



## 27. Agribusiness

### Introduction

#### (a) The Agri-Food Industry in Canada

In Canada, agribusiness comprises all of the steps through which a given commodity has to go in order to reach the consumer's plate.

A major element of agribusiness is the agri-food industry, which is a rapidly growing sector in the Canadian economy. It can be divided into several subsectors, the sum of which encompasses agriculture, fisheries and aquaculture, as well as food and beverage processing and distribution.

The federal government projects that Canada will become, by 2025, one of the five most important competitors in the agri-food sector and a leader in such areas as sustainable food production.

#### (b) The Federal and Provincial Jurisdictions

Jurisdiction over the regulation of the agri-food industry is split between the federal and provincial governments. Agriculture is mostly regulated at the provincial level through marketing, environmental and labour-related laws, municipal zoning and restrictions with respect to the use and acquisition of agricultural land. The federal government controls imports and exports, as well as production planning.

### Supply Chain: Production, Processing and Distribution

#### (a) The Supply Chain

The agri-food industry functions as a supply chain. The process begins with primary agriculture. The raw agricultural commodities may then be processed prior to their distribution to food retailers or wholesalers. A certain percentage of the commodities to come out of both the food processing industry and of the food retail industry is distributed to the food service industry, which consists of businesses that prepare meals outside of the home, such as restaurants, cafeterias and catering services.

### **(b) The Main Actors**

The main actors of the food supply chain are the farmers, or producers, the food and beverage processors, the food retailers and wholesalers and the food service providers. Agriculture and Agri-Food Canada (AAFC), a federal governmental body is, in collaboration with each of the provincial governments, responsible for the development of policies and programs applicable to each step of the supply chain.

## **Compliance**

### **(a) The Canadian Food Inspection Agency (CFIA)**

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### **(b) Food Safety**

The Canadian regulatory framework with regards to food safety regulates, through policies and standards, all aspects of food production and safety, from health standards and nutritional quality of food to the humane treatment of animals and the importation of seeds into Canada. Compliance is enforced by the CFIA.

Some of the key legislation includes the *Health of Animals Act*, S.C., 1990, c. 21, the *Consumer Packaging and Labelling Act*, R.S.C., c. C-38, the *Food and Drugs Act*, R.S.C., c. F-27, and the *Safe Food for Canadians Act*, S.C., 2012, c. 24.

### **(c) Labelling**

Labelling is another food safety component that falls under the CFIA's and Health Canada's purview. Legislation, including the *Food and Drugs Act* and its regulations, as well as the *Safe Food for Canadians Act* and its regulations, set certain minimum information requirements for labelling and packaging. In addition, pursuant to subsection B.01.012(2) of the *Food and Drugs Regulations*, C.R.C., c. 870, all labelling must be both in French and in English.

Certain categories of food, such as fresh fruits and vegetables, have additional labelling requirements.

Labelling and packaging requirements are enforced by the CFIA, with penalties varying from a fine to imprisonment or both, according to the severity, nature and frequency of the offense.

## Supply Management

People intending to conduct business in Canada should be aware of Canada's supply management system, a unique Canadian institution that sets certain rules with regards to certain products, in order to meet market needs and provide financial stability to farmers.

Supply management is regulated at both the federal and provincial levels. The production of milk, chicken, table eggs, hatching eggs and turkey is subject to supply management at the federal level, and to some extent at the provincial level. Supply management has three central elements: (a) production discipline, (b) cost-of-production pricing and (c) import controls.

### (a) Production Discipline

In order to avoid overproduction and shortages, the provincial and federal bodies representing each of the five aforementioned commodities are responsible for establishing a production rate relative to national demand. The Farm Products Agencies Act, R.S.C., c. F-4, enables them to restrict the production of certain commodities through production quotas backed by the ability to assess financial penalties.

In order to operate a commercial farm that produces the targeted commodities, a farmer must obtain a permit. Each provincial body has its own quota exemption policy. Generally, smaller producers, who operate a small business and whose products are intended for personal consumption, are not subject to these quotas.

### (b) Cost-of-Production Pricing

In addition to production control, supply management allows for farmers to benefit from a price regulation mechanism. The regional bodies negotiate a minimal price that processors have to pay with respect to each supply-managed commodity. As a result, supply management allows for farmers to obtain a fair price for their products while avoiding significant price fluctuations.

### (i) The Province of Quebec

Quebec's situation slightly differs from that of other Canadian provinces. According to the Act Respecting The Marketing Of Agricultural, Food And Fish Products, C.Q.L.R., c. M-35.1, the marketing of several agricultural products is achieved in a collective fashion. Such a system allows for farmers to collectively negotiate and regulate the marketing of their products through a "joint plan".

Once a joint plan is adopted, anyone involved in the purchasing, transformation and marketing of the subject commodity has the obligation to follow the provisions of the Act and to negotiate with the producer's office that administrates the plan.

Nevertheless, each Canadian province has its own legislation and regulations regarding the marketing of agricultural products and may put in place its own rules and commissions in that respect.

### **(c) Import Controls**

The final element of supply management is import control. In order to avoid flooding the Canadian market, the federal government limits, under several trade agreements, imports of certain commodities. To that effect, Canada grants a minimum level of access to importation and imposes high import tariffs.

## **Imports and Exports**

### **(a) Import and Export Requirements**

Canada's federal government has jurisdiction over the import and export of agricultural products. Imported agricultural goods in particular are subject to a number of restrictions. Imported agricultural products and food must comply with federal health and sanitary legislation, as well as be appropriately coded as per the Harmonized Commodity Description and Coding System. There may also be additional provincial import requirements.

Certain agricultural products require an import permit for entry into Canada. To acquire an import permit, one must make an application through a broker with access to the Export Import Controls System. The full range of products subject to import permits are listed in the *Import Control List*, C.R.C., c. 604, and include wheat, barley, eggs, dairy, turkey, chicken, and processed foods derived from these ingredients.

Canada's supply-managed commodities (eggs, dairy, turkey, and chicken) are subject to import controls via Tariff Rate Quotas ("TRQs"), which set an overall annual import threshold for each good. Imports below these thresholds are subject to low or no tariffs, while imports exceeding the threshold are subject to high tariffs. The applicable duties for each agricultural product subject to a TRQ are laid out in the *Export and Import Permits Act*, R.S.C., c. E-19.

Regarding exports, there are a number of restrictions on agricultural products, including that they be free from exposure to or infection by contagious disease. In addition, most exported agriculture goods require an export certificate.

### **(b) Other Issues Affecting Trade**

Many countries, including Canada, have imposed maximum residue limits ("MRLs") on the amount of residual pesticides and veterinary drugs that can remain in raw agricultural products and processed foods. An awareness of how MRL standards differ between various national and regional governments is important for both importers and exporters.

Another important issue is that of genetically modified ("GM") agricultural products, of which Canada is a leading producer and exporter. Regulatory frameworks regarding GM agricultural products can affect trade and vary by country and region.

## Agricultural Land

### (a) Foreign Ownership Restrictions

Foreign ownership of agricultural land is restricted in some Canadian provinces. Alberta, Saskatchewan, and Manitoba restrict the amount of land that non-Canadian individuals or businesses may own to between 10 and 40 acres, depending on the province. Prince Edward Island takes a stronger stance, putting limits on ownership of agricultural land by all individuals and businesses (capped at 1,000 acres and 3,000 acres, respectively). In Quebec, foreign ownership is limited to four hectares unless an authorization to acquire a greater area is granted by the regulator.

In contrast, British Columbia, Ontario, Newfoundland and Labrador, New Brunswick, and Nova Scotia place no limits on the acquisition and ownership of agricultural land.

### (b) Agricultural Loans

The *Canadian Agricultural Loans Act*, R.S.C., 1985, c. 25, is a loan guarantee program (the “CALA Program”) that grants loans to farmers and agricultural co-operatives. There is an aggregate loan limit of \$500,000 per farm operation, which can be used for the purchase of land, construction and improvement of buildings. A maximum of \$350,000 can be used for all other loan purposes, including loan consolidation and refinancing.

## Agri-Tech

“Agri-tech” is a quick-growing, dynamic agribusiness area, where innovative new technologies are continually being applied to enhance food production efficiency and volume.

Since 2019, a number of provincially and federally funded programs have been created to support and develop this industry. For example, Ontario sponsors an “Agri-Tech Innovation Cost-Share Program” and British Columbia funds an “Agritech Grant Program”, both of which are aimed at providing government funding to companies developing advanced and innovative agricultural technologies.

## Environmental Issues

### (a) Overview

Various environmental issues impact the agri-food industry. Agribusiness puts a strain on and is impacted by water, soil and air quality. In an attempt to reduce the damage that some sectors, including the agri-food industry, may bring upon the environment, each province has its own set of environmental laws. These provisions are enforced by a designated governmental body, with penalties varying according to the nature and severity of the offence.

Further, permits or certificates of authorization may be required in order to engage in certain environmentally harmful agricultural practices. For instance, in most Canadian provinces, those who wish to use or sell pesticides must obtain a permit to that effect beforehand.

