Country of Origin Labeling

Most retail food stores are now required to inform consumers about the country of origin of fresh fruits and vegetables, fish, shellfish, various nut varieties, and ground and muscle cuts of beef, pork, lamb, chicken, and goat. The rules are required by the 2002 farm bill as amended by the 2008 farm bill. The final rule to implement country-of-origin labeling (COOL) took effect on March 16, 2009.

Less than one year after the COOL rule took effect, Canada and Mexico challenged the rule for muscle cuts of meat at the World Trade Organization (WTO), arguing that COOL has a trade-distorting impact by reducing the value and number of cattle and hogs shipped to the U.S. market, thus violating WTO trade commitments agreed to by the U.S. In November 2011, the WTO dispute settlement panel found that (1) COOL treats imported livestock less favorably than like U.S. livestock (particularly in the labeling of beef and pork muscle cuts), and (2) COOL does not meet its objective to provide complete information to consumers on the origin of meat products.

In March 2012, the U.S. appealed the WTO ruling. In June 2012, the WTO's Appellate Body (AB) upheld the DS panel's finding that the COOL measure treated imported Canadian cattle and hogs, and imported Mexican cattle, less favorably than like domestic livestock. But the AB reversed the finding that COOL does not fulfill its legitimate objective to provide consumers with information on origin.

The WTO's Dispute Settlement Body (DSB) adopted the AB and DS panel reports in July 2012. A WTO arbitrator set a deadline of May 23, 2013, for the U.S. to comply with the WTO findings. In order to comply, USDA issued their revised rule requiring that labels show where each production step (i.e., born, raised, slaughtered) occurs and prohibits commingling of muscle cut meat from different origins.

Three months later, in August 2013, Canada and Mexico formally initiated WTO compliance proceedings to challenge USDA's new COOL rule. Canada and Mexico stated, like its predecessor, it discriminates against meat products derived from livestock from their respective countries and, therefore, violates WTO international trade obligations.

The 2014 farm bill presented an opportunity for a legislative change to the rule, but in the final hours of consideration of the legislation, a provision to correct the COOL WTO problem was not adopted.

Canada and Mexico are the two largest export markets for the U.S., most notably for food and agricultural products. In 2014, the U.S. and Canada exceeded over $660 billion in total (two way) goods trade. Trade with Mexico, our third largest goods trading partner, also grew in 2014 with over $530 billion in total (two way) trade.

On May 29, the WTO Dispute Settlement Body adopted the fourth and final report that confirms the U.S. COOL requirements for muscle cuts of beef and pork violate its international trade obligations. Shortly after finding of non-compliance Mexico and Canada submitted their official retaliatory requests with the WTO to the annual cost of $713 million and $2.50 billion respectively.

Canada has already issued a preliminary retaliation list targeting a broad spectrum of commodities and manufactured products that will affect every state in the country. Mexico has not yet announced a preliminary retaliation list, but has implemented retaliatory tariffs in the past which may be indicative of future tariff opportunities.

The WTO DSB has referred the case to arbitration which is expected to conclude Fall of 2015. Once arbitration has concluded, Canada and Mexico will be allowed to immediately retaliate in the form of increased tariffs on U.S. agricultural and manufactured goods. Little to no warning will be given to the industries that will be affected by retaliation.