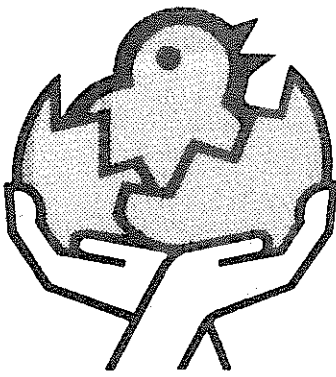
OBCHEPA feels strongly that O.B.H.E.C.C. must have the ability to manage the supply of hatching eggs and chicks to meet the demand of Ontario's chicken farmers. Anything less than OBHECC full control means the system will be more difficult to manage, will lack transparency and will provide opportunities for manipulation which will disadvantage Ontario's Replacement Pullet Producers and Hatching Egg Producers and bring disrepute to Supply Management.

Sincerely,



John Kapteyn
Chair, OBCHEPA

c.c. James Rickard, Chair, OBHECC
Geni Kamenz, Chair, Ontario Farm Products Marketing Commission
Laurent Pellerin, Chairman, Farm Products Council of Canada



ONTARIO BROILER HATCHING EGG & CHICK COMMISSION

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March 7, 2014

Canadian Hatching Egg Producers
Attn: Jack Greydanus, Chair
21 Florence Street
Ottawa, Ontario
K2P 0W6

Dear Mr. Greydanus,

Re: SPOIQ Request for Change to Schedule B of the
Federal Provincial Agreement

We are writing in response to the January 15, 2014 letter of the Syndicat des producteurs d'oeufs d'incubation du Quebec ("SPOIQ") requesting changes to Schedule B of the Federal-Provincial Agreement ("FPA").

There can be no doubt that the foundational principle for the allocation of hatching eggs under the Canadian Hatching Egg Producers Proclamation ("Proclamation") and the FPA is this: to provide sufficient allocation to each province to meet the estimated market demand for chicken in that province, with an adjustment for imports from the United States. This is the principle that all of the signatories to the FPA endorsed by signing the FPA. This is the principle that CHEP is duty bound to implement.

The SPOIQ letter of January 15, 2014 recognizes this principle. It notes that provincial chicken production is the "basis for calculation" of provincial allocations. However, the SPOIQ now proposes a fundamental shift in that principle, suggesting that provincial allocations should take into consideration not only each province's chicken production but also the "needs of the hatcheries operating in its territory".

The Ontario Broiler Hatching Egg and Chick Commission ("OBHECC") categorically rejects the SPOIQ proposal to fundamentally change the basis for hatching egg allocations under the proclamation and FPA.

As you well know, for several years OBHECC has been advocating for action to prevent the on-going displacement of Ontario hatching egg production through Quebec hatcheries selling broiler chicks to chicken growers in Ontario. Currently, more than 8 million Quebec chicks are exported into Ontario annually, resulting in a loss of net hatching egg value in Ontario of well over 4.5 million dollars per year. This is clearly contrary to the principles of the FPA and the Proclamation. There are a number of ways of solving this problem which OBHECC has been patiently advancing to CHEP. Changing the principles of the Proclamation and FPA is not a solution.

We are aware that you have been sent correspondence from the Ontario Broiler Chicken Hatching Egg Producers Association (“OBCHEPA”) dated February 25, 2014, which is attached. OBHECC endorses OBCHEPA’s comments and analyses. There are a number of options cited in the letter that are available for Quebec Hatcheries who require hatching eggs to maintain or expand chick sales to Ontario chicken farmers that do not involve undermining or changing the foundational principles of the Proclamation and FPA or importation of additional product.

Section 14(5) of the FPA permits CHEP to “...adjust but not change the fundamental principles of the methodology (in Schedule B) with the unanimous approval of the members of the Agency.” In our view, Quebec’s proposal would represent a change to the fundamental principles of the methodology. Regardless, any change to Schedule B requires the unanimous approval of the members of CHEP. OBHECC will not agree to this fundamental change.

We respectfully request that CHEP move forward without further delay to address Ontario’s long standing concerns about the loss of its hatching egg production due to the sale of Quebec broiler chicks into Ontario’s market. We should not be distracted from this objective by a proposal from SPOIQ that has no chance of success.

Yours truly,



William H. Bearss P.Ag.
Chair

cc: John Kapteyn, Ontario Broiler Chicken Hatching Egg Producers’ Association
Geri Kamenz, Chair, Ontario Farm Products Marketing Commission
Laurent Pellerin, Chairman, Farm Products Council of Canada

Alberta Hatching Egg Producers

#301, 8925 - 51 Avenue, Edmonton, AB T6E 5J3 • T: 780-434-8414 F: 780-434-9552 • albertahatchingeggs.ca

March 10, 2014

Jack Greydanus (Chair)
Canadian Hatching Egg Producers
21 Florence Street
Ottawa, ON
K2P 0W6

Re: Request for Review of Schedule B Allocation Process

Dear Mr. Greydanus,

Schedule B is the current foundation for the allocation process for broiler hatching eggs in Canada. Since its inception, the mathematical formula and its calculations have been a subject of discussion and reviews from the past. The reviews have suggested that over time modifications to the elements are necessary to keep the approach and process valid and reliable. It is comparable to a tax law going through an evolutionary amendment process as challenges and loop holes are discovered.

A review of the history and purpose of the document was conducted in 1997 with consultation of member provinces. Detailed work in terms of distribution base on allocation was based on a meat to chick ratio initially and moved toward a meat to egg ratio approach. The discussions at the time concentrated efforts more in areas of import distribution across provinces and underproduction penalties. It was referred to as the Circle Approach.

Allocations at that time were based on provincial requirements and the movement of HE domestic/import between jurisdictions was not as prevalent as they are today. In the past production was much more provincial vs regional. When a province was described a processor could be attached to it.

Example: (The 90's)

BC – Sunrise & Superior

AB – Lilydale/Poultry Company

SK- Sunnyland

MB- Grannies/Dunn-Rite

Ont-Maple Leaf/ Maple Lodge/Cargill

Que-Co-op Federee/Flamingo

Today the processor presence in Western Canada is much more fluid and so is the sense of movement of TRQ paper affecting allocation targets.

Examples (Today)

BC – Sunrise –Superior –Lilydale

AB-Sunrise-Maple Leaf-Lilydale

Sk-Prairie Pride (Superior) – Lilydale

MB- Grannies – Sunrise

A question arises as to how does the allocation process occur in Canada and how does this process filter down to the broiler hatching egg sector in each province?

It is explained that the Schedule B process begins with CHEP staff receiving the actual Kg of eviscerated chicken produced for a prior year from Chicken Farmers of Canada. This number includes all chicken produced, which may or may not contain New Market Development production. CHEP begins this process in July of each year and reviews this initial number three times per year and concludes the final numbers in the July one year later. The allocation reviews occur, namely in July, March, November and July final.

The initial number is adjusted for the upcoming year based on Allocation advisories provided by CFC, CPEPC, CHF, FPAC, Ag Canada, CHEPA and EICB and finally by the recommendation of the CHEP board of directors. This advisory and review, as mentioned earlier occurs three times per year.

The next process is that the global kg production (actual plus advisory recommendation) is then proportioned out to each respective member province based on that province 52 week Kg production performance.

For Alberta the following allocation and HE distribution was given for 2013:

CHEP 2013 Allocation – July Initial 2012- 9.11% - 79,118,983 – 65,328,544 domestic

CHEP 2013 Allocation - November 2012 - 9.09% - 78,578,000 - 64,881,000 domestic

CHEP 2013 Allocation - March 2013 - 9.01% - 77,867,000 - 64,294,782 domestic

CHEP 2013 Allocation - July 2013 - 8.83% - 76,921,000 - 63,513,670 domestic

This resulted in Alberta for 2013, having a drop in domestic allocation, initial vs. final of 1,814,874 domestic settable eggs yet our provincial domestic set requirements and birds placed remained the same. Alberta's concern going forward into the future lies in the area that the current allocation process may need to be reviewed as it currently does not accurately portray the reality of demand within our province. As well, with Alberta Chicken Producers (ACP) now out of the National Agency, how will the distribution of allocation occur? Will there be any NMD allocation? Will differential growth be considered overproduction?

As a Province, we need to set direction in terms of breeder placement into the future and not rely upon allocation being determined on past performance of another industry.

Analysis

Therefore, what factors influence allocation and how do the factors affect a province going forward. The following influence CHEPs allocation process and have been considered:

Allocation Differences and Challenges CHEP (AB) vs. Actual vs. ACP

Broilers Placed

2012 Placed – 59,214,379

2013 Placed- 59,173,367

Percentage 2013 over 2012 99.93% (negligible change)

Kg Allocations- CHEP (AB) vs. ACP

<u>Year</u>	<u>CHEP (AB)</u>	<u>ACP</u>	<u>Change</u>
2012	93,656,225	93,194,954	461,281 CHEP over allocated
2013	92,201,939	93,451,482	1,249,543 CHEP under allocated

Given the actual kg production for Alberta, the allocation for 2013 over 2012 had increased by 1.3 % while CHEP's allocation to Alberta decreased by 1.55 %.

Meat to Egg Ratio 2012 vs. 2013 (Alberta)

2012 – 1.1987

2013 - 1.1987

For Alberta the Meat to egg ratio year over year had not changed; however the allocation reduced.

New Market Development

This factor is considered and does have an impact on allocation. For Alberta this resulted in a decrease of 1,077,545 eviscerated Kgs which correlates to a decrease of 898,928 sets vs. the drop estimated by CHEP of 1,814,874 sets. However, if the advisory process is given merit, the growth of 1.75 % would offset this shortfall by 115,000 sets, netting the shortfall 783,928 sets.

TRQ Paper

TRQ paper has a definite factor on what happens to domestic allocation and its performance. In 2013 our Alberta hatcheries had difficulty in receiving their TRQ requirements and requested, on two separate occasions for the domestic sector to help achieve the broiler set requirements for this province. In turn, the hatcheries agreed that they would not utilize the TRQ paper in this province given the need for sets. CHEP's final report on TRQ utilization demonstrates that the hatcheries in Canada utilized 97.2% of the TRQ leaving some 3.8 million sets of TRQ paper unused. Is this Alberta paper that was unused or is it portions of each provinces paper?

Movement of TRQ is difficult to follow given today's distribution of TRQ via companies vs. hatchery throughput.

Advisory Process

The Advisory process is a budgeting approach to look at and consider the direction the chicken industry and hence the hatching egg industry plans to go in a given year. Given the reality of the process, the percentage increase given to Canada is insignificant to a member province, in that the allocation and percentage increase is not global however determined prescriptively by a scheduled process and determined by another industry, namely chicken.

Suggested Opportunities

Alberta is encouraged that CHEP has taken the steps to have their member province's General Managers meet to discuss and review the allocation system as it currently exists. We believe the exercise will allow for discussions on elements that impact the proper distribution of broiler hatching eggs and

broiler chicks to the respective jurisdictions. The allocation process is not a static process as we move forward with the consolidation of the chicken industry in terms of regionalization.

Suggested Approach

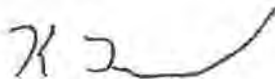
We understand that Chicken Farmers of Canada allocate for domestic production on the basis of the population distribution at the time of the agency establishment. As well, to this number CFC add an additional amount for New Market Development as subscribed by processors. The following table depicts chickens allocation process with the actual production being reached by each province. The source data is from CFC.

	2012 % of Allocation	2012 % of Production	2013 Population	production minus allocation	allocation minus population
BC	14.93%	15.18%	13.00%	0.24%	1.93%
AB	9.08%	9.07%	11.40%	-0.01%	-2.32%
SK	3.92%	3.90%	3.20%	-0.02%	0.72%
MB	4.20%	4.24%	3.60%	0.04%	0.60%
ON	32.52%	32.16%	38.50%	-0.36%	-5.98%
QC	27.45%	27.50%	23.20%	0.05%	4.25%
NB	2.75%	2.76%	2.20%	0.00%	0.55%
NS	3.43%	3.47%	2.70%	0.04%	0.73%
PE	0.36%	0.36%	0.40%	0.00%	-0.04%
NF	1.35%	1.36%	1.50%	0.01%	-0.15%
CANADA	100%	100%	100%	0%	0%

Allocation needs to have more of a crystal ball approach into the future versus relying on the past.

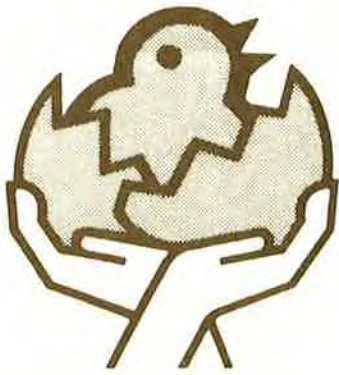
The Alberta Hatching Egg Producers are concerned that the current allocation system operated by CHEP must be reviewed as the information being put forth in terms of allocation does not parallel the requests of our processors within our province. This type of challenge in regards of mixed messages in terms of provincial requests and national allocation distribution, as it currently exists, will lead to unfavorable situations both for our province and for the national agency. We ask you to please bring this matter forward to your directorship.

Yours truly,



Kevin Tiemstra
Alberta CHEP Director

Cc: Freda Molenkamp-Oudman, Alberta Farm Product Marketing Council
Laurent Pellerin, Chairman, Farm Product Council of Canada



ONTARIO BROILER HATCHING EGG & CHICK COMMISSION

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February 9, 2015

Canadian Hatching Egg Producers

Attn: Jack Greydanus, Chair

21 Florence Street

Ottawa, Ontario

K2P 0W6

Dear Mr. Greydanus:

Re: Quota Lease Pool and Liquidated Damages Agreement

As you know, the Ontario Broiler Hatching Egg & Chick Commission (“OBHECC”) has consistently raised concerns about the impact of the 1% Overmarketings Sleeve (“sleeve”) and the Quota Exchange Lease Pool (“QLP”). These tools have been used to permit overmarketings by Quebec hatching egg producers at the expense of Ontario hatching egg producers. In just the past five years, overmarketings by Quebec have deprived Ontario hatching egg producers of over 50 million eggs with a value of over 20 million dollars in revenue. This cannot continue.

In August of last year, OBHECC provided CHEP with a review of those two instruments by our legal counsel who concluded that both are contrary to the Federal Provincial Agreement (“FPA”) and Proclamation establishing the Canadian Hatching Egg Producers. At the same time, OBHECC declined to sign a new Liquidated Damages Agreement (“LDA”) since the LDA expressly includes the sleeve and the QLP.

We are aware that counsel to CHEP recently made recommendations to modify the QLP with a view to making it more compatible with the LDA and the FPA. The proposed modifications do not address OBHECC’s concerns with the sleeve. We have also been asked once again to execute the LDA signed in 2000 with minor revisions to include Alberta and Saskatchewan.

OBHECC does not believe that the modifications proposed by counsel for CHEP will correct the overmarketings and stem the relentless losses to Ontario hatching egg producers. No effort has been made by CHEP or in the review by counsel for CHEP to address the overmarketings permitted by the sleeve. Furthermore, counsel for CHEP indicated that his direction was to “...try to preserve the QLP as much as possible while addressing the key legal concerns...” OBHECC certainly does not share this goal. Rather, it is OBHECC’s view that both the sleeve and the QLP should be eliminated or significantly modified to ensure that provincial boards limit broiler hatching egg production and marketing in accordance with the quota allocation as determined by CHEP under the FPA.

Having said that, OBHECC recognizes that the recommendations from CHEP's counsel at least begin to come to grips with OBHECC's ongoing concerns. OBHECC is prepared to cooperate to see if these proposed modifications will have a marked impact on the overmarketings problem. To that end, OBHECC is prepared to execute the updated LDA on the following basis:

1. The QLP policy is modified in accordance with the recommendations of CHEP's counsel in his memo of January 8, 2015. In particular, the QLP must be modified to:
 - i) require that any quota exchange results be unanimously approved by Provincial Board Directors; and
 - ii) have a single exchange in July of the production year so that the quota exchange operates prospectively rather than after the fact; and
 - iii) have a transfer rate of not less than 12 cents per egg; and
 - iv) commence with the quota lease exchange, as described in parts i, ii, and iii above, in July 2015 for the CHEP 2015 production allocation.
2. The LDA definition of "overmarketings" be expressly tied to the modified QLP. This can be achieved by attaching the modified QLP to the LDA as a schedule.
3. A termination date must be included in the updated LDA such that the LDA is terminated on December 31, 2015.

OBHECC requires a termination date because it has no confidence that the overmarketing problem will be rectified solely through this process. OBHECC is prepared, in good faith, to see if these modifications work but requires a termination date to the LDA.

We also respectfully request that CHEP continue to explore the elimination of the sleeve. In our view, there is simply no longer any need for a one percent sleeve and it is contrary to the intent of the Proclamation and FPA.

Yours truly,



Bob Guy, General Manager

cc William Bearss, Chair, OBHECC
Scott Snider, Turkstra Mazza - Legal Counsel to OBHECC



Ontario Broiler Chicken Hatching Egg Producers Association

July 30, 2015

Attention: Ms. Nathalie Vanasse, Registrar

Re: File 1203-3 OBHECC Complaint review comments, as requested by Farm Products Council of Canada

We are the Ontario Broiler Chick Hatching Egg Producers Association (OBCHEPA), representing the breeder growers/hatching egg producers in the province of Ontario. We are writing the Farm Products Council of Canada to support the position of the Ontario Broiler Hatching Egg and Chick Commission (OBHECC) that the ongoing structural problems in the current hatching egg marketing system are allowing the overproduction of hatching eggs in Canada. These over marketings have been permitted by CHEP through the over production “sleeve” and the quota exchange lease pool. To date these over marketings have cost our producers approximately 20 million dollars in lost revenue.

The lease pool and the sleeve that are part of the past Liquid Damages Assessment (LDA) have had a direct negative impact on our producers. Both of these policies were initially intended to be used in extraordinary circumstance, but have become common “tools” to over produce one’s allocation. As this over production causes an excess of chicks within the province, interprovincial sales of chicks becomes the solution to remove the excess. While we recognize that Broiler Farmers are free to buy their chicks where they please and hatcheries are welcome to sell their chicks where they please, the same is not true for where hatcheries are allowed to source their hatching eggs to produce those chicks. If a hatchery wishes to expand its market share in areas outside of their province, they must acquire a domestic supply of hatching eggs from that province/area in order to fill approximately 80% of its sales – the balance coming from TRQ. In Ontario, OBHECC has implemented a methodology which will reassign hatching egg producers from licensed hatcheries that have lost market share, to licensed hatcheries that have gained market share. OBCHEPA has tried unsuccessfully to make arrangements with Quebec hatcheries and has provided them with the information they would need to become either licensed hatcheries, or licensed hatching egg producer in the province of Ontario. Both to no avail.

During the attempted mediation facilitated by CHF/CPEPC, OBCHEPA offered a constant egg supply to the Quebec hatcheries to fulfill their requirements for the Ontario market sales. The offer was declined. The Ontario Hatcheries offered a constant supply of TRQ to supply the Quebec hatcheries to fulfill their requirements for the Ontario market sales. This offer was also declined. The response was that they would continue to use the **tools** that were available to them.

The Quebec Producers were also in the room for these talks, and their solution was for the Ontario producers to lease them 5 million eggs of our allocation. When we advised

that we had set our full allocation for the 2015 year, and therefore had nothing to lease to them, the talks ended abruptly. This further demonstrates that there has been a deliberate effort by one province to overproduce their allocation in order to fill the requirements of another. The entire marketing system is founded on the basis of ensuring the careful distribution and allocation of broiler hatching eggs to provinces/non-regulated areas to meet the market requirements for chicken meat as determined by Chicken Farmers of Canada. Market forces, including hatchery competition, must operate within the Supply Managed system and respect the integrity of the system. If producers in one area are allowed to exploit the “tools” of the system in order to over market and cause harm to producers in another area, then the integrity of the system becomes compromised and inevitably the system will no longer be able to continue.

During the 80's and 90's both BC and Alberta challenged the CFC chicken allocation system demanding that the provincial producers be given allocation equal to the consumption/growth of the further processed chicken meat consumed in their province. Although there is no challenge to the allocation system in this instance, the same principals can be applied. By allowing a sleeve and a lease pool to continue, one province or area can easily, and at minimal cost, do exactly what BC and Alberta were trying to achieve. Produce what their hatcheries can consume. It is our recollection that all of Council's decisions favoured the then current CFC allocation system. Among the parties to these challenges at Council were BC & Alberta Chicken Marketing Boards, CFC, CPEPC, AOCF and FPPAC

In conclusion OBCHEPA, believes in the three pillars of supply management: Production Management, Predictable Imports, and Pricing Mechanism. If any one of the three pillars is allowed to be altered, either directly or indirectly because of policy, the system is doomed to fail. That is why we believe it is imperative that Council facilitate, or failing that, direct CHEP to do the right thing and uphold the ideals and intentions of the FPA. We think that an LDA should not have lease pools or sleeves; however, if they are to be included, they must be punitive to the over producing party. Should this process proceed to a more formal challenge, OBCHEPA will be seeking intervener status.

Respectfully,



John Kapteyn
Chair, OBCHEPA

c.c. Mr. Laurent Pellerin, Chairman FPCC
Mr. William Bearss, Chairperson, OBHECC
Mr. Bob Guy, General Manager, OBHECC
Mr. Jack Greydanus, Chairman, CHEP
Mr. Guiseppe Caminiti, Executive Director, CHEP
Mr. Geri Kamenz, Chairman OFPMC
Ms. Marilyn Sewell, Marketing Analyst OFPMC

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AGRICULTURE, FOOD AND RURAL AFFAIRS APPEAL TRIBUNAL

APPEAL: **Henry Bos v. Chicken Farmers Of Ontario**

CITATION: **Bos v. CFO 2011 ONAFRAAT 12**

STATUTE: *Ministry of Agriculture, Food and Rural
Affairs Act*

HEARING: **March 8, 2011**

DATE OF DECISION: **April 14, 2011**

FILE NUMBER: **2011-12**

NEUTRAL CITATION: **2011 ONAFRAAT 12**

IN THE MATTER OF SECTION 16 OF THE *MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS ACT*, R.S.O. 1990, CHAPTER M.16, AS AMENDED.

AND IN THE MATTER OF: An Appeal to the Agriculture, Food and Rural Affairs Appeal Tribunal by **Henry Bos**, Stevensville, Ontario, from decisions of Chicken Farmers of Ontario declining his request for the revocation of Chicken Farmers of Ontario Regulation 2274-2009 and Policy 175-2009.

Before:

John O’Kane, Vice Chair; Kirk Walstedt, Chair; Tim Mousseau, Member

Appearances:

Henry Bos – appellant

Geoff Spurr – counsel for the respondent, Chicken Farmers of Ontario

Kevin Thompson - witness for respondent

John Maaskant – witness for respondent

Herman Turkstra – counsel for intervenor, the Association of Ontario Chicken Processors

DECISION OF THE TRIBUNAL

This appeal was heard in Guelph, Ontario on March 7th and 8th, 2011.

Appeal Overview

Henry Bos is a chicken producer from the Niagara peninsula who wants to sell more of his production to chicken processors in the province of Quebec.

Since November 2009, as a result of a moratorium created by regulation, Mr. Bos has been capped at selling about 20% of his production to a Quebec processor and the balance of his production to Ontario processors.

Amendments to a 2005 regulation¹ governing contractual arrangements between Ontario chicken producers and out of province processors, and a 2005 policy² governing chicken production and marketing quotas implemented the 2009 moratorium.

Mr. Bos challenged as *ultra vires* the regulation amendment No. 2274-2009 and the policy amendment No. 175-2009 (collectively “the impugned instruments”). As developed more fully in these reasons, Mr. Bos’ appeal did not involve a constitutional *vires* challenge.

The Regulatory Regime

¹ Regulation No. 2072-2005

² Policy No. 170-2005

The regulation of chicken production and marketing is the product of a Federal Provincial Agreement (FPA) between the government of Canada and several provincial governments, including Ontario.

As part of its FPA commitments, the federal government established a national regulatory agency, the Chicken Farmers of Canada (CFC) under the *Farm Products Agencies Act*³ (*FPAA*).

As part of its FPA commitments, Ontario continued a provincial regulatory agency, the Chicken Farmers of Ontario (CFO), under *Ontario Regulation 402*, made under the *Farm Products Marketing Act (FPMA)*. The legislature established CFO as the regulator with powers for *control and regulation in any or all respects of the producing and marketing within Ontario of chickens, including the prohibition of such producing and marketing in whole or in part*.⁴

Pursuant to the FPA commitments of the Parliament and the provincial Legislature, both CFC and CFO have enacted, within their respective jurisdictions, complementary legislation regulating chicken production and marketing.

The enabling legislation of CFC and of CFO provides that each may delegate functions to the other. CFC enacted the *Chicken Farmers of Canada Delegation of Authority Order*⁵ granting to CFO the authority to perform on CFC's behalf, *the function of allotting and administering ... federal quotas ... and, for the purpose of performing that function, to exercise on behalf of CFC the powers that it would be entitled to exercise in the performance of that function*.⁶

The constitutional validity of such a collaborative national marketing scheme has been repeatedly affirmed by the Supreme Court of Canada since the 1978 *Reference Re Agricultural Products Marketing*⁷ (the *Egg Reference*) and most recently by that Court in *Federation des producteurs de volailles du Quebec v. Pelland* [2005] 1 S.C.R. 292.

Regulation 402 authorizes CFO to regulate both production and marketing through quotas and licensing. In 2005, CFO enacted its Quota Policy⁸ pursuant to its *FPMA* authority. The policy contains the following statement explaining the nature and purpose of the policy:

These quota policies ... are intended to provide a statement of how the Board intends to exercise its authority.⁹

CFO also enacts regulations that prescribe the conduct of the people who produce and market chicken, namely chicken farmers and processors.

³ S.C. Chapter F-4

⁴ Regulation 402, R.R.O. 1990, section 2

⁵ SOR/2003-274

⁶ SOR/2003-274, section 2(1)

⁷ [1978] 2 S.C.R. 1198

⁸ Policy No. 170-2005

⁹ Quota Policy No. 170-2005, section 1.01

In 2005, CFO enacted a regulation¹⁰ titled *Requirements for the Marketing of Chicken By Producers to Out-Of-Province Processors*. CFO enacted that regulation under its *FPMA* authority as well as its delegated authority from CFC under the *FPAA*. The purpose of that regulation is set out in section 2.01.

This Regulation provides for the control and regulation in any or all respects of the marketing by producers of chicken produced by them in Ontario to a processor whose plant or establishment is located outside Ontario.

Through a comprehensive set of regulatory rules, CFO controls the purchase and sale transaction between Ontario producers and processors whether in Ontario or outside Ontario. CFO's principle control mechanism is the purchase and sale contract that is embodied in CFO documents described as "Form 101" or "101A" or "201" for example, that are referred to in both the quota policy and the regulation.

The Moratorium on Increasing Processing Contracts with Quebec Processors

The Tribunal heard evidence from Kevin Thompson, Executive Director of the Association of Ontario Chicken Processors (AOCP) and John Maaskant, a chicken farmer and Board member of CFO about the practical aspects of the chicken quota allocation system in Ontario. Mr. Bos did not challenge or contradict their evidence about the matters summarized below.

Mr. Thompson has worked in the chicken industry for 31 years; the first ten years for a chicken processor; thirteen years with CFO; and the last nine years with AOCP. AOCP is an organization that represents 11 of the 18 commercial chicken processing operations in Ontario. AOCP's membership accounts for between 96% and 97% of Ontario's processing capacity.

Mr. Maaskant is a long time chicken producer and a member of the CFO Board since 1989. He represents the Huron County district No. 2 and he has, during his time with CFO, served in every Board office as well as served as CFO's representative at CFC.

Since 1994, the chicken allocation system in Ontario has been structured using a "bottom up" approach. The "bottom up" approach requires that CFO confidentially determine from Ontario processors their anticipated marketing for a quota period. CFO then aggregates those anticipated marketings and submits the aggregate to the CFC, who in turn aggregates all the provincial requests into a national quota. CFC then allocates the national quota among the provinces, and each provincial commodity board then allots quotas within the province.

Mr. Thompson explained that Ontario is unique among the provinces because of the high number of chicken processors in the province. He explained that it is fundamental for the business of Ontario processors that they have a stable, predictable supply of raw material to support the capital intensive investment in high-tech equipment and facilities required. He explained that the marketing relationship between a chicken processor and its customers is a long term relationship. He explained that the customers have very specific requests for their product and that relationship requires certainty. As an example,

¹⁰ Regulation No. 2072-2005

Kentucky Fried Chicken or McDonalds restaurants demand a continuous supply of chicken parts grown to their product specifications.

However, as explained by Mr. Thompson and Mr. Maaskant, in order for processors to reveal their anticipated marketings to CFO as part of the “bottom up” approach, they require some assurance that they will get the supply of product they need. Therefore, processor “assurance of supply” has always been a component of the “bottom up” allocation system.

Mr. Thompson and Mr. Maaskant testified that the chicken production and marketing system in Ontario has enjoyed stability derived from the bottom up approach and the processor assurance of supply. Chicken producers know in advance that they will have guaranteed markets for their chicken and a fair and reasonable price. Chicken processors know in advance that they will have an assured supply of product for their plants and to provide to their customers.

Both witnesses testified that, historically, about 2% of the Ontario chicken production was processed in Quebec processing plants. They explained that there is a population of chicken farmers located in Eastern Ontario near the Quebec border who share proximity as well as language and cultural ties with Quebec and as a result of those connections, those farmers have historically sold their production to Quebec processors.

Mr. Thompson and Mr. Maaskant testified that starting around 2003 or 2004 chicken producers from southern Ontario began selling some of their chicken to Quebec processors. By 2009, the movement of Ontario chicken to Quebec processors had increased from the historical level of 2% to between 8% and 10%. As explained by Mr. Thompson and Mr. Maaskant, that increased movement of Ontario chickens to Quebec created increasing instability in the Ontario market, and that instability is a concern to chicken producers, chicken processors and CFO.

Part of the concern expressed by Mr. Thompson was that Ontario was receiving an allocation of chicken quota from CFC derived from anticipated marketing projections from Ontario processors; however, an increasing percentage of that allocation was not being marketed to those Ontario processors. He testified that Ontario producers were increasingly shipping to Quebec processors to get a premium price, and that was a concern for the industry due to that additional cost. He testified that, as a result, Ontario processors had to buy Quebec chicken in order to make up the shortfall in supply. He described that as causing added costs to the industry. He also pointed out the economic inefficiency of trucks carrying Ontario chickens passing trucks carrying Quebec chickens, each destined for processing plants in different directions. He explained that those effects were undermining the allocation system and impacting the Ontario processing industry.

Mr. Maaskant testified about the effect of increasing movement of Ontario chicken to Quebec. He explained the result was the supply of chicken within Ontario decreased and the element of “assurance of supply” for Ontario processors diminished. He described that situation as instability. He testified that it is difficult to maintain a stable system without that “assurance of supply”.

Both Mr. Thompson and Mr. Maaskant testified that the Farm Products Council of Canada (FPCC) which oversees CFC, and the National Association of Agri-Food Supervisory Agencies (NAASA), which is an organization of all the provincial oversight agencies, both provided direction to the chicken industry to find a solution to the instability derived from the increasing levels of interprovincial chicken movement between Quebec and Ontario.

Acting on that direction from the supervisory oversight bodies, CFO, in consultation and in conjunction with its Quebec counterpart, Les Eleveurs de volailles du Quebec (EVQ), each introduced moratoriums in the fall of 2009. The moratoriums capped at the 2009 levels the inter-provincial movement of chicken between Ontario and Quebec. The moratoriums were intended to be temporary measures until the industry could find a resolution. CFO, together with EVQ and the processing industries in both provinces, began discussions in 2009 about finding a resolution.

Mr. Maaskant testified that no Ontario processor had challenged the moratorium and that no producer, other than Mr. Bos, had challenged the moratorium. He also testified that he was unaware of any processors in Quebec having challenged the moratorium in that province.

According to Mr. Thompson and Mr. Maaskant, the resolution of that industry instability was embodied in an agreement executed in January 2011. The parties to that agreement included CFO and EVQ, AOCP and its Quebec counterpart, L'association des Abattoirs Avicoles du Quebec (AAAQ). Those parties are currently in the process of implementing the agreement's terms. Once implemented through CFO regulation and policy, the allocation system will provide that Ontario processors will have a time limited priority to make contract arrangements with Ontario chicken producers. After that priority time ends, the Quebec processors will then have the opportunity to make contract arrangements with Ontario producers. The implementation of the agreement in Quebec will have a similar but opposite priority for Quebec processors. The goal of the agreement, according to Mr. Thompson, is to harmonize the Ontario and Quebec processor allocations systems. Mr. Thompson was clear that processors and producers can contract where they choose, be it in Ontario or in Quebec. He was also adamant that the agreement does not dictate marketing contract levels in Ontario or Quebec.

The agreement between CFO, EVQ, AOCP and AAAQ reflects, among other things, its purpose in paragraph 5 of the "BACKGROUND" section.

The principle purpose of this Memorandum of Agreement (the "Agreement") is to provide particulars of the manner in which CFO and EVQ will alter their respective processor allocation systems so that contracting between producers and processors in Ontario and Quebec will occur subject to substantially similar rules so as to improve and refine the operation of the existing supply assurance systems in each province. In doing so, each party is acting within its own jurisdiction under the Constitution Act of 1892 without creating any restriction to the free flow of chicken in inter provincial trade.

The moratoriums in Ontario and Quebec are addressed as follows in paragraph 5.01 of Article V of the agreement.

CFO and EVQ each placed a moratorium on new interprovincial marketing arrangements between producers in their respective provinces and out of province processors effective for quota period A-96 for Ontario and A-97 for Quebec. This moratorium has been renewed and extended and continues to be in effect. The parties agree that the Quebec and Ontario moratoriums should be maintained to such an extent that the removal of them is coordinated to coincide with the implementation of the terms of this Agreement plus one full quota period afterward.

Therefore, according to the uncontradicted evidence and the terms of the January 2011 agreement, we find as a fact that the moratorium in Ontario is temporary and will be phased out, as CFO implements the agreement terms.

While it was not disputed in this appeal, we find as a fact that CFO's intention behind the impugned instruments was to temporarily maintain as the status quo, the November 2009 levels of interprovincial movement of Ontario chicken to Quebec processors.

While it was not challenged in the context of this appeal, we also find as a fact that CFO's rationale for enacting the impugned instruments was to address an increasing instability in the chicken production and processing industry in Ontario, the industry that CFO is responsible for regulating.

Henry Bos

Henry Bos farms in Stevensville and he holds production and marketing quota allotted to him by CFO. While Mr. Bos' chicken production was previously based on an eight week cycle, he currently operates on a nine week cycle. Nothing material in this appeal turns on the length of the cycle but it coincides with the period between when the birds hatch and when Mr. Bos sells them to a chicken processor. Mr. Bos' basic quota is 34,025 quota units. When expressed in kilograms, that basic quota translates to 71,197 kilograms. In every quota period therefore, he is entitled to produce and market that quantity of chicken.

Mr. Bos' poultry farm also holds a licence under the *Canadian Chicken Licensing Regulations*¹¹ enacted by CFC.

During a preliminary hearing of this matter on May 28th, 2010, the Tribunal investigated the scope of Mr. Bos' *ultra vires* challenge to determine if it included a constitutional component. Following that preliminary hearing, in a Pre-Hearing Conference Decision of June 8th, 2010, the Tribunal suggested Mr. Bos seek legal advice about the procedural requirements for making a constitutional challenge, and directed that he confirm in writing if he intended to pursue a constitutional *vires* challenge. On July 5th, 2010 Mr. Bos delivered a letter confirming that he was not advancing a constitutional challenge. Mr. Bos did not provide the Attorney Generals of Ontario and Canada with the notice required by section 109 of the *Courts of Justice Act*, and Rule 27 of the Tribunal's *Rules of Procedure*.

¹¹ SOR/2002-22

The essence of Mr. Bos' challenge to the policy amendment and the regulation amendment is that the effect of those amendments removes his freedom to sell his chicken to whomever he chooses. He explained, in his evidence and his arguments, that the "core character" of the impugned policy amendment and regulation amendment is to control the inter-provincial movement of chicken, and that control was beyond CFO's jurisdiction. He testified the impugned policy amendment and regulation amendment prevent him the freedom to market more than 9,025 quota units inter-provincially. The 9,025 quota units reflect the level of Mr. Bos' contracts with a Quebec processor at the time when CFO introduced the moratorium in November 2009.

Mr. Bos did not introduce any financial or economic evidence to suggest that the impugned policy amendment and regulation amendment had an adverse effect on his business. He did not testify that the moratorium interfered with a maturing opportunity to increase his chicken marketing in Quebec. He did not testify about why he would choose to market more of his chicken in Quebec. The essence of his case was that the impugned policy amendment and regulation amendment interfered with his freedom to choose where he markets his chicken.

Mr. Bos agreed during cross-examination that extra-provincial marketing has a direct effect on chicken supplies in Ontario that would otherwise go to Ontario processors.

The Issues

Mr. Bos focused his arguments about Regulation 2274-2009 and Policy No. 175-2009 on their "core character", which he argued halts inter-provincial trade in chicken.

In support of those arguments he referred the Tribunal to paragraph 31 of the *Pelland* decision.

Mr. Pelland was a Quebec chicken producer who "grossly exceeded" his allocated quota. In response to that, EVQ imposed a penalty of more than \$2 million and reduced Mr. Pelland's quota to zero. Mr. Pelland then challenged EVQ's penalties by attacking the constitutional validity of the federal-provincial scheme for the production and marketing of chicken.

Mr. Pelland did not challenge the validity of the provincial regulatory regime for chicken. He argued however, that the provincial regulatory regime could only apply to the production of chickens destined for the Quebec market. Since Mr. Pelland's entire production was destined for the extra-provincial market, he argued that it was no longer a provincial matter and, therefore, it was beyond the authority of the provincial regulator (EVQ).

The passage in paragraph 31 that Mr. Bos focused on was that part of Madam Justice Abella's comments about the "pith and substance" analysis conducted by the Supreme Court of Canada in a long line of cases culminating in the *Egg Reference*.

Mr. Pelland had focused his argument on then Chief Justice Laskin's statement in the *Egg Reference* that *the provincial law and regulation at issue would not be valid if they*

occurred “with a view to limiting interprovincial or export trade”. However, Madam Justice Abella went on to point out at paragraphs 18 and 19:

However, this comment was made in the context of considering whether the law and regulations were in pith and substance a provincial matter. Ultimately, as explained later in these reasons, Laskin, C.J. found that they were. This comment, therefore, does not support the proposition that provincial laws found valid under a pith and substance analysis are inapplicable to export trade.

Contrary to Mr. Pelland’s submissions, in my view the pith and substance of the provincial marketing Act and the provincial chicken regulations are at the heart of this appeal. In order to determine whether the provincial component of the scheme is unconstitutional because it intrudes into a federal head of power, it is necessary first to determine its core character.

After the pith and substance analysis, the Supreme Court in *Pelland* found the provincial law and regulation to be valid and dismissed Mr. Pelland’s constitutional challenge.

There is a strong similarity between Mr. Bos’ arguments and the arguments advanced by Mr. Pelland in the *Pelland* case. However, as noted above in these reasons, Mr. Bos’ appeal does not involve a constitutional challenge. Mr. Bos’ submissions about the “core character” of the impugned instruments engages a “pith and substance” analysis.

Therefore, the narrower issue for the Tribunal is whether CFO’s policy amendment No. 175-2009 and regulation amendment No. 2274-2009 are beyond the authority of the CFO and therefore *ultra vires*. The analysis to be conducted is similar to the analysis the New Brunswick Queen’s Bench conducted in the *Groupe Westco Inc. v. Province of New Brunswick* (2010) NBQB 217 (*Westco*) case relied on by Mr. Bos.

The facts in *Westco* evolved from an earlier case *Nadeau Poultry Farm Limited v. The New Brunswick Farm Products Commissions, Chicken Farmers of New Brunswick and Groupe Westco Inc.* (2009) NBCA 48 (*Nadeau*).

Westco is a vertically integrated chicken producing/processing operation that owns 51% of the New Brunswick chicken quota. Westco served notice on Nadeau, the only poultry processor in New Brunswick, that it intended to move its chicken to its own processing plant located in Quebec. For Nadeau, that could have meant the end of its processing business, which would mean the loss of a significant number of jobs in New Brunswick.

In response, Nadeau asked the provincial regulator, the Chicken Farmers of New Brunswick (CFNB), to issue a plant supply allocation order requiring that all New Brunswick producers process a portion of their chicken production at the Nadeau plant. CFNB rejected Nadeau’s request and Nadeau appealed to the provincial oversight agency, the Queen’s Bench and eventually the New Brunswick Court of Appeal. At each level Nadeau was unsuccessful.

Presumably, in response to the outcome of the *Nadeau* case, the New Brunswick legislature amended the *Natural Products Act*¹² to introduce section 41.1 that would authorize the provincial Minister of Agriculture and Aquaculture to designate the plants where chicken **may be** processed in New Brunswick. (Emphasis added) The Minister then issued a Ministerial Order under the authority of section 41.1. That Order designated the Nadeau plant as the processing facility where *chicken grown in New Brunswick shall be processed*. (Emphasis added)

Westco then asked the Queen’s Bench to quash the Ministerial Order as *ultra vires* the power granted to the Minister. The Court concluded the amendment to the *Natural Products Act* did not prohibit the export of chicken, but rather, regulated the processing of chicken that producers chose to have processed in New Brunswick. The Court concluded the amendment “in pith and substance” was concerned with regulating the chicken processing industry within the province. However, the Ministerial Order, in both purpose and effect, was directed towards interprovincial trade because the Order created a prohibition to export chicken outside New Brunswick for processing. The Court struck down the Ministerial Order as *ultra vires* because it exceeded the power granted to the Minister by the amendment to the *Natural Products Act*.

The Core Character or Pith and Substance Analysis

Mr. Bos had argued that we should look only to the pith and substance of the amending Regulation No. 2274-2009 but we conclude that such an approach is inappropriate. The preferred approach is to consider the pith and substance of Regulation No. 2274-2009 in the context of the regulation that it amends, Regulation No. 2072-2005, and in the context of *Regulation 402* and in the context of the *FPMA*.

The Supreme Court’s discussion in the *Pelland* case guides our pith and substance analysis which looks at both the purpose of the legislation as well as its effect.

The purpose of the *FPMA* is *to provide for the control and regulation in any or all aspects of the producing and marketing within Ontario of farm products including the prohibition of such producing or marketing in whole or in part*¹³. Chicken is one such farm product.

In the context of the *FPMA*, the legislature defined “marketing” broadly to include “offering for sale” and “processing” and “selling”.

In section 5 of *Regulation 402*, the legislature listed specific powers delegated to CFO which includes the power to make regulations for, among other things:

- (j) providing for the control and regulation of the marketing of chickens, including the times and places at which chickens may be marketed;*
- (k) providing for the control and regulation of agreements entered into by producers of chickens with persons engaged in marketing or processing chickens, and the prohibition of any provision or clause in such agreements;*

¹² S.N.B. 1999, c.N-1.2

¹³ *FPMA*, R.S.O. 1990, Chapter F-P, section 2

Regulation 402 clearly grants CFO regulatory authority over marketing chickens and regulatory authority over agreements between chicken producers and processors.

In practice, marketing is a transaction typified by a purchase and sale. Before any actual processing of chickens into chicken products there is a sale of chickens by a producer and a purchase of chickens by a processor. CFO is granted authority to exercise regulatory control over the transaction between producer and processor, regardless the ultimate destination of the chicken.

Taken together, the *FPMA* and *Regulation 402* provide the basis for CFO's authority to enact policy and regulation that controls Mr. Bos marketing his chicken to processors.

Indeed, CFO's underlying policy and regulation have, since 2005, operated as a regulatory control over Ontario producers marketing to Quebec processors. This appeal does not involve a challenge to that underlying policy and regulation, but only to the 2009 amendments that implemented the moratorium. However, our analysis includes consideration of the pith and substance of the underlying regulation.

CFO's Regulation 2072-2005 is entitled *Requirements for the Marketing of Chicken By Producers to Out-Of-Province Processors* and the following provisions of that regulation are relevant in our analysis.

- *This Regulation provides for the control and regulation in any and all respects of the marketing by producers of chicken produced by them in Ontario to a processor whose plant or establishment is located outside Ontario. (Section 2)*
- The out of province processor must apply to CFO on a Form 101A to contract with an Ontario producer. (Section 4.01)
- The purchase contract between producer and processor must be in accordance with the regulation and CFO's Form 101 (Section 4.03)
- All chicken shall be purchased and sold "Freight on Board" (F.O.B.) the Ontario producer's premises at the time it is received by the processor. (Section 4.14)
- The Form 101 is deemed to contain a term permitting CFO access to all books and records related to the marketing including access to trucks transporting the chickens and to approved scales used by the processor. (Section 4.18)
- Transportation of the chickens is controlled by a CFO Form 6. (Section 6.01)
- Once the chickens are loaded for transport from the Ontario producer to the processor, the load must be immediately taken to an approved scale for weighing and documentation. The regulation defines an approved scale to mean a weight scale within Ontario. (Section 6.03 and section 1 definitions)

- The processor is obliged to pay the producer the purchase price for the chicken received at the Ontario producer's premises. (Section 7.02)
- The processor is obliged to either pay for a catching crew to catch the chickens at the Ontario producer's premises or to reimburse the producer for the costs of catching the chickens. (Section 7.08)
- The processor is obliged to pay the producer a minimum price for the chicken. (Section 7.09)
- The processor is obliged to file information reports with CFO after receiving chicken from Ontario producers. (Section 8)
- Processors are obliged to post irrevocable Letters of Credit with CFO as security. (Section 10)
- CFO can draw on the processor Letters of Credit where a processor refuses to accept the chicken it contracted for on the Form 101 or where it fails to pay the producer. (Section 11)

Each of those listed provisions connects the marketing transaction between producer and processor to the province of Ontario. As a result, the fact that the birds ultimately cross the Ontario-Quebec provincial border for processing is incidental.

Therefore, in our view, the pith and substance of Regulation 2072-2005 is the regulation of marketing transactions that occur within Ontario, and that is wholly within the authority granted by the Province to CFO under the *FPMA* and *Regulation 402*.

The impugned Regulation No. 2274-2009 amends Section 4 of Regulation No. 2072-2005 to provide that, beginning around November 2009, CFO will not accept or approve any more marketing contracts between Ontario producers and out of province processors.

While it is true that the impugned instruments create a temporary cap at the 2009 levels of the interprovincial movement of chicken, the pith and substance of the impugned instruments remains the regulation of chicken marketing in Ontario. The fact that the moratorium creates a temporary cap on interprovincial movement of chicken is incidental. That incidental fact does not change the regulation's core character which is controlling marketing transactions that occur in Ontario. In addition, based on the uncontradicted evidence of Kevin Thompson and John Maaskant, the moratorium that created that temporary cap is being phased out as the new processor allocation agreement is implemented.

Unlike the Ministerial Order in the *Westco* case, the moratorium did not create a prohibition on exporting chicken outside Ontario for processing; rather it maintained the level of export at the 2009 levels.

In addition, unlike the blanket prohibition created by the Ministerial Order in *Westco*, the Ontario moratorium is a temporary measure that is being phased out.

Therefore, CFO Policy 175-2009 and CFO Regulation No. 2274-2009 are not *ultra vires* the *FPMA* and *Regulation 402*.

Having concluded CFO has the authority under provincial legislation to enact the underlying policy and regulation and the 2009 amendments, it is unnecessary for us to consider whether CFO has authority under delegated federal legislation.

Tribunal Order

Therefore, the Tribunal Orders:

1. Henry Bos' challenge of CFO Policy 175-2009 is dismissed.
2. Henry Bos' challenge of CFO Regulation 2274-2009 is dismissed.

Dated at Brampton, Ontario this 14th day of April, 2011

COUR D'APPEL

CANADA
PROVINCE DE QUÉBEC
GREFFE DE MONTRÉAL

N^{os} : 500-09-022087-118, 500-09-022088-116, 500-09-022107-114,
500-09-022118-111, 500-09-022127-112
(500-17-058631-105 et 500-17-056682-100)

DATE : Le 28 novembre 2013

**CORAM : LES HONORABLES PIERRE J. DALPHOND, J.C.A.
NICHOLAS KASIRER, J.C.A.
CLÉMENT GASCON, J.C.A.**

N^o : 500-09-022087-118 (500-17-058631-105)

L'ASSOCIATION DES ABATTOIRS AVICOLES DU QUÉBEC INC.
APPELANTE – mise en cause

c.

NADEAU POULTRY FARM LTD
INTIMÉE – demanderesse

et

**PROCUREUR GÉNÉRAL DU QUÉBEC
PROCUREUR GÉNÉRAL DU CANADA**
MIS EN CAUSE – mis en cause

et

**CHICKEN FARMERS OF CANADA / LES PRODUCTEURS DE POULET DU
CANADA**
MIS EN CAUSE – intervenant

et

RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC
MISE EN CAUSE – défenderesse

et

**LES ÉLEVEURS DE VOLAILLES DU QUÉBEC
ASSOCIATION DES ACHETEURS DE VOLAILLES DU QUÉBEC**

FERME GILLES LÉVESQUE ET FILS INC. ET AL.¹
FERME AVICOLE LAPLANTE LTÉE
MIS EN CAUSE – mis en cause

N° : 500-09-022088-116 (500-17-056682-100)

L'ASSOCIATION DES ABATTOIRS AVICOLES DU QUÉBEC INC.
APPELANTE – mise en cause

c.

FERME GILLES LÉVESQUE ET FILS INC. ET AL.¹
INTIMÉS – demandeurs

et

PROCUREUR GÉNÉRAL DU QUÉBEC
PROCUREUR GÉNÉRAL DU CANADA
MIS EN CAUSE – mis en cause

et

CHICKEN FARMERS OF CANADA / LES PRODUCTEURS DE POULET DU
CANADA
MIS EN CAUSE – intervenant

et

RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC
MISE EN CAUSE – défenderesse

et

LES ÉLEVEURS DE VOLAILLES DU QUÉBEC
ASSOCIATION DES ACHETEURS DE VOLAILLES DU QUÉBEC
FERME AVICOLE LAPLANTE LTÉE
MIS EN CAUSE – mis en cause

et

NADEAU POULTRY FARM LTD
MISE EN CAUSE – intervenante

500-09-022107-114 (500-17-056682-100)

CHICKEN FARMERS OF CANADA / LES PRODUCTEURS DE POULET DU
CANADA
APPELANTS – intervenants

et

LES ÉLEVEURS DE VOLAILLES DU QUÉBEC

¹ Voir liste des mis en cause (ANNEXE 1).

L'ASSOCIATION DES ABATTOIRS AVICOLES DU QUÉBEC INC.

APPELANTS – mis en cause

c.

FERME GILLES LÉVESQUE ET FILS INC. ET AL.¹

INTIMÉS – demandeurs

et

PROCUREUR GÉNÉRAL DU QUÉBEC

PROCUREUR GÉNÉRAL DU CANADA

MIS EN CAUSE – mis en cause

et

RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC

MISE EN CAUSE – défenderesse

et

ASSOCIATION DES ACHETEURS DE VOLAILLES DU QUÉBEC

FERME AVICOLE LAPLANTE LTÉE

MISES EN CAUSE – mises en cause

et

NADEAU POULTRY FARM LTD

MISE EN CAUSE – intervenante

N° : 500-09-022118-111 (500-17-058631-105)

**CHICKEN FARMERS OF CANADA / LES PRODUCTEURS DE POULET DU
CANADA**

APPELANTS – intervenants

et

L'ASSOCIATION DES ABATTOIRS AVICOLES DU QUÉBEC INC.

LES ÉLEVEURS DE VOLAILLES DU QUÉBEC

APPELANTS – mis en cause

c.

NADEAU POULTRY FARM LTD

INTIMÉE – demanderesse

et

PROCUREUR GÉNÉRAL DU QUÉBEC

PROCUREUR GÉNÉRAL DU CANADA

MIS EN CAUSE – mis en cause

et

RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC

MISE EN CAUSE – défenderesse

et

ASSOCIATION DES ACHETEURS DE VOLAILLES DU QUÉBEC

FERME GILLES LÉVESQUE ET FILS INC. ET AL.¹

MIS EN CAUSE – mis en cause

N° : 500-09-022127-112 (500-17-058631-105)

NADEAU POULTRY FARM LTD

APPELANTE – demanderesse

c.

RÉGIE DES MARCHÉS AGRICOLES ET ALIMENTAIRES DU QUÉBEC

INTIMÉE – défenderesse

et

L'ASSOCIATION DES ABATTOIRS AVICOLES DU QUÉBEC INC.

LES ÉLEVEURS DE VOLAILLES DU QUÉBEC

INTIMÉS – mis en cause

et

PROCUREUR GÉNÉRAL DU QUÉBEC

PROCUREUR GÉNÉRAL DU CANADA

MIS EN CAUSE – mis en cause

et

**CHICKEN FARMERS OF CANADA / LES PRODUCTEURS DE POULET DU
CANADA**

MIS EN CAUSE – intervenants

et

ASSOCIATION DES ACHETEURS DE VOLAILLES DU QUÉBEC

FERME GILLES LÉVESQUE ET FILS INC. ET AL.¹

MIS EN CAUSE – mis en cause

ARRÊT

[1] L'Association des abattoirs avicoles du Québec inc. et Les Producteurs de poulet du Canada, d'une part, et Nadeau Poultry Farm Ltd, d'autre part, se pourvoient contre un jugement rendu le 28 septembre 2011 (rectifié d'office les 29 septembre et 6 octobre 2011) par la Cour supérieure, district de Montréal (l'honorable Chantal Masse), qui, dans le cadre de procédures en nullité de modifications au *Règlement sur la production et la mise en marché du poulet*, R.R.Q., c. M-35.1, r. 292, a conclu que celles-ci étaient autorisées en vertu du cadre légal provincial, mais néanmoins inopérantes au motif qu'elles étaient en contradiction avec le cadre légal fédéral, par ailleurs prépondérant.

[2] Pour les motifs du juge Dalphond, auxquels souscrivent les juges Kasirer et Gascon, **LA COUR** :

[3] **REJETTE** les cinq requêtes pour permission d'en appeler *de bene esse*, sans frais;

[4] **ACCUEILLE** les appels de l'Association des abattoirs avicoles du Québec inc. et de Les Producteurs de poulet du Canada, avec dépens;

[5] **INFIRME** le jugement de première instance, et procédant à rendre le jugement qui aurait dû être rendu :

[5.1] REJETTE les requêtes introductives d'instance de Nadeau Poultry Farm Ltd et de Ferme Gilles Lévesque et Fils inc. et al.¹ en révision judiciaire et/ou nullité de sept décisions de la Régie des marchés agricoles et alimentaires du Québec, avec dépens;

[6] **REJETTE**, sans frais, l'appel de Nadeau Poultry Farms Ltd.

PIERRE J. DALPHOND, J.C.A.

NICHOLAS KASIRER, J.C.A.

CLÉMENT GASCON, J.C.A.

M^e Karl Delwaide
M^e Antoine Aylwin
M^e Myriam Robichaud
FASKEN MARTINEAU DUMOULIN
Pour L'Association des abattoirs avicoles du Québec inc.

M^e Madeleine Lemieux (absente)
PARADIS, LEMIEUX, FRANCIS
Pour Ferme Gilles Lévesque et Fils inc. et al.

M^e Marie Marmet (absente)
MINISTÈRE DE LA JUSTICE CANADA
Pour Procureur général du Canada

500-09-022087-118, 500-09-022088-116, 500-09-022107-114,
500-09-022118-111, 500-09-022127-112

PAGE : 6

M^e David K. Wilson
M^e Anna Turinov
CAVANAGH
M^e Laurent DeBrun (absent)
KAUFMAN LARAMÉE
Pour Chicken Farmers of Canada / Les Producteurs de poulet du Canada

M^e Sylvie Dupuis
Régie des Marchés agricoles et alimentaires du Québec

M^e Pierre Brosseau (absent)
M^e Marie-Ève Gagné (absente)
BÉLANGER LONGTIN
Pour Éleveurs de volailles du Québec

M^e Jean-Claude Beauchamp (absent)
Pour Association des acheteurs de volailles du Québec

M^e Jean-Pierre Sheppard
M^e Jason Novak
ROBINSON SHEPPARD SHAPIRO
Pour Nadeau Poultry Farm Ltd

Date d'audience : 17 septembre 2013

MOTIFS DU JUGE DALPHOND

[7] L'Association des abattoirs avicoles du Québec inc. (AAAQ) et Les Producteurs de poulet du Canada (PPC) se pourvoient contre un jugement de la Cour supérieure qui se prononce sur la constitutionnalité de modifications au *Règlement sur la production et la mise en marché du poulet*, R.R.Q., c. M-35.1, r. 292 (Règlement). La Cour supérieure a reconnu que ces modifications, adoptées par l'office représentant les producteurs de volailles du Québec, appelé les Éleveurs de volailles du Québec (ÉVQ), et approuvées ensuite par la Régie des marchés agricoles et alimentaires du Québec (Régie), étaient autorisées en vertu du cadre légal provincial, mais néanmoins inopérantes au motif qu'elles étaient en contradiction avec le cadre légal fédéral prépondérant.

[8] Par un appel distinct, Nadeau Poultry Farm Ltd (Nadeau) se pourvoit contre ce même jugement, d'avis que la juge aurait plutôt dû faire droit à sa prétention que les modifications au Règlement étaient inconstitutionnelles parce que relevant du pouvoir exclusif du Parlement en matière de réglementation du commerce extraprovincial.

[9] Pour les motifs que j'énonce plus loin, je suis d'avis que les modifications étaient valides et que les pourvois de l'AAAQ et des PPC doivent être accueillis et celui de Nadeau, rejeté¹.

UNE MISE EN CONTEXTE

[10] À la demande des producteurs, le gouvernement fédéral et les provinces ont mis en place des régimes harmonisés de production et de commercialisation de certains produits agricoles (produits réglementés), dont l'objectif premier est de gérer l'offre en fonction des besoins de commercialisation et ainsi stabiliser les prix payés aux producteurs². Le poulet est un de ces produits réglementés.

[11] L'encadrement fédéral se compose des éléments suivants :

- *Loi sur les offices des produits agricoles*, L.R.C. (1985), c. F-4 (Loi fédérale);

¹ Des inscriptions en appel et des mémoires ont aussi été déposés par les Éleveurs de volailles du Québec (dossiers n° 500-09-022108-112 et n° 500-09-022109-110) et Ferme Gilles Lévesque et fils inc. et 81 autres producteurs (dossier n° 500-09-022123-111). Ces pourvois ont fait l'objet de désistements peu avant leur audition. L'Association des acheteurs de volailles du Québec inc., mise en cause, a aussi renoncé à sa position.

² Ce modèle de développement économique par opposition à un marché libre relève de choix politiques et sa légalité n'est pas remise en cause par aucune des parties.

- *Accord fédéral-provincial de 2001 sur le poulet (Accord de 2001)*³;
- *Proclamation visant Les Producteurs de poulet du Canada*, DORS/79-158;
- *Règlement canadien sur le contingentement de la commercialisation des poulets*, DORS/2002-36⁴;
- *Règlement sur l'octroi de permis visant les poulets du Canada*, DORS/2002-22⁵;
- *Ordonnance visant la délégation de pouvoirs par l'office appelé Les Producteurs de poulets du Canada*, DORS/2003-274⁶.

[12] Au niveau provincial québécois, l'encadrement se trouve dans la *Loi sur la mise en marché des produits agricoles, alimentaires et de la pêche*, L.R.Q., c. M-35.1 (Loi provinciale) et le Règlement.

[13] En vertu de ce régime harmonisé, la production de poulet est contingentée au niveau national par les PPC, un office fédéral de commercialisation créé en vertu de l'article 16 de la Loi fédérale, qui répartit le contingent national de poulet à produire entre les provinces. Les offices provinciaux – au Québec, les ÉVQ – répartissent ensuite le contingent provincial entre les producteurs de cette province qui se voient ainsi allouer une portion du contingent provincial.

[14] Le fonctionnement du système national est conçu de bas en haut (*bottom-up*). En effet, c'est en partant des chiffres fournis par chaque province que les PPC établissent le contingent national. Ainsi, l'allocation du Québec octroyée par les PPC est basée sur une évaluation des besoins faite par les ÉVQ et les associations d'acheteurs et des données historiques de production.

³ Il remplace l'*Accord fédéral-provincial relatif à la mise en place d'un système global de commercialisation du poulet au Canada* de 1978, cité dans *Fédération des producteurs de volailles du Québec c. Pelland*, [2005] 1 R.C.S. 292, 2005 CSC 20 (*Pelland*).

⁴ Il remplace l'ancien *Règlement concernant la fixation du nombre de kilogrammes de poulet qu'un producteur peut commercialiser sur les marchés interprovincial et international*, DORS/90-556, cité dans *Pelland*.

⁵ Il remplace le *Règlement sur l'octroi de permis visant les poulets du Canada*, DORS/81-517, cité dans *Pelland*.

⁶ Elle remplace la *Délégation de pouvoir par l'Office canadien de commercialisation des poulets en matière de contingentement*, C.P. 1991-1090, citée dans *Pelland*. On a aussi produit dans le dossier des délégations en vertu de la *Loi sur la commercialisation des produits agricoles*, L.R.C. (1985), c. A-6, malgré loi qui permet au gouverneur en conseil d'autoriser un office provincial à réglementer l'aspect extraprovincial de la commercialisation de produits agricoles et à percevoir des taxes et prélèvements sur les échanges extraprovinciaux de ces produits. Elle n'a aucune pertinence en l'espèce puisque nous sommes en présence d'un « produit réglementé » régi par la *Loi sur les offices des produits agricoles*.

[15] L'Ontario et le Québec sont les deux principales provinces productrices de poulet. Depuis 1990 en Ontario et 1998 au Québec, le système de gestion de l'offre comprend des garanties de paiements et d'approvisionnement qui assurent aux abattoirs des volumes suffisants pour honorer leurs contrats avec leurs clients et protègent les paiements aux producteurs. Au Québec, ces modalités font normalement partie d'une convention de mise en marché convenue entre les ÉVQ et les associations d'acheteurs de poulet. Au moment du litige, l'office provincial et les associations d'acheteurs de poulet sont liés par la *Convention de mise en marché du poulet de 2004*, décrétée par la Régie⁷.

[16] À l'automne 2009, l'office ontarien, *Chicken Farmers of Ontario* (CFO), décrète un moratoire pour les périodes A-96 et suivantes sur les ventes de poulets ontariens aux abattoirs hors de l'Ontario en les limitant aux ventes effectuées au cours de la période A-95⁸. L'objectif est d'assurer que la production ontarienne réponde d'abord aux besoins des abattoirs de cette province, incapables de donner suite aux contrats avec leurs clients faute de disponibilité suffisante de poulets en Ontario en raison d'une augmentation importante depuis 2003 du nombre de poulets vivants vendus aux abattoirs québécois.

[17] Conséquence de ce moratoire, des abattoirs québécois perdent d'importantes sources d'approvisionnement alors que les producteurs québécois restent libres d'augmenter leurs ventes en Ontario ou ailleurs. Le tout compromet directement la capacité des abattoirs québécois de répondre aux besoins de leurs clients. De plus, cela risque d'affecter la part de marché du Québec par rapport à l'ensemble canadien.

[18] En réaction à cette situation, les ÉVQ et l'AAAQ conviennent de demander à la Régie de modifier la *Convention de mise en marché du poulet de 2004*, précédemment décrétée par cette dernière. Les ÉVQ adoptent aussi un règlement modificateur, assujéti à l'approbation de la Régie, afin que durant la période A-97, toute nouvelle capacité de production soit destinée aux besoins des abattoirs québécois. Elle gèle au niveau de la période A-95 les volumes de poulets pouvant être vendus à des abattoirs de l'extérieur du Québec⁹.

[19] Le 4 décembre 2009, la Régie approuve ces modifications (décision 9303¹⁰). Elle souligne qu'il y a urgence d'intervenir, et ce, jusqu'à ce qu'une solution globale soit négociée avec l'Ontario. Selon la preuve acceptée par la Régie, le contexte résultant du

⁷ À défaut d'entente, la Régie peut imposer une convention de mise en marché par sentence (art. 116 et 117 de la Loi provinciale).

⁸ La production de poulet au Canada se fait sur des cycles de huit semaines, tant et si bien qu'il y a six périodes et demie de production par année, chacune étant désignée par un code alphanumérique (articles 54 et 55 du Règlement).

⁹ Soit la même période de référence utilisée pour fixer le moratoire ontarien.

¹⁰ La durée d'application des modifications contestées sera prolongée par sept décisions subséquentes, tant et si bien qu'elles s'appliqueront de façon continue de la période A-97 à la période A-108.

moratoire ontarien compromet le contingent provincial québécois dans l'ensemble canadien, de même que les garanties d'approvisionnement consenties aux abattoirs québécois. La raisonnable de cette évaluation de la preuve par la Régie n'a pas fait l'objet d'une contestation.

[20] De fait, une entente administrative interviendra en janvier 2011 entre les producteurs québécois et ontariens, d'une part, et les abattoirs québécois et ontariens, d'autre part. Elle sera approuvée par la Régie en février 2012 et entrera en vigueur en septembre 2012, début de la période A-113¹¹, soit après le prononcé du jugement attaqué.

[21] La preuve révèle que les modifications attaquées au Règlement avaient, comme les mesures ontariennes, les caractéristiques suivantes :

- 1) nature temporaire;
- 2) prises en vue de stabiliser le marché provincial, notamment en assurant une sécurité d'approvisionnement aux abattoirs de la province;
- 3) impact très limité sur le volume de poulets destinés au marché extraprovincial et international.

[22] Si l'impact sur le commerce extraprovincial a été globalement modeste, il semble qu'il a été important pour Nadeau, un abattoir du Nouveau-Brunswick, incapable de trouver suffisamment de production dans sa province¹² et qui devait, pour répondre à ses besoins, s'approvisionner auprès de producteurs québécois.

LE JUGEMENT ATTAQUÉ

[23] Après analyse des modifications au Règlement et de leurs effets, la juge de première instance (2011 QCCS 5190) conclut qu'elles n'avaient pas pour objet de s'attaquer au commerce extraprovincial :

[142] L'objet déclaré des décisions de la Régie approuvant les modifications réglementaires est d'assurer aux acheteurs québécois la capacité d'approvisionnement à laquelle ceux-ci pouvaient s'attendre lorsque la Régie a rendu la sentence arbitrale tenant lieu de convention en 2004. Ceci se rattache

¹¹ Pour les périodes A-109 à A-113, essentiellement entre la conclusion de l'entente Québec-Ontario et son entrée en vigueur, des ententes provisoires entre les abattoirs ontariens et québécois permettent à l'industrie d'honorer les contrats avec ses clients.

¹² L'encadrement législatif néo-brunswickois ne permettait pas au ministre provincial d'obliger les producteurs de sa province à vendre à Nadeau leurs poulets plutôt que de les envoyer vivants à un gros abattoir québécois situé à proximité de cette province : *Nadeau Ferme avicole Ltée c. Commission des produits de la ferme du Nouveau-Brunswick*, 2009 NBCA 48.

également à la fonction de la Régie de favoriser une mise en marché efficace et ordonnée du poulet suivant l'article 5 de la Loi [provinciale]. Ces éléments démontrent un certain niveau d'intégration de la mesure au régime en place.

[143] La mesure est prise et approuvée compte tenu du moratoire imposé en Ontario et pendant que les négociations se déroulent entre le Québec et l'Ontario pour régler les difficultés qui ont donné lieu aux moratoires.

[144] Même si, vu les faits énoncés dans la décision du Tribunal d'appel ontarien, on peut penser que le niveau d'approvisionnement maintenu par les mesures ontarienne et québécoise est plus élevé que celui sur lequel les acheteurs du Québec pouvaient compter en 2004, il n'en demeure pas moins que leur capacité d'approvisionnement à ce moment incluait la possibilité de s'approvisionner auprès de producteurs de l'Ontario. Tant leur niveau d'approvisionnement que leur capacité d'approvisionnement aurait été en cause si davantage de poulets du Québec avaient pu continuer à trouver leur chemin vers l'extérieur du Québec alors que le volume de poulets ontariens pouvant entrer au Québec a été plafonné en Ontario.

[145] Rien dans la preuve ni dans les arguments présentés par les parties ne permet de croire que cet objet, la protection d'une certaine capacité d'approvisionnement pour les acheteurs du Québec dans le but de favoriser une mise en marché efficace et ordonnée, ne serait qu'un prétexte et que le véritable but des modifications approuvées serait la réglementation du commerce interprovincial. L'objet des modifications réglementaires approuvées est donc intraprovincial.

[146] L'effet direct de ces modifications est cependant clairement de plafonner le commerce interprovincial pendant la durée des négociations Québec-Ontario. Toutefois, son effet pratique est que l'offre additionnelle qui aurait pu être dirigée vers des acheteurs de l'extérieur du Québec demeurera disponible pendant cette période pour les acheteurs du Québec.

[147] La nature de la mesure, soit le plafonnement plutôt que l'interdiction pure et simple, la durée temporaire de celle-ci, bien qu'encore indéterminée, et la preuve produite par les ÉVQ quant au caractère peu substantiel de ses impacts, sont des éléments qui militent en faveur de sa constitutionnalité.

[148] Après avoir soupesé les différents éléments du test applicable il n'est pas possible de conclure que le caractère véritable des modifications approuvées, telles que situées dans le cadre du système en place, passe outre l'empiètement accessoire permis en droit constitutionnel. Il ressort de l'analyse que ce qui domine est un but lié à la compétence provinciale en matière d'ouvrages et d'entreprises de nature locale et que les effets des modifications réglementaires

approuvées ne sont pas « *si graves* » qu'il faille en conclure que l'objet véritable de ces mesures était le commerce interprovincial et d'exportation.

[notes omises]

[24] Néanmoins, la juge intervient, d'avis que ces modifications au Règlement étaient incompatibles avec l'encadrement fédéral et, par conséquent, que ce dernier devait prévaloir :

[97] Les PPC ont déterminé, dans la Délégation, les limites dans lesquelles les offices provinciaux, dont les ÉVQ, peuvent exercer les fonctions d'allouer et administrer les contingents fédéraux qui leur sont délégués, et ce, tel que notamment prévu à l'article 9 de la Proclamation visant les Producteurs de poulet du Canada.

[98] Ainsi, ces fonctions doivent être exercées « conformément » au Règlement fédéral [Règlement canadien sur le contingentement de la commercialisation des poulets], et ce, tel que prévu au paragraphe 2 (1) de la Délégation. La Cour suprême, dans Pelland, a référé à une mention semblable contenue dans une autre délégation comme imposant les contraintes de fond prévues au Règlement fédéral tel qu'alors applicable.

[99] L'article 3 de la Délégation pose également de telles limites en prévoyant que si, dans l'exercice des fonctions qui lui sont déléguées et quant aux questions dont la liste apparaît à cette disposition, l'office provincial applique les ordonnances, règlements et règles de la province, il ne peut le faire que dans la mesure où ils sont compatibles avec le Règlement fédéral. Parmi la liste apparaissant à l'alinéa 3 b) de la Délégation, on retrouve le droit à un contingent fédéral, les facteurs qui servent à le fixer, son augmentation ou sa réduction, sa répartition entre les producteurs, son utilisation et les ententes de commercialisation avec les transformateurs.

[100] Voyons plus en détail les limites ou contraintes de fond prévues au Règlement fédéral qui s'appliquent à l'exercice des fonctions déléguées aux ÉVQ.

[101] L'article 3 du Règlement fédéral prévoit les cas où il est interdit à un producteur de commercialiser le poulet sur les marchés interprovincial ou d'exportation. Ainsi, les ÉVQ ne pourraient permettre ce que cette disposition interdit en prétendant exercer les fonctions que la Délégation leur octroie.

[102] L'article 4 du Règlement fédéral prévoit les conditions auxquelles un producteur devient admissible à un contingent fédéral et l'article 5 dicte le rapport entre le contingent fédéral et le contingent provincial. Il détermine qu'un

producteur « *est autorisé* » à commercialiser sur les marchés interprovincial ou d'exportation tout le contingent provincial qu'il n'a pas commercialisé sur le marché intraprovincial.

[103] Là encore, les ÉVQ ne peuvent prétendre exercer les pouvoirs dont ils disposent en vertu de la Délégation de façon contraire à ces dispositions. Il vaut la peine de reproduire à nouveau les articles 4 et 5 du Règlement fédéral:

« ADMISSIBILITÉ AU CONTINGENT
FÉDÉRAL

4. Le producteur est admissible à un contingent fédéral si, à la fois :

a) il se voit allouer un contingent provincial aux termes des règles de l' Office de commercialisation de la province dans laquelle sont situées ses installations de production agréées;

b) il se conforme aux ordonnances, règlements et règles de l' Office de commercialisation en cause;

c) il se conforme aux règles visées à l'alinéa 3d);

d) il se conforme aux ordonnances et règlements des PPC.

RAPPORT ENTRE LE
CONTINGENT FÉDÉRAL ET LE
CONTINGENT PROVINCIAL

5. Le nombre de kilogrammes de poulet en provenance d'une province qu'un producteur est autorisé à commercialiser au titre d'un contingent fédéral, au cours de la période visée à l'annexe, correspond au contingent provincial que l'Office de commercialisation de la province en cause a alloué à ce producteur pour cette période, duquel a été soustrait le nombre de kilogrammes de poulet commercialisé par ce producteur au cours de la même période sur le marché intraprovincial. »

« ENTITLEMENT TO A FEDERAL
QUOTA

4. A producer is entitled to be allotted a federal quota if the producer

(a) is allotted a provincial quota under the rules of the Provincial Commodity Board of the province in which the producer's registered production facilities are located;

(b) is in compliance with the orders, regulations and rules of the Provincial Commodity Board in connection with that provincial quota;

(c) is in compliance with the rules referred to in paragraph 3(d); and

(d) is in compliance with the orders and regulations of CFC.

RELATIONSHIP OF FEDERAL
QUOTA TO PROVINCIAL QUOTA

5. The quantity of chicken that a producer is authorized to market from a province under a federal quota for the period referred to in the schedule is equal to the quota allotment to the producer for that period by the Provincial Commodity Board of the province minus the quantity of chicken marketed by the producer in intraprovincial trade in the province during that period. »

[104] Les mis en cause soutiennent que les alinéas 4 b) et c) donnaient aux ÉVQ la latitude d'adopter les modifications réglementaires approuvées par la Régie.

[105] Ni l'une ni l'autre de ces dispositions n'a cette portée.

[106] Soulignons d'abord que l'article 4 ne détermine que les conditions d'admissibilité à un contingent fédéral. Il ne peut être interprété comme permettant implicitement aux ÉVQ de modifier la teneur de l'article 5 qui établit la quantité de poulet qu'un producteur admissible est autorisé à commercialiser au titre d'un contingent fédéral. Il faut interpréter les deux dispositions de façon à les concilier tout en leur donnant effet.

[107] L'alinéa 4 b) pose une difficulté d'interprétation en raison de la différence entre le libellé des versions française et anglaise. La version française pose comme condition d'admissibilité que le producteur se conforme aux ordonnances, règlements et règles de l'office provincial, sans autre précision, tandis que la version anglaise ajoute « *in connection with that provincial quota* ».

[108] Dans un tel cas, le test applicable à la recherche du sens commun des deux versions favorise le sens le plus restreint, soit celui de la version anglaise.

[109] Comme l'article 1 du Règlement fédéral définit le contingent provincial comme le nombre de kilogrammes de poulet qu'un producteur est autorisé à commercialiser sur le marché intraprovincial, seuls les ordonnances, règlements et règles en lien avec ce contingent devraient être respectés par le producteur pour être admissible à un contingent fédéral suivant l'alinéa 4 b).

[110] Cela a toute son importance en l'espèce puisque les modifications réglementaires approuvées ne sont en rien relatives au contingent provincial. Elles portent strictement sur le contingent fédéral. Il n'est donc pas nécessaire de les respecter, en vertu de l'alinéa 4 b) du Règlement fédéral, pour être admissible à un contingent fédéral.

[111] Le sens commun aux deux versions, soit celui qui est le plus limité, correspond également à l'intention du législateur de l'avis du Tribunal.

[112] En effet, c'est plutôt l'alinéa 4 c) qui, en référant à l'alinéa 3 d), porte sur les règles que les ÉVQ peuvent appliquer en lien avec le contingent fédéral. Tel que le prévoit l'alinéa 3 d) du Règlement fédéral, il s'agit des règles que l'office provincial est autorisé par les PPC à appliquer au nom des PPC dans la fonction qui consiste à attribuer et administrer les contingents fédéraux en vertu d'une délégation de pouvoirs suivant le paragraphe 22 (3) de la *Loi sur les offices des*

produits agricoles. En référant ainsi à la Délégation, cette disposition réitère les limites qui y sont prévues et les contraintes de fond auxquelles elle renvoie.

[113] Parmi ces limites, il y a, tel que déjà mentionné, celle de l'article 3 de la Délégation qui permet aux ÉVQ, tout comme aux autres offices provinciaux, d'appliquer les règlements et règles de la province notamment, quant au droit à un contingent fédéral, quant aux facteurs qui servent à le fixer, quant à son augmentation ou sa réduction, quant à sa répartition entre les producteurs, quant à son utilisation et quant aux ententes de commercialisation avec les transformateurs, mais cela, seulement dans la mesure où ils sont compatibles avec le Règlement fédéral.

[114] La boucle est, pour ainsi dire, bouclée. Pour que l'on puisse considérer que la Délégation habilitait les ÉVQ à adopter et appliquer les modifications réglementaires approuvées, lesquelles visent strictement le contingent fédéral, il aurait fallu que celles-ci soient compatibles avec le Règlement fédéral.

[115] Or, on l'a vu, les modifications réglementaires approuvées par la Régie ont pour effet d'empêcher les producteurs qui avaient des ententes d'approvisionnements avec des acheteurs dont le domicile est à l'extérieur du Québec pour la période A-95, d'augmenter le volume de leurs ventes à l'extérieur du Québec et d'interdire aux producteurs qui n'avaient aucune entente d'approvisionnement pour la période A-95 de convenir de vendre à un acheteur à l'extérieur du Québec, et ce, jusqu'au 28 janvier 2012, du moins pour l'instant.

[116] On l'a vu également, l'article 5 du Règlement fédéral prévoit qu'un producteur « *est autorisé* » à commercialiser sur les marchés interprovincial ou d'exportation tout le contingent provincial qu'il n'a pas commercialisé sur le marché intraprovincial. La commercialisation est définie à l'article 1 du Règlement fédéral comme incluant notamment la vente.

[117] Force est de constater que les règlements approuvés par la Régie contredisent directement le Règlement fédéral. Les premiers restreignent ou interdisent ce que le second autorise. Ceci correspond à la notion de conflit véritable («*conflict in operation*») telle qu'énoncée dans l'affaire *Multiple Access c. McCutcheon (1982)*:

« En principe, il ne semble y avoir aucune raison valable de parler de prépondérance et d'exclusion sauf lorsqu'il y a un conflit véritable, comme lorsqu'une loi dit «oui» et que l'autre dit «non»; «on demande aux mêmes citoyens d'accomplir des actes incompatibles»; l'observance de l'une entraîne l'inobservance de l'autre. »

[118] Le fait que le gel temporaire prendra éventuellement fin n'enlève rien au conflit entre ce gel, tant qu'il est en vigueur, et l'article 5 du Règlement fédéral.

[...]

[152] Un règlement valide sur le plan du partage des pouvoirs parce qu'il n'empiète qu'accessoirement sur une compétence fédérale peut néanmoins être inopérant parce qu'incompatible avec une loi ou un règlement fédéral. [...]

[...]

[156] Bien que cette conclusion précise n'apparaisse pas aux requêtes, le Tribunal est d'avis qu'il peut l'accorder car sa portée est moindre que les conclusions en nullité demandées¹³.

[Je souligne; notes omises]

[25] En somme, quant aux poulets achetés par des abattoirs non québécois, il faut, selon la juge, appliquer l'encadrement fédéral lequel n'autorise pas les ÉVQ à limiter, même temporairement, le nombre de poulets destinés à ces entreprises.

LES PRÉTENTIONS DES PARTIES

[26] L'AAQ et les PPC soutiennent que la conclusion de la Cour supérieure sur l'application de la doctrine de la prépondérance fédérale est erronée puisqu'elle a été soulevée d'office en l'absence de preuve de l'objectif législatif fédéral poursuivi et de preuve d'incompatibilité opérationnelle des dispositions provinciales. Elles ajoutent que l'incompatibilité vue par la juge résulte d'une interprétation erronée des textes fédéraux, détachée du contexte réglementaire approprié.

[27] Nadeau réitère la thèse qu'elle a mise de l'avant en Cour supérieure : les ÉVQ et la Régie, deux organismes provinciaux, n'avaient pas constitutionnellement le droit d'adopter les modifications au Règlement contestées puisqu'elles constituent en réalité et en droit des tentatives de réguler le commerce extraprovincial, un domaine de compétence exclusivement fédérale. Subsidièrement, elle défend la conclusion de la juge de première instance sur l'incompatibilité des modifications avec l'encadrement fédéral et, par voie de conséquence, leur caractère inopérant, tout en reconnaissant ne pas avoir plaidé cet argument en Cour supérieure.

¹³ La juge reconnaît retenir cette thèse *proprio motu*, et ce, sans que les parties n'aient pu la plaider en détail ni offrir de preuve sur le conflit appréhendé par la juge.

L'ANALYSE

I. Remarques préliminaires :

[28] Après que le jugement attaqué ait été rendu, le problème s'est résorbé avec l'entrée en vigueur en septembre 2012 de la nouvelle entente administrative Ontario-Québec. On pourrait alors se demander si le pourvoi n'est pas devenu théorique, tel que semble l'indiquer le désistement de deux des parties appelantes devant nous.

[29] Néanmoins, les principaux acheteurs québécois et l'office fédéral nous demandent d'écarter le jugement attaqué afin qu'il ne devienne pas un précédent qui pourrait les hanter à l'avenir. Quant à l'appelante Nadeau, elle maintient que le jugement ne va pas assez loin.

[30] Dans ces circonstances, je suis d'avis qu'une réelle difficulté continue d'exister, qu'un débat contradictoire complet se continue et qu'il y a nécessité de statuer sur les appels.

[31] Une difficulté procédurale a été aussi soulevée. S'agit-il d'un cas où un appel existe de plein droit, comme pour l'annulation d'un règlement municipal, ou sur permission, comme pour une révision judiciaire d'une décision juridictionnelle de la Régie? Pour éviter toute surprise, les parties appelantes ont déposé des inscriptions en appel et des requêtes *de bene esse* en autorisation qui nous ont été déférées par un juge des requêtes.

[32] En l'espèce, la vraie nature du litige porte sur la validité de modifications au Règlement. Certes une modification à ce texte normatif ne pouvait entrer en vigueur qu'après son approbation par la Régie, mais il demeure que c'est la résultante, le Règlement modifié, qui est attaquée et non l'analyse des faits et du droit de la Régie. Les procédures instituées en Cour supérieure me semblent ainsi tenir de l'action en nullité en Cour supérieure d'un texte réglementaire (art. 33 *C.p.c.*), dont le jugement peut ensuite faire l'objet d'une inscription en appel de plein droit en vertu de l'article 26, al. 1(1) *C.p.c.* Il s'ensuit que les requêtes pour permission d'appeler n'étaient pas nécessaires.

II. L'essence du litige :

[33] En l'espèce, le litige se limite à déterminer si les ÉVQ et la Régie étaient empêchés, constitutionnellement ou par l'encadrement fédéral, d'adopter les modifications contestées au Règlement.

III. Le caractère véritable des modifications :

[34] Je suis entièrement d'accord avec l'analyse de la juge de première instance quant au fait que les ÉVQ et la Régie étaient autorisés par la Loi provinciale à adopter les modifications au Règlement contestées par Nadeau.

[35] Conformément à l'article 45 de la Loi provinciale, les producteurs québécois de poulet ont choisi de mettre en place un plan conjoint administré par un office, les ÉVQ. Conformément à l'article 93 de la Loi provinciale, cet office a adopté des règlements qui s'appliquent obligatoirement à tous les producteurs de poulet de la province. Tous ces règlements doivent être cependant approuvés par la Régie (art. 101), qui exerce alors une fonction de supervision en fonction, notamment, de l'intérêt public.

[36] Les acheteurs ont, eux aussi, choisi de se regrouper dans des associations accréditées par la Régie (art. 110), dont la plus importante est l'AAAQ¹⁴. Les associations d'acheteurs négocient avec les ÉVQ toutes les conditions et modalités de production et de mise en marché du poulet (art. 112), ce qui donne lieu à une convention qui doit aussi être approuvée par la Régie (art. 114). À défaut d'entente, la Régie tente de concilier les parties (art. 115) et, si cela s'avère vain, impose par sentence arbitrale une convention (art. 116 et 117)¹⁵.

[37] Les conventions en vigueur au Québec depuis 1998 garantissent non seulement un prix plancher aux producteurs et des garanties de paiements, mais aussi des garanties d'approvisionnement pour les abattoirs (acheteurs).

[38] D'avis que le moratoire ontarien menaçait ces garanties d'approvisionnement sans des mesures priorisant le marché québécois, l'AAAQ et les ÉVQ ont convenu de demander des modifications à la convention décrétée par la Régie. De plus, les ÉVQ ont adopté des modifications au Règlement, ensuite soumises à la Régie pour approbation (art. 117 et 101). Ces mesures limitaient le volume du poulet destiné au marché extraprovincial au niveau en vigueur lors du cycle A-95 (soit du 6 décembre 2009 au 30 janvier 2010). Elles ont été approuvées par la Régie qui les considérait dans l'intérêt public (art. 117 et 101).

[39] Je suis d'avis que la décision de la Régie de modifier la convention de mise en marché n'était pas déraisonnable. Elle n'est d'ailleurs pas attaquée. Seules les modifications au Règlement le sont.

[40] De même, je partage entièrement la conclusion de la juge de la Cour supérieure que les modifications au Règlement constituaient une mesure temporaire dont la nature

¹⁴ Actuellement, elle regroupe environ 95 % des abattoirs québécois alors qu'au moment du procès, elle en regroupait environ 85 %.

¹⁵ En pareil cas, la Régie remplit une fonction véritablement de régulation économique.

et l'effet étaient reliés à la production et à la mise en marché intraprovinciales et ne constituaient pas une tentative de réglementer le commerce extraprovincial du poulet, même si les modifications ont eu un effet accessoire sur ce dernier. Son analyse à cet égard respecte les enseignements de la Cour suprême du Canada, notamment dans *Ward c. Canada (Procureur général)*, [2002] 1 R.C.S. 569, 2002 CSC 17, paragr. 18-19, 23 et 25, *Banque canadienne de l'Ouest c. Alberta*, [2007] 2 R.C.S. 3, 2007 CSC 22, paragr. 27-29 et *Québec (Procureur général) c. Lacombe*, [2010] 2 R.C.S. 453, 2010 CSC 38, paragr. 20.

[41] Cette conclusion est aussi conforme à l'arrêt *Pelland*, précité, relatif à la mise en marché du poulet, dans lequel, sous la plume de la juge Abella, la Cour suprême du Canada reconnaît que des mesures valides en vertu du droit provincial ne cessent pas de l'être du simple fait qu'elles affectent accessoirement le commerce extraprovincial :

36 Il importe de souligner qu'après examen des dispositions législatives provinciales en cause dans le *Renvoi sur les œufs*, le juge en chef Laskin et le juge Pigeon ont conclu à leur constitutionnalité, parce qu'elles ne visaient pas à régir ou restreindre directement l'exportation et qu'elles n'avaient pas non plus cet effet. Il en va de même pour le programme provincial en l'espèce.

37 La composante législative provinciale du programme fédéral-provincial de commercialisation du poulet n'a pas pour objet fondamental de fixer des contingents ou des prix à l'égard de produits d'exportation ou de régir le commerce interprovincial ou l'exportation. Comme dans le *Renvoi sur les œufs*, les dispositions législatives provinciales en l'espèce ont pour but d'établir des règles permettant d'organiser la production et la mise en marché du poulet au Québec et de contrôler la production de poulets afin d'assurer le respect des engagements provinciaux pris dans le cadre de l'accord de coopération fédéral-provincial. L'effet qu'elles peuvent avoir sur le commerce extraprovincial est accessoire.

[42] La validité constitutionnelle des modifications au Règlement ici attaquées, par leur véritable nature, soit des mesures temporaires de stabilisation du marché, et par leurs effets, très limités sur le commerce extraprovincial, ne saurait être mise en doute contrairement à ce que plaide Nadeau dont l'appel, axé sur la prétention contraire, doit être rejeté.

IV. L'absence de conflit avec l'encadrement fédéral :

[43] Les gouvernements fédéral et provinciaux pratiquent en matière de production de poulet le fédéralisme coopératif, marqué par une collaboration étroite, puisqu'ils sont conscients que le modèle économique retenu ne peut pas vraiment fonctionner si chacun opère en vase clos, séparément des autres.

[44] Cette volonté de collaborer s'est traduite en 1978, par la signature d'un accord fédéral-provincial, remplacé en 2001. Ces accords sont autorisés par l'article 31 de la Loi fédérale.

[45] Dans l'arrêt *Pelland*, la Cour suprême décrit ainsi le système canadien actuel de commercialisation du poulet en contexte québécois :

4 Pour assurer une commercialisation efficace des poulets et un approvisionnement régulier de ce produit au consommateur canadien, l'Accord fédéral-provincial vise à établir un régime de réglementation harmonieux dans lequel sont incorporées les compétences législatives des deux ordres de gouvernement. Les composantes fédérale et provinciale du programme ont pu être intégrées par application du par. 22(3) de la *Loi sur les offices des produits agricoles*, L.R.C. 1985, ch. F-4, qui habilite l'office fédéral de commercialisation à autoriser un organisme provincial à remplir toute fonction qui lui est attribuée en matière de commerce interprovincial ou d'exportation du produit réglementé. (Les dispositions législatives et réglementaires pertinentes sont reproduites en annexe aux présents motifs.) L'office fédéral a délégué ses pouvoirs à l'organisme provincial de commercialisation du poulet, la Fédération des producteurs de volailles du Québec (« Fédération ») [aujourd'hui, les ÉVQ], en vertu de la *Délégation de pouvoir par l'Office canadien de commercialisation des poulets en matière de contingentement*, C.P. 1991-1090, 13 juin 1991 (« Délégation de pouvoir »), laquelle autorise l'organisme provincial à attribuer et administrer les contingents fédéraux conformément au *Règlement canadien sur le contingentement de la commercialisation des poulets (1990)*, DORS/90-556, et aux règles applicables dans la province en cette matière.

5 Pour exécuter sa part des modalités de l'Accord fédéral-provincial et conformément à ce qui est maintenant le par. 16(1) de la *Loi sur les offices des produits agricoles*, le gouvernement fédéral a créé un office de commercialisation du poulet, alors appelé Office canadien de commercialisation du poulet et maintenant connu sous le nom de « Les producteurs de poulet du Canada » (« PPC »). Cet office est expressément habilité par le par. 22(1) de la *Loi sur les offices des produits agricoles* à exécuter un plan de commercialisation et à prendre les ordonnances et règlements nécessaires à l'exécution du plan, sous réserve de l'approbation du gouverneur en conseil.

6 Au Québec, ce sont la *Loi sur la mise en marché des produits agricoles, alimentaires et de la pêche*, L.R.Q., ch. M-35.1, et le *Règlement sur la production et la mise en marché du poulet*, R.R.Q., ch. M-35.1, r. 13.2, qui forment la composante provinciale du programme dont la constitutionnalité est contestée en l'espèce. Le *Plan conjoint des producteurs de volailles du Québec*, R.R.Q., ch. M-35, r. 126, a été adopté en 1971 en vertu de ce qui est maintenant l'art. 45

de la loi provinciale. Administré par la Fédération, il régit la production et la mise en marché du poulet au Québec.

7 L'office fédéral a pour fonction d'évaluer le marché national et de fixer un contingent global de production pour chaque province. Il attribue à chacune un contingent de commercialisation correspondant à la part du marché canadien qu'elle détient.

8 Chaque organisme provincial adopte ensuite comme contingent de production intraprovincial la part exacte qui lui a été attribuée par l'office fédéral. Il accepte d'autoriser les producteurs locaux à produire et mettre en marché une quantité globale de poulets ne dépassant pas celle que l'office fédéral a établie comme part provinciale de l'objectif national de commercialisation. Pour produire et commercialiser des poulets au Québec, l'agriculteur doit être titulaire d'un contingent délivré par la Fédération et il ne peut produire une quantité supérieure à celle permise par son contingent pour la période visée. Le producteur se voit attribuer un contingent provincial unique applicable à l'ensemble de sa production et de sa commercialisation, sans égard à la destination du produit.

9 Pour faciliter l'intégration des contingents de production et de commercialisation, l'office fédéral délègue à l'organisme provincial, en l'occurrence la Fédération, son pouvoir de réglementer la commercialisation des poulets sur les marchés interprovincial et international. Une fois qu'ils ont obtenu de la Fédération un contingent de production et de commercialisation, les producteurs sont libres de choisir le marché où ils veulent vendre leur produit. Ni l'office fédéral ni l'organisme provincial n'établissent de contingents distincts pour la commercialisation intraprovinciale et la commercialisation extraprovinciale.

10 Ainsi, le programme fédéral-provincial combine en un seul organisme, à savoir la Fédération, la compétence provinciale en matière de production et de commercialisation intraprovinciale et la compétence fédérale en matière de commercialisation extraprovinciale. Les contingents fédéraux et provinciaux sont harmonisés afin que la quantité totale de poulets produits au Canada ne dépasse pas le total national convenu pour la commercialisation.

[...]

38 En toute déférence, je ne vois aucun fondement rationnel pour démanteler un système fédéral-provincial intégré qui a fait ses preuves. Comme les provinces n'ont pas compétence en matière de commerce extraprovincial de produits agricoles, le Parlement a autorisé la création d'offices de commercialisation fédéraux et la délégation de pouvoirs réglementaires à des organismes de commercialisation provinciaux pour la commercialisation sur les marchés interprovincial et international. Les deux ordres de gouvernement

légifèrent dans leur champ de compétence respectif afin de créer un régime de réglementation unifié et cohérent. Le système de contingents vise à maintenir l'équilibre entre l'offre et la demande et à atténuer l'instabilité intrinsèque des marchés. Il ne peut, dans la poursuite de cet objectif, soustraire à son application les producteurs qui cherchent à échapper aux limites de production en destinant la totalité ou une partie de leur production au commerce extraprovincial.

[Je souligne]

[46] Dans le plus récent accord fédéral-provincial, celui de 2001, son objectif est ainsi décrit :

1.00 But et objectifs

1.01 Le présent Accord établit un système de commercialisation ordonnée du poulet coordonné de façon flexible et axée sur le marché, comportant les mesures de protection nécessaires pour assurer l'uniformité, la prévisibilité et la stabilité en conformité avec les objectifs suivants :

a) optimiser l'activité économique durable dans l'industrie du poulet;

[...]

d) travailler dans l'intérêt mutuel des producteurs, des intervenants de l'industrie et des consommateurs.

[Je souligne]

1.00 Purpose and Objectives

1.01 This Agreement provides for an orderly marketing system for chicken coordinated in a flexible and market responsive manner having appropriate safeguards so as to provide consistency, predictability and stability in accordance with the following objectives:

a) to optimize sustainable economic activity in the chicken industry;

...

d) to work in the balanced interest of producers, industry stakeholders and consumers.

[47] Les gouvernements ont voulu mettre en place un système de commercialisation stable, ordonné et flexible. Rien dans cet encadrement, axé sur le principe de la gestion de la production en fonction de la capacité et des besoins (art. 23 de la Loi fédérale), n'interdit expressément un office provincial de prendre des mesures temporaires de stabilisation du marché dans cette province.

[48] L'encadrement fédéral limite la production à l'échelle canadienne en vue essentiellement de stabiliser les prix en empêchant, notamment, une province de

produire des quantités excédentaires de poulet qui inonderaient le marché dans les autres provinces. L'encadrement fédéral empêche aussi des fluctuations importantes dans l'allocation des contingents provinciaux de production, en basant cette allocation sur les besoins et l'historique de production des provinces.

[49] Comme pour les oeufs, pour que le système soit efficace, les contingents de poulet doivent être calculés de façon globale et inclure les poulets destinés au commerce extraprovincial comme les poulets destinés au commerce intraprovincial. Il serait autrement impossible d'encadrer la mise en marché de choses fongibles par des règles de production qui seraient différentes selon la destination de la chose (*Renvoi sur l'organisation des produits agricoles*, [1978] 2 R.C.S. 1199, p. 1295-1296). Seule la coopération fédérale-provinciale peut le permettre.

[50] C'est ce que confirme l'Accord de 2001 et les articles 9 et 10 du *Règlement canadien sur le contingentement de la commercialisation des poulets* qui décrivent les composantes des limites de production allouées à chaque province par les PPC en incluant tant les poulets destinés au marché intraprovincial que ceux destinés au marché extraprovincial.

[51] De plus, une personne ne peut produire du poulet sans s'être fait allouer une part du contingentement provincial par l'office de la province où sont situées ses installations, même si les poulets produits sont destinés au commerce extraprovincial, puisque le contingent fédéral constitue de fait un élément moindre et inclus du contingent provincial comme l'indique l'article 5 du *Règlement canadien sur le contingentement de la commercialisation des poulets* :

**RAPPORT ENTRE LE CONTINGENT
FÉDÉRAL ET LE CONTINGENT
PROVINCIAL**

5. Le nombre de kilogrammes de poulet en provenance d'une province qu'un producteur est autorisé à commercialiser au titre d'un contingent fédéral, au cours de la période visée à l'annexe, correspond au contingent provincial que l'Office de commercialisation de la province en cause a alloué à ce producteur pour cette période, duquel a été soustrait le nombre de kilogrammes de poulet commercialisé par ce producteur au cours de la même période sur le marché intraprovincial.

**RELATIONSHIP OF FEDERAL
QUOTA TO PROVINCIAL QUOTA**

5. The quantity of chicken that a producer is authorized to market from a province under a federal quota for the period referred to in the schedule is equal to the quota allotment to the producer for that period by the Provincial Commodity Board of the province minus the quantity of chicken marketed by the producer in intraprovincial trade in the province during that period.

[52] Il est vrai qu'un producteur ne peut expédier son poulet à l'extérieur de la province de production sans détenir un permis fédéral émis par l'office concerné au nom des PPC. Cependant, cela constitue une exigence additionnelle et non une dispense de se conformer aux exigences de l'office provincial comme l'indique l'alinéa 5(1j) du *Règlement sur l'octroi de permis visant les poulets du Canada*, ajouté en 2003 :

5. (1) La délivrance des permis, sauf les permis d'expansion du marché, est assujettie aux conditions suivantes :

[...]

j) [le titulaire de permis] doit se conformer, de la manière prévue par la régie ou l'office compétent, au régime d'écoulement de l'Office de commercialisation ainsi qu'aux ordonnances, règlements et règles de l'Office de commercialisation et de la Régie provinciale.

5. (1) Every licence, other than a market development licence, is issued subject to the following conditions:

...

(j) the licensee must comply, as determined by the appropriate board, with the marketing scheme of the Provincial Commodity Board and the orders, regulations and rules of the Provincial Commodity Board and the Provincial Supervisory Board.

[53] En fait, l'encadrement national est conçu de bas en haut (*bottom-up approach*) et ne constitue aucunement une tentative d'uniformisation des méthodes de production et de mise en marché imposées par un organisme central, les PPC, tel qu'en fait foi admirablement l'Accord de 2001.

[54] Conformément à cette approche, la *Proclamation visant les Producteurs de poulet du Canada* mentionne à son article 10 que les PPC doivent tenir compte des ordonnances et règlements émanant des régies et offices provinciaux et, autant que possible, rendre des ordonnances et règlements qui les complètent.

[55] C'est dans cet esprit que l'article 4 du *Règlement canadien sur le contingentement de la commercialisation des poulets* rend applicable, par renvoi, l'encadrement provincial aux producteurs qui destinent leurs poulets au marché extraprovincial :

**ADMISSIBILITÉ AU CONTINGENT
FÉDÉRAL**

4. Le producteur est admissible à un contingent fédéral si, à la fois :

a) il se voit allouer un contingent

**ENTITLEMENT TO A FEDERAL
QUOTA**

4. A producer is entitled to be allotted a federal quota if the producer

(a) is allotted a provincial quota under

provincial aux termes des règles de l'Office de commercialisation de la province dans laquelle sont situées ses installations de production agréées;

the rules of the Provincial Commodity Board of the province in which the producer's registered production facilities are located;

b) il se conforme aux ordonnances, règlements et règles de l'Office de commercialisation en cause;

(b) is in compliance with the orders, regulations and rules of the Provincial Commodity Board in connection with that provincial quota;

c) il se conforme aux règles visées à l'alinéa 3d);

(c) is in compliance with the rules referred to in paragraph 3(d); and

d) il se conforme aux ordonnances et règlements des PPC.

(d) is in compliance with the orders and regulations of CFC.

[Je souligne]

[56] Un tel renvoi est par ailleurs tout à fait légal comme l'indique un autre extrait de *Pelland* :

55 Si l'on applique les principes régissant la délégation administrative au programme de commercialisation du poulet, il était loisible à l'office fédéral — les PPC — d'incorporer par renvoi la législation provinciale en vertu de la Délégation de pouvoir. Cette délégation est incontestablement de celles qu'un ensemble bien établi de précédents, comme *P.E.I. Potato Marketing Board, Coughlin*, le *Renvoi sur les œufs* et *Peralta c. Ontario*, [1988] 2 R.C.S. 1045, a déclarées valides comme délégation administrative favorisant le fédéralisme coopératif.

[57] Finalement, l'encadrement fédéral repose sur une large délégation de pouvoirs par les PPC aux offices provinciaux.

[58] Cette délégation est possible en vertu du paragraphe 22(3) de la Loi fédérale :

L'office peut, avec l'approbation du gouverneur en conseil, autoriser un organisme, habilité par la législation d'une province à exercer des pouvoirs réglementaires en ce qui concerne la commercialisation locale dans la province d'un produit réglementé pour lequel il est compétent, à remplir, en son nom, toute fonction qui lui est attribuée en matière de commerce

An agency may, with the approval of the Governor in Council, grant authority to any body, authorized under the law of a province to exercise powers of regulation in relation to the marketing locally within the province of any regulated product in relation to which the agency may exercise its powers, to perform on behalf of the agency any function

interprovincial ou d'exportation de ce produit.

relating to interprovincial or export trade in the regulated product that the agency is authorized to perform.

[59] Commentant l'ancienne délégation des PPC en faveur des ÉVQ, alors appelés la Fédération des producteurs de volailles du Québec, la Cour suprême déclare dans *Pelland* :

51 La Délégation de pouvoir satisfait tant à la lettre qu'à l'esprit de cette disposition : elle a été approuvée par le gouverneur en conseil, la Fédération est un « organisme, habilité par la législation d'une province à exercer des pouvoirs réglementaires en ce qui concerne la commercialisation locale dans la province d'un produit réglementé », l'art. 3 de la Délégation reprend essentiellement le libellé de la disposition législative conférant le pouvoir à la Fédération et son art. 4 satisfait à l'obligation imposée à l'office fédéral par l'art. 9 de la *Proclamation visant Les producteurs de poulet du Canada*, DORS/79-158, de « prescri[re] [. . .] la fonction qui doit être exercée en leur nom [Les Producteurs de poulet du Canada] » par la Fédération et d'autres organismes provinciaux.

[60] Il n'en va pas autrement sous la nouvelle délégation, considérant les principes décrits plus haut de l'Accord de 2001.

[61] À la lumière de cette analyse, force est de conclure que rien dans l'encadrement fédéral n'interdit des mesures temporaires de stabilisation d'un marché provincial afin de préserver les garanties d'approvisionnement et la part de cette province dans le contingent national. Au contraire, une telle mesure optimise l'activité économique durable dans l'industrie du poulet au Québec et protège les intérêts mutuels des producteurs et acheteurs industriels en s'assurant de la stabilité et de la prévisibilité du marché, soit les objectifs mêmes de la Loi fédérale.

[62] Il s'ensuit qu'il n'existe aucun conflit, réel ou d'intention, entre l'encadrement fédéral et les modifications au Règlement ici contestées, adoptées par les ÉVQ et approuvées par la Régie, conformément à leurs pouvoirs respectifs.

[63] La conclusion contraire de la juge de première instance, aux paragraphes 104 et suivants de son jugement précités, repose sur une mauvaise compréhension du système mis en place et une lecture erronée de l'article 4 du *Règlement canadien sur le contingentement de commercialisation des poulets*.

[64] En effet, d'une part, elle tente de séparer la production des poulets destinés au marché intraprovincial de celle qui finira sur le marché extraprovincial, ignorant le fait que la part du contingent provincial alloué à chaque producteur inclut tous les poulets

pouvant être produits dans la province, indépendamment de leur destination finale, comme le démontre l'analyse ci-haut.

[65] D'autre part, la juge de première instance voit aussi dans l'alinéa 4*b*) du *Règlement canadien sur le contingentement de la commercialisation des poulets*, un écart de sens entre les textes français et anglais, puis en retient l'intention de limiter les pouvoirs des offices provinciaux, dont les ÉVQ, à la seule partie du contingent alloué à un producteur pour le marché intraprovincial. À mon avis, et cela dit avec les plus grands égards, en lisant les alinéas 4*a*) et 4*b*) et l'article 5 ensemble, il n'y a aucune divergence de sens entre les deux versions. L'alinéa 4*b*) signifie tout simplement que les PPC ont, par renvoi, rendu applicables, par renvoi, aux producteurs les règles provinciales même si ceux-ci ne produisent que pour le marché extraprovincial (dans ces cas, toute la portion du contingent provincial qui leur est attribuée constitue de fait un contingent fédéral).

[66] De toute façon, si une ambiguïté existait, une interprétation contextuelle et téléologique de l'article 4 du *Règlement canadien sur le contingentement de la commercialisation des poulets* obligerait à tenir compte des principes se dégageant de l'ensemble de l'encadrement fédéral, comme le souligne l'arrêt *Pelland* :

56 La Délégation de pouvoir doit s'interpréter dans le contexte des autres éléments du système de réglementation. Le paragraphe 6(1) de la *Proclamation visant Les Producteurs de poulet du Canada* énonce que les PPC doivent établir un mécanisme de contingentement par lequel l'organisme provincial compétent attribue des contingents aux producteurs de chaque province. Les articles 3 et 4 de la Délégation de pouvoir indiquent clairement que les pouvoirs délégués à la Fédération doivent être exercés conformément au règlement fédéral, lequel assujettit lui-même le pouvoir délégué à des contraintes de fond, prévoyant notamment que le producteur provincial qui commercialise ses poulets sur le marché interprovincial doit avoir reçu de l'organisme provincial un contingent fédéral, que le nombre de kilogrammes mis en marché doit être égal ou inférieur au contingent fédéral et que le producteur doit se conformer aux règles que la Fédération est autorisée à appliquer au nom des PPC.

57 Lorsqu'on examine ensemble les dispositions législatives et réglementaires fédérales ainsi que la Délégation de pouvoir, il est clair que le Parlement a toujours eu l'intention de conserver son contrôle administratif sur la Fédération, par l'intermédiaire des PPC. Rien n'indique que la Délégation de pouvoir visait à étendre les pouvoirs législatifs provinciaux. Les PPC peuvent, à tout moment, reprendre les pouvoirs qu'ils ont délégués. Le règlement fédéral sur les poulets n'a aucunement modifié la nature de la délégation de pouvoir des PPC à la Fédération, et le texte de cette délégation ne comportait aucune délégation interdite de pouvoirs législatifs.

[67] Or, une lecture de l'ensemble des normes applicables, en vertu de l'encadrement harmonisé fédéral-provincial, tenant compte aussi de la jurisprudence, écarte une interprétation distinguant la production destinée au marché intraprovincial de celle destinée au marché extraprovincial. Le producteur se voit allouer une partie du contingent de production de la province, lequel est unique et assujéti aux mêmes normes, peu importe que ce contingent soit finalement qualifié de provincial ou de fédéral en raison de la destination ultime des poulets produits.

[68] Reste un dernier point. Nadeau prône le principe de la libre circulation absolue des poulets une fois une portion du contingent provincial allouée à un producteur et un permis fédéral obtenu. Au soutien de sa position, elle cite les passages suivants des motifs de la juge Abella dans *Pelland* :

34 Le règlement provincial établit les contingents en fonction de la superficie exploitée, liant manifestement le contingentement à la production physique au Québec. Ce contingent n'établit pas de distinction entre ce qui peut être mis en marché dans la province et ce qui peut l'être à l'extérieur; c'est à chaque producteur de décider du marché où écouler ses produits, après avoir obtenu les permis nécessaires (*Règlement sur l'octroi de permis visant les poulets du Canada*, DORS/81-517). Les producteurs de poulets du Québec sont libres de vendre leurs produits comme ils l'entendent, sur le marché intraprovincial ou extraprovincial, ou par une combinaison des deux, à condition de ne pas dépasser leur contingent individuel.

35 Les producteurs provinciaux désireux d'exporter leur produit doivent seulement obtenir un contingent de commercialisation et de production de la Fédération et un permis de l'office fédéral. Les producteurs ne peuvent, sans permis, se livrer à la commercialisation interprovinciale ou internationale de poulets. Les conditions de délivrance de ce permis ne sont toutefois pas excessives. L'office fédéral est tenu de le délivrer lorsqu'il reçoit une demande valide. Les producteurs, quant à eux, doivent se conformer aux lois applicables et soumettre régulièrement des rapports au sujet de leurs ventes extraprovinciales. Aucune limite quantitative d'exportation n'est indiquée sur le permis et, théoriquement, la seule limite applicable est celle qui découle du contingent attribué par la Fédération.

[Je souligne]

[69] Je note d'abord que le droit reconnu appartiendrait aux producteurs et non aux acheteurs, comme Nadeau. Or, cette dernière n'est pas autorisée à plaider au nom des producteurs.

[70] Ensuite, et c'est fondamental, la proposition de Nadeau est mal fondée. Il faut plutôt retenir que les parties aux accords, dont le gouvernement fédéral, ont voulu des

flux interprovinciaux encadrés, comme l'indique l'Accord de 2001, adopté après l'arrêt *Pelland* :

8.00 Libre circulation du poulet

8.00 Free Movement of Chicken

8.01 Les parties conviennent que la commercialisation du poulet ne doit pas être restreinte d'une quelconque manière qui soit contraire au présent Accord ou à toute loi applicable, tels qu'ils peuvent être modifiés de temps à autre.

8.01 The Parties agree that the marketing of chicken shall not be restricted in any manner that is inconsistent with this Agreement or any applicable legislation, all as amended from time to time.

[71] En somme, des restrictions au commerce extraprovincial sont possibles pour autant qu'elles ne soient pas contraires à l'Accord de 2001 ou à une loi applicable. Le principe n'est pas la liberté absolue de commerce extraprovincial, mais plutôt un partage de la production entre les provinces destiné à protéger l'ensemble des marchés provinciaux.

LE DISPOSITIF

[72] Pour ces motifs, je propose de rejeter les cinq requêtes *de bene esse*, sans frais, d'accueillir avec dépens les appels de l'Association des abattoirs avicoles du Québec inc. et de Les Producteurs de poulet du Canada et de rejeter, sans frais, l'appel de Nadeau Poultry Farm Ltd.

PIERRE J. DALPHOND, J.C.A.

ANNEXE 1

Ferme Blanchard Inc.	Ferme Marin Parent Inc.
Ferme J.S.B. Inc.	9058-0770 Québec Inc.
Mireille Maynard	Ferme Pierre Dufresne Inc.
Marco Ménard	Ferme Pierre-Marc Dufresne Inc.
Michel Thivierge	Ferme PLD Brandon Inc.
Martin Pelland,	Ferme Porvicole Inc.
Ferme Avicole M²L² S.E.N.C.	Ferme Réjean et Joël Ménard S.E.N.C.
Ferme F. Kett Inc.	Ferme St-Liguori Inc.
Marjorie Labbé	Ferme Simon Dufresne Inc.
2431-4098 Québec Inc.	Ferme Stacy Inc.
9082-8591 Québec Inc.	Fermes Beaudry Inc.
9137-9685 Québec Inc.	Fermes Pierre Bélanger Inc.
9208-5315 Québec Inc.	Normand Ferron
9208-5349 Québec Inc.	Isabelle Foisy
Abattoir Charron Inc.	F. Sabrina Parent
A.W. Hobbs	Gabrielle Dufresne Inc.
Sylvain Bertrand	Gilles Dufresne Inc.
Simon Beaudry	Les Entreprises Agricoles André Desroches Inc.
Bernard Dufresne Inc.	Les Entreprises Claudelaine Ltée
B.M. Lafortune Inc.	Les Entreprises Réjean Aubin Inc.
Mélanie Choinière	Les Volailles Martel Inc.
François Cloutier	L'Oiselier de St-Bernard Inc.
Mario Dion	Marc Vallières S.E.N.C.
F.L. Groleau Inc.	Markam Inc.
Ferme Annie-Pier Inc.	Georges Martel Jr.
Ferme Avicole Kristen Inc.	Nathalie Martel
Ferme Avicole Lapointe Enr.,	Myriam Ménard
Ferme Avicole Rodier, Bombardier Inc.	Réjean Ménard
Ferme B.E.R. Blanchard Inc.	René Nadeau
Ferme Bruno Millette Inc.	Nicolas Dufresne Inc.
Ferme Christian Dufresne Inc.	Jocelyn Parr
Ferme Cloutier et Foisy Inc.	Annie Renaud
Ferme Gérard Renaud Inc.	Julien Renaud
Ferme Groleau et Fils Inc.	Marie-Claude Renaud
Ferme Jasmin Dufresne Inc.	Pascal Rodrigue
Ferme Jean Doyon Inc.	Céline Vallières
Ferme J.P.A. Choinière Enr.	Lise Vallières
Ferme Julie Inc.	Marc Vallières
Ferme Loupi Inc.	Sylvain Vallières
Ferme Luc Brodeur Inc.	Volailles Stéphane Dumont Inc.
Ferme Madeleine Dufresne Inc.	

**NATIONAL FARM PRODUCTS COUNCIL
(NFPC)**

**REPORT OF THE COMMITTEE ESTABLISHED TO
INQUIRE INTO THE COMPLAINT**

BY

**THE ONTARIO BROILER HATCHING EGG
AND CHICK COMMISSION (OBHECC)**

AGAINST

**THE CANADIAN BROILER HATCHING EGG
MARKETING AGENCY'S (CBHEMA)**

**ADJUSTMENT FOR IMPORTS IN ITS
QUOTA ALLOCATION METHODOLOGY**

JULY 9, 1999

**This report was adopted by the NFPC
on July 8, 1999**

**REPORT OF THE COMMITTEE
ESTABLISHED TO INQUIRE INTO THE COMPLAINT BY
THE ONTARIO HATCHING EGG AND CHICK COMMISSION (OBHECC)
AGAINST
THE CANADIAN BROILER HATCHING EGG MARKETING AGENCY'S (CBHEMA)
ADJUSTMENT FOR IMPORTS IN ITS QUOTA ALLOCATION METHODOLOGY**

INTRODUCTION

An inquiry was held in Ottawa, on May 27, 1999 and June 16, 1999, by a Complaints Committee established by the National Farm Products Council (Council) in response to a complaint received on May 14, 1999, from the Ontario Broiler Hatching Egg and Chick Commission (OBHECC). The complaint is against the Canadian Broiler Hatching Egg Marketing Agency (Agency) for failing to make provincial adjustments for imports in its quota allocation methodology that are consistent with the actual allocation of import permits by the Export and Import Control Bureau (EICB) of the Department of Foreign Affairs and International Trade (DFAIT).

Section 7(1)(f) of the *Farm Products Agencies Act* (Act) requires that the Council inquire into complaints received by it from any person who is directly affected by the operations of an agency. Pursuant to its *Guidelines for Complaints*, the Council established a Complaints Committee, made up of Cynthia Currie, Chairperson, Linda Boxall, Vice-chairperson and Raymond Cloutier, Executive Member, to inquire into this complaint.

Prior to Council issuing a public notice that it would conduct an inquiry into OBHECC's complaint, it offered OBHECC and the Agency the opportunity to discuss various options for dealing with the complaint, one of which involved mediation by a neutral third party. However, OBHECC did not support mediation arguing that previous attempts at mediation were not successful. Therefore, on May 4, 1999, Council issued a public notice by facsimile advising that an inquiry into the OBHECC complaint would proceed in Ottawa on May 27, 1999. Interventions were also received from the Ontario Ministry of Agriculture, Food and Rural Affairs, the Syndicat des producteurs d'oeufs d'incubation du Quebec and the Alberta Department of Agriculture, Food and Rural Development.

On May 26, 1999, Council received from the OBHECC a document entitled "Chronology of Key Events in Schedule B Negotiations" responding to matters advanced in the CBHEMA's submission. Later that same day, Council received a letter from the CBHEMA's solicitor requesting that the hearing be adjourned given the new material introduced by the OBHECC.

Given the lateness of the correspondence, the hearing proceeded on May 27, 1999, with both parties presenting arguments as to whether or not the case should be heard or delayed. In light of the arguments presented and to ensure procedural fairness, the Committee chose to adjourn the

meeting and resume the hearing on June 16, 1999. On May 28, 1999, Council issued a notice by facsimile advising the parties of the adjournment of the hearing, that parties had until June 4, 1999, to file all written material with Council and that the hearing had been rescheduled to June 16, 1999.

SUMMARY OF OBHECC's SUBMISSION

OBHECC argued that the adjustment for imports used by the CBHEMA under Schedule B to the Federal-Provincial Agreement (FPA) does not reflect the actual allocation of imports to hatcheries in Ontario as determined by the Export and Import Controls Bureau (EICB). It is OBHECC's position that this mismatch has resulted in a shortage of domestic allocation in Ontario and has harmed the production and marketing industry for broiler hatching eggs in Ontario.

The OBHECC provided a brief review of the allocation system noting that when the Agency was established in 1986 there were no border controls for hatching egg imports. Therefore, Schedule B did not take imports into consideration. In 1990, Schedule B was amended by providing for an allowance for imports based on historic levels between 1984 and 1988. Under this calculation, Ontario received 51.63% of total broiler hatching egg imports. OBHECC noted, however, that in 1990 DFAIT changed its policy from allocating import permits based on historical market share to one of allocating import permits to federally registered hatcheries based on throughput. Ontario's hatcheries have between 31% and 34% of the total domestic hatching egg throughput.

At that time, it was assumed by DFAIT and the CBHEMA that the distortions created by the discrepancy would be alleviated through the transfer of unutilized import permits between hatcheries.

OBHECC maintained that the discrepancy between CBHEMA's adjustment for imports and the actual allocation of import permits by EICB created serious shortfalls in Ontario's hatching egg supply because the paper (import permits) did not flow on a timely basis as anticipated by DFAIT and the Agency. In reaction to the policy change by DFAIT, Agency members, in 1995, again unanimously amended Schedule B (partially reflecting the re-allocation of import quota). For purposes of Schedule B, Ontario's share of the total imports was decreased from 51.63% to 45.50%. Although the new import allocations set out in Schedule B do not fully coincide with DFAIT's provincial import market shares, OBHECC agreed to the new percentage because, in their view, the issue of adjusting for imports was now an item to be negotiated and the percentage reduction eased the existing supply shortages in Ontario.

OBHECC contended that starting in 1995, with the introduction of the bottom-up approach used by the Chicken Farmers of Canada (CFC) to make provincial chicken quota allocations, there has been an uneven level of growth in chicken production (with more growth in the Western provinces) and this has impacted negatively on Ontario's hatching egg production and its ability

to meet its own market needs. To cope with this shortfall, OBHECC has been forced to utilize “artificial” mechanisms such as leasing quota from other provinces, over-producing (and risking the payment of liquidated damages), bring in supplementary imports and/or shorting the market.

Given the discrepancy between the Agency’s adjustment for imports and EICB’s actual allocation of imports, OBHECC contended that Ontario has suffered economic harm estimated to be \$47.7 million in gross terms and \$39.3 million in net terms since 1990. Further, hatching egg producers and hatcheries in Ontario face a significant degree of uncertainty in planning to meet the need of the province’s chicken producers.

Finally, OBHECC concluded that negotiations, including mediation, with the Agency board of directors had failed and it was convinced further discussions would prove futile. The Commission, therefore, has sought Council’s assistance to fashion a resolution. As a result, OBHECC’s is requesting that Council:

- i) refuse to prior-approve the adjusted 1999 quota allocation and preliminary quota for year 2000 until CBHEMA’s provincial adjustment for imports reflects the actual allocation of imports to hatcheries as determined by EICB;
- ii) resolve the dispute over market shares in accordance with Section 14(6) of the Agreement;
- iii) review the operations of the CBHEMA and ensure that they are in accordance with Section 21 of the FPAA, pursuant to Section 6(1)(b) of the FPAA;
- iv) advise the Minister that the operations of the CBHEMA do not maintain and promote an efficient and competitive broiler hatching egg and chick industry; and,
- v) direct the CBHEMA to adjust imports under Schedule B so that they reflect the import permit allocation made by EICB.

SUMMARY OF CBHEMA’S SUBMISSION

The Agency observed that OBHECC is challenging that portion of the Schedule B which sets out the adjustment for imports used in calculating provincial allocations of import quota for broiler hatching eggs. The CBHEMA argued that it has no legal authority to disregard the Schedule B adjustments for imports. Furthermore, the Agency stated that until a change is agreed to by all members, it does not have the unilateral authority to adjust the import calculations in Schedule B to reflect the actual DFAIT allocation to hatcheries. Similarly, Council has no jurisdiction to either modify Schedule B or direct the Agency to depart from the Schedule B quota allocation methodology. The issue raised by the OBHECC must be resolved through consensual negotiations, not litigation.

CBHEMA observed that none of the remedial actions being sought by the OBHECC are within the jurisdiction of the Council to grant. The Proclamation legally compels the Agency to apply the Schedule B quota allocation methodology. Therefore, the preconditions for Council to grant prior-approval under paragraph 7(1)(d) are fully satisfied. Furthermore, Council's duties under paragraph 6(1)(b) and the objects clause in s.21 of the Act do not authorize Council to force an Agency to amend the FPA. The Agency has no discretion in either the Proclamation or the FPA respecting the methodology to be used for allocating imports and must make the adjustment for imports to Ontario on the basis of the negotiated and agreed to 45.5% level. Council would also be exceeding its jurisdiction if it were to direct the Agency to ignore Schedule B and adopt EICB's adjustment for imports. Section 18 (limited signatories meeting clause) of the FPA also recognizes the consensual nature of the negotiated arrangement where a variety of interests can be balanced. It does not contemplate unilateral amendments to the FPA.

With respect to direct economic harm, CBHEMA stated that, in 1995, OBHECC agreed to the amendment that established Ontario's allocation of imports at 45.5%. Therefore, there is no basis for a retroactive entitlement, as requested by OBHECC. The Agency also maintained that OBHECC's calculations failed to account for EICB's policy of allocating import quota to head office hatcheries. Given this policy, the Agency argued that Ontario has received, on average, approximately 43.5% of the global import quota since 1994 as opposed to its actual market share of about 33%. The net differential, between the Schedule B import allocation and EICB's TRQ allocation, is in the range of approximately 2% rather than the 13% to 15% being claimed by OBHECC.

CBHEMA also observed that when Schedule B was amended, in 1995, footnote #3 was repealed. This footnote stated that: "*these percentages are subject to change in future if the import quotas are changed under the import allocation system*". By agreeing to these amendments, OBHECC indicated its willingness to accept the decoupling from the EICB's system of allocating imports.

The CBHEMA also argued that OBHECC's assertion that "the 1990 EICB system has remained the same to the present time" is not accurate. EICB's 1989 stated objective was to gradually shift the allocation of import quota from those who had imported in the past to federally registered hatcheries on the basis of market share, on a phased-in basis. Therefore, the EICB import allocation system has not been static but has actually undergone a series of changes during its initial years. Similarly, the Agency did not "challenge" the EICB system in 1992, as stated by OBHECC, but was responding to an initiative from the Canadian International Trade Tribunal (CITT) to receive proposals from interested participants for changes to the import system.

The Agency also observed that the "flow of TRQ paper" is a system introduced by EICB that permits any hatchery, in any province, to privately offer and source TRQ paper. The purpose of the system is to ensure that all available TRQ paper is utilized prior to the granting of supplemental import permits. Import paper can also be sourced through DFAIT. Furthermore, the system also recognizes the option for provinces to enter into agreements between themselves for the transfer of paper, as evidenced by the recent Memorandum of Understanding between

Québec and British Columbia. To further enhance the flexibility and responsiveness of the system, the CBHEMA also introduced short-term quota lease pools.

INTERVENTION BY THE ONTARIO MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS (OMAFRA)

OMAFRA's intervention supported the complaint lodged by OBHECC against the Agency's use of import adjustment figures in Schedule B that differ from EICB's actual import permit allocations noting that the current system destabilizes the Ontario industry. OMAFRA urged the Council to ensure that the Agency acts in a manner that does not damage the competitiveness of the industry.

INTERVENTION BY THE SYNDICAT DES PRODUCTEURS D'OEUF D'INCUBATION DU QUEBEC AND THE ALBERTA DEPARTMENT OF AGRICULTURE, FOOD AND RURAL DEVELOPMENT

Both interveners supported the Agency's position that, until such time as amendments are made, the Agency is required to use Schedule B when making quota allocations to provinces.

PRESENTATION BY THE DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE (DFAIT)

During the May 27, 1999 hearing, DFAIT officials explained the system for administering tariff rate quotas and supplementary imports for broiler hatching eggs and chicks and addressed questions raised by the hearing participants. DFAIT also provided information on the net effect of TRQ allocation transfers and supplementary permit issuance by province.

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

In organizing this report, the Committee will provide comments under three general headings: economic and policy issues, legal considerations and other considerations. Overall comments by the Committee are then presented followed by a general recommendation.

Economic and Policy Issues

The primary focus of the OBHECC presentation pertained to economic harm and problems associated with Agency policies. In considering these issues, the Committee has chosen to address a number of the arguments made including flexibility of the system, TRQ paper flow, quota leasing policy, economic harm, the 1995 agreement, and EICB's head office policy.

1. Flexibility

In its submission, OBHECC argued that the Agency was aware that, as early as 1990, the discrepancy between the two systems for administering imports could cause economic hardship to Ontario. The Commission maintained that this discrepancy has also rendered the allocation system less responsive over time.

OBHECC also argued that to introduce the required flexibility to respond to the shortfall created by the disparity between the import market shares in the Agency's Schedule B and DFAIT's allocation of global import permits, the Agency had to establish a number of artificial coping mechanisms. Some of these mechanisms were identified as the flow of TRQ paper, the quota leasing policy, the contemplated contractual agreement between two provinces for the transfer of TRQ paper and supplemental import permits.

OBHECC maintained that these mechanisms are ineffective because they introduced unnecessary costs to the system and are not market responsive. The Commission also expressed the view that these coping mechanisms were simply a "bandaid" solution introduced by the Agency to address the symptoms of a defective system, rather than addressing the root of the problem, which is to change the import market shares in Schedule B. Furthermore, it was argued that if the disparity between the two import systems was eliminated, there would no longer be a need for these coping mechanisms.

The CBHEMA claimed that the various policies that it introduced provides greater flexibility to the system. The Agency also stressed that the provision exists for provinces to renegotiate the import market shares contained in Schedule B. During questioning, the Agency suggested that for any negotiation on the import market shares to be successful it would have to be on a win-win basis for all parties. In order to achieve this, they argued that some provinces would have to be prepared to offer financial compensation to other provinces to offset any costs associated with changing the provincial balance between domestic production and imports.

The OBHECC responded that it, as well as the Ontario Ministry of Agriculture, Food, and Rural Affairs, strongly opposes paying for any increase in domestic quota since nowhere in the legislation does it state that money must change hands in order to receive a quota increase in response to market needs.

The Committee notes that both parties were aware that the Agency's decision to maintain historical provincial market shares in Schedule B, despite DFAIT's change to a system based on hatchery throughput, could create an imbalance which results in economic hardship for Ontario. Furthermore, the Committee recognizes that there is agreement by both parties that this disparity has forced the Agency to develop and implement a number of adaptive mechanisms.

The Committee acknowledges that the Agency has implemented these additional mechanisms, but believes that negotiations are required to further reduce the imbalance. The Committee is of the view that the adaptive mechanisms represent a financial and/or administrative burden to the

system. These mechanisms offer “bandaid” solutions rather than focussing on the main issue. The Committee also notes that existing practices within provinces respecting the transfer or leasing of quota between producers and hatcheries are not policies which should be extended to provincial boards allowing them to change provincial allocation. To do so would usurp the function of the Agency in determining the annual provincial allocations.

2. TRQ Paper Flow

OBHECC noted that DFAIT originally stated that the flow of import paper would respond to domestic supply shortages. However, as the value of the import paper became recognized by the hatcheries in the western provinces, increased TRQ usage occurred which resulted in a decreased level of import paper available for movement back to Ontario. To complicate matters further, this reduced flow of TRQ paper also resulted in difficulties in securing paper in a timely fashion.

To substantiate its argument, OBHECC referred to a table entitled “Actual TRQ and Product Flow vs. Difference Between CBHEMA Import Reduction and TRQ Issued by EICB”. The data demonstrated that even with the adjustments made for TRQ flow to Ontario and the net interprovincial movement of eggs and chicks, there continues to be a shortfall in Ontario which needs to be satisfied through the increased use of supplemental imports. OBHECC noted that these supplemental imports are creating an inefficient system by causing a surplus of eggs to the Canadian market.

Although it is recognized that the Agency and OBHECC play a limited role in TRQ movement, the Committee appreciates that this movement, either through private contractual agreements between hatcheries or through EICB’s TRQ sourcing policy, may be losing its effectiveness as Western hatcheries increasingly recognize the value associated with this paper (as stated by both parties). Furthermore, it is the Committee’s view that as the Western hatcheries continue to retain a larger portion of their import permits, the disparity between the import supply available to Ontario and its market requirements may grow.

3. Quota Leasing Policy

OBHECC’s interpretation of the quota leasing policy is that it acts as a relief valve. In their view, this policy was introduced to allow certain over-producing provinces to avoid paying the more severe overproduction (LDA) penalty by reaching contractual short term leasing arrangements with under-producing provinces. The Commission contended that this is just another means by which the Agency can maintain an inefficient allocation system.

The Agency argued that this policy was not introduced solely to overcome the disparities associated with the administration of the two import systems but also to provide greater flexibility to optimize provincial quota utilization.

The OBHECC countered that any lease agreement reached between provinces must receive unanimous approval from the Agency directors. The Commission questioned how a system that

allows any province to veto a decision could be considered flexible. In response, the Agency stated that the unanimity requirement provided the other members an assurance that, in case of economic harm from a lease agreement, all provinces would have the opportunity to raise their concerns.

The Committee recognizes that the quota leasing policy addresses some shortfalls resulting from the disparity caused by operating under two very distinct import allocation policies.

The Committee shares OBHECC's position that this policy optimizes the use of quota by permitting Ontario to over-produce its allocation while providing the province with a means to circumvent the payment of the more severe LDA penalty. Furthermore, the Committee agrees that the unanimity clause, which gives each province a veto, does serve as an obstacle towards achieving flexibility. On the other hand, the Committee notes that a mechanism to bring all Agency members to consensus has not been fully explored.

4. Economic Harm

OBHECC provided, through an example, an assessment of the impact that production growth in other provinces would have on Ontario. The Commission maintains that the resulting growth in other provinces has a disproportionate effect in terms of the increase of imports that Ontario must assume. It is OBHECC's contention that the provinces benefiting from the production growth should absorb the full responsibility for the associated imports.

OBHECC reviewed a chart from its submission "Economic Harm to Ontario by CBHEMA Import Obligation" which showed that over the past ten years, even after taking into account various coping mechanisms, Ontario continues to suffer significant economic harm from the production shortfalls. OBHECC has estimated this to be in excess of \$39.0 million.

While the Agency acknowledged that the import allocation methodology does disadvantage Ontario, it nevertheless questioned OBHECC's allegation of economic harm and their claim to retroactive compensation. CBHEMA argued that the allegation of economic harm is premised on the argument that Ontario is entitled to an increased percentage of domestic quota by virtue of an import reduction. Furthermore, the Agency argued that OBHECC upon signing the 1995 agreement to revise the provincial import shares in Schedule B had given up any claim to retroactivity. During questioning it was clarified that the economic harm being claimed was a total industry loss, as foregone business, and not a net profit loss to the Ontario hatching egg producers.

Although the exact amount of economic harm was not agreed to, both parties acknowledged that harm had been caused to Ontario. The Committee does not disagree with this and would further add that, in its view, the administration of the two conflicting import systems could result in additional costs/economic losses which impact negatively on the maintenance of a strong, efficient and competitive industry. The Committee also acknowledges that as the industry grows, under the present system, Ontario is disproportionately disadvantaged as import levels increase. Conversely, should the national market shrink, Ontario would have a disproportionate advantage.

With respect to the issue of retroactivity, the Committee agrees that OBHECC's signing of the 1995 agreement might have undermined any argument that compensation might be due for harm incurred prior to that date.

5. The 1995 Agreement

OBHECC stated that it agreed to the 1995 agreement which reduced the province's share of the national imports from 51.6% to 45.5% because it viewed this agreement as an indication that the import market share adjustment was now a negotiable item. The Commission also acknowledged that the agreement reduced the supply shortage problems that it was experiencing. OBHECC stressed that this import reduction resulted from lengthy negotiations rather than being based on a defensible rationale. However, over time, the effects of the 1995 agreement have been reversed and OBHECC claims that it is once again suffering economic harm.

In response, the Agency argued that this was a clear indication that there is sufficient flexibility in the system to allow for the renegotiation of import market shares. The Agency further argued that provincial market shares can only be changed through a negotiated settlement requiring unanimity, since any change to Ontario's market share would impact on the market share of one or more provinces.

In response to a question as to why OBHECC agreed to repeal Footnote #3 in Schedule B in 1995, the Commission replied that repealing the footnote would not hinder future negotiations. This position was consistent with advice from the Agency's solicitor. Furthermore, OBHECC stated that changes to the import permit system had already been completed and it was unlikely that EICB was going to entertain any further changes to its import permit policy. On the other hand, the Agency maintained that once OBHECC agreed to repeal Footnote #3, it in fact showed its willingness to decouple the Agency's allocation methodology from the import allocation system used by EICB.

The Committee recognizes the difficulties OBHECC encountered during the lengthy negotiations to achieve the 1995 adjustment to provincial imports in Schedule B. However, the Committee questions why the Commission would agree to an adjustment that did not fully address the discrepancies between the two import regimes or establish a formula for future adjustments. Based on the evidence presented, the Committee cannot conclude that at any time did the Agency formally agree to revisit the market shares as was OBHECC's impression. As stated by the Agency, it is prepared to negotiate a change to Schedule B, although it did acknowledge that assurance was given to the western provinces that, following the implementation of the revised import market shares, the West would not have to assume the responsibility for any further increases in imports without compensation as a result of negotiated changes to Schedule B.

6. EICB Head Office Policy

In its original submission, OBHECC claimed that their share of the actual import permits issued by EICB is between 31% and 34% based on Ontario's share of the previous years' domestic production.

CBHEMA submitted that OBHECC was not taking into consideration EICB's policy of allocating TRQ import paper to hatchery head offices. The net effect of this policy is that EICB allocates approximately 43.5% of the total global imports to Ontario. When this level of permit issuance is compared with the Schedule B import quota share of 45.5% to Ontario, it reduces the differential to 2% as opposed to the 13% to 15% being claimed by OBHECC.

OBHECC offered into evidence a supporting letter from Maple Leaf Poultry. Maple Leaf Poultry stated that its Ontario head office divides the total company import quota internally based on each hatchery's portion of Maple Leaf Poultry's total hatch. Upon questioning, DFAIT acknowledged that once the global import permits are issued to the head office they no longer monitor which of the company's hatcheries is actually utilizing the import permits.

Regarding the head office issue, the Committee recognizes the difficulty this policy could pose to Agency members when determining exact provincial imports. The Committee notes that there were two very distinct interpretations forwarded by the parties resulting in considerable differences as to what may or may not be Ontario's total allotment. However, based on the documentation provided by Maple Leaf Poultry and the lack of sufficient evidence to the contrary from the Agency, it would be reasonable to conclude that Ontario only receives its hatchery's share of Maple Leaf Poultry's imports and not the entire allotment. Actual import permits issued to hatcheries in Ontario would likely be closer to the 31% to 34% range than the 43.5% estimate provided by the Agency.

It appears to the Committee that the quality of data relating to imports could be improved thereby enhancing the ability of the Agency in making efficient quota allocations to provinces. In this regard the Committee is puzzled by the fact that a head office, in a province where there is an alleged market shortage, would choose to distribute import quota to hatcheries in other provinces. It may be in the best interests of the Agency to pursue discussions with DFAIT in an effort to better understand how TRQ paper moves and where imports are finally used and in so doing improve the efficiency of its allocation system.

Legal Considerations

In terms of relief sought, OBHECC has requested Council to refuse to prior-approve the adjusted 1999 quota allocations and the preliminary provincial quota allocations for the year 2000 until such time as CBHEMA's provincial adjustment for imports in Schedule B reflects the actual allocation of imports to hatcheries as determined by EICB.

Conversely, during the complaint hearing, CBHEMA submitted that its Proclamation gives the Agency no option but to follow the formula provided in Schedule B of the FPA in establishing the annual provincial quota allocations even though to do so may cause harm to the broiler hatching egg industry in Ontario, or for that matter, in any other province.

The Committee notes that, under Section 21 of the *Farm Products Agencies Act*, it is expressly provided that:

“21. The objects of an agency are:

- a) to promote a strong, efficient and competitive production and marketing industry for the regulated product or products in relation to which it may exercise its powers; and*
- b) to have due regard to the interests of producers and consumers of the regulated product or products.”*

In the committee’s view, if, as submitted by CBHEMA, the Proclamation requires the Agency to follow a prescribed allocation formula regardless of the consequences or harm to consumers and producers, then CBHEMA’s Proclamation may be seriously inhibiting the Agency in fulfilling the objects described in section 21 of the Act.

It is the Committee’s view that this unfortunate operational impediment must be addressed and resolved as soon as possible. Council staff and legal counsel are available to assist the Agency in this regard. The committee further recommends that Council should also have regard for these issues when, at future meetings, it considers the prior-approval of quota orders.

Other Considerations

(i) Resolution of Disputes: Section 14(6) of the FPA

OBHECC cites the above section of the FPA noting that “Council shall be the body to resolve disputes in regard to the allocation of provincial market shares and to finally resolve the determination of liquidated damages”. OBHECC has implied in its submission that a Council decision is binding on the disputing parties. That is, a Council decision would be final in areas of interpretation and application of policy with respect to quota administration and liquidated damages assessment.

The Committee is of the view that this is not the case. The Council cannot substitute its view for that of the Agency in policy matters, neither can it enforce its opinion or decision on the Agency. Further, once Council has rendered a decision emanating from a complaint hearing, dissatisfied parties continue to have litigation as a potential recourse. It is only in those areas where the approval of statutory instruments (e.g. agency quota and levies orders) is required that one could assume a Council decision would be binding.

The Committee views section 14(6) as citing the Council as the body to facilitate resolution of disputes, within its powers to do so, and using whatever means it considers reasonable in the circumstances. Such an interpretation is consistent with Council's duties as set out in section 7 (1)(f) of the Farm Products Agencies Act, and is in accord with the expectations of Council provided for in section 18 of the Federal-Provincial Agreement. In this respect, the Committee agrees with the position assumed by the Agency that although Council has a mandate to endeavour to resolve issues between disputing parties, it has no authority to unilaterally amend the Federal-Provincial Agreement or any of its schedules.

(ii) **Review Agency Operations**

OBHECC has requested Council to review the operations of CBHEMA to ensure they are in accordance with section 21 of the Act, pursuant to section 6(1)(b) of the Act. Monitoring of agency operations is an on-going function of the Council. These sections of the Act basically provide a focus for the advice and review in terms of maintaining a competitive and efficient industry and ensuring agencies carry on their operations in accordance with their objects. Again, it must be recognized that such a review and any conclusions reached therefrom cannot be extended to an order or directive to amend the Federal-Provincial Agreement. The Council can, however, make recommendations that the Agency bring forward amendments to its Proclamation and to the Federal-Provincial Agreement in furtherance of a strong, efficient and competitive industry.

(iii) **Advice to Minister**

OBHECC has requested Council to advise the Minister that the operations of the CBHEMA do not maintain and promote an efficient and competitive broiler hatching egg and chick industry. Again, the Committee's observations respecting the state of the industry as it relates to the treatment of imports in the quota allocation system is set out in an earlier section.

Section 6(1)(a) of the Act obligates the Council to advise the Minister on all matters relating to the establishment and operations of agencies with a view to maintaining and promoting an efficient and competitive industry. In terms of the issue at hand, the report of this Committee when accepted by Council will constitute the report provided to the federal Minister and to all other signatory parties to the Federal-Provincial Agreement.

(iv) **Direct CBHEMA to amend Schedule B**

OBHECC has requested that Council direct the Agency to adjust imports under Schedule B so they reflect the import permit allocation made by EICB.

For all the reasons expressed earlier, the Committee is of the view that no authority to make such a directive exists.

The complainant cites that a directive be made pursuant to section 6(1)(c) of the Act, which section provides that Council works with agencies in promoting more effective marketing of farm products in interprovincial and export trade.

The Committee agrees with the Agency that this section “neither expressly nor by necessary implication constitutes either a general directing power of Council vis-à-vis agencies or, specifically, a directing power to CBHEMA to adopt an adjustment for imports different from the adjustment stipulated in Schedule B”.

Notwithstanding the above, the Agency has a statutory responsibility to help maintain an efficient and competitive industry. It is incumbent on the Agency to make those adjustments which it can do itself or alternatively to recommend changes which require signatory endorsement with respect to the efficient and effective functioning of the quota allocation system.

Committee Comments

Documentation provided during the hearing detailed the difficulties OBHECC has endured over the past years to acquire sufficient supply to meet its market requirements. Overproducing its allocation, short term leasing of quota from other provinces, and acquisition of import paper are just some of the mechanisms used to ensure adequate supplies of broiler hatching eggs.

As well, Agency reports prepared in the past have set out the negative market impact in Ontario as a result of growing disparity between the import adjustment contained in Schedule B and the actual distribution of import permits by EICB.

The Agency has a responsibility to operate an efficient and market responsive quota allocation system. In the case of broiler hatching eggs, it is unreasonable to expect significant movement of product interprovincially to address market shortages, and hence, it is eminently reasonable to link provincial broiler hatching egg production to provincial chicken meat demand. By not recognizing the reality of EICB's distribution of import permits, the Agency has forced itself to develop a number of artificial means, usually involving financial transactions, to meet provincial market requirements. These additional costs, either through the short term quota leasing arrangement or the proposed permanent interprovincial quota purchase program, are indicative of an allocation system that is in need of amendment.

Pursuant to the enabling legislation and in particular to the objects of an agency as prescribed in s.21, the intent of the architects of this system and of Parliament in passing the Act was to provide for the maintenance and promotion of a strong, efficient and competitive industry. In furtherance of the objects of an agency, its Proclamation sets out the manner in which quota allocations are to be made to provinces. No provision is made for the sale and purchase of provincial quota allocations through the payment of money between provinces (and in so doing increase the costs of maintaining the system). Where a quota allocation system is found to have

deficiencies, it is incumbent on an agency to address the problem directly or by recommending changes to the terms of its marketing plan which are consistent with its objects.

There has been only one change to Schedule B since 1990. The Committee concurs with the parties that inaction and inability to adjust the allocation formula to coincide with market needs may well be a product of provincial self-interest. The Committee also agrees with the parties that it would be in the best interests of all concerned to stop applying "bandaid" solutions and bring resolution to the fundamental problem with the allocation system.

It is apparent that Agency members themselves have not been able to fashion a resolution (i.e. cannot achieve unanimity) and in all likelihood, if left to themselves, resolution will not be possible in the foreseeable future. During the hearing, the Committee heard that past efforts to mediate a solution with the assistance of a third party had failed and yet there was no indication that professional services had been engaged or that a well structured mediation process had been designed and followed. In fact, during the hearing none of the parties convincingly demonstrated that, since 1995, there has been a willingness to enter into serious negotiation. Therefore, the Committee would highly recommend that the Agency consider the employ of a professional mediator or conflict resolution specialist to design and implement a process that will result in a resolution. The Council would be pleased to help the Agency in this respect.

Recommendation

The Committee strongly recommends that the Agency engage, as soon as possible, a qualified professional mediator or conflict resolution specialist to help resolve the import adjustment issue in Schedule B so that the long term efficiency and competitiveness of the industry can be encouraged.