

# **REVIEW OF BACKGROUND AND OPTIONS CONCERNING THE ATLANTIC CANADA SAFEGUARD AGREEMENT**

## **Preamble**

In the preparation of this report productive discussions were held with Chicken Farmers of Canada (CFC) to better understand their explanation of the Atlantic Canada Safeguard Agreement (ACSA), its reasoning, application and impact. Mr. Jan Rus of CFC provided an excellent document (See attachment titled "2019 October CFC Presentation - Atlantic Canada Safeguard Agreement") on October 11, 2019 that answered all of the questions put to them. The reader is referred to Appendix 1 for technical details concerning the ACSA.

## **Background and Overview**

Discussions among the ten provinces took place for almost a decade to develop an allocation formula that was not solely based on traditional pro-rata allocation methodology. The Farm Products Council of Canada (FPCC) insisted that comparative advantage be an important element of the new formula. Complicating these discussions at that time Alberta had withdrawn from the Federal Provincial Agreement.

Negotiations entered an intensive phase in 2013 with many meetings of the provincial chicken boards and CFC including, for some time, a professional mediator. A number of formulae were developed and rejected. During the negotiations it was apparent that Ontario was not going to agree to anything unless they got some special consideration to bring their allocation percentage closer to their population.

Finally in 2014 it appeared that consensus on a differential growth formula was reached with a Discrete Supply Allocation for Ontario and a Supply Share component that benefited both Alberta and Ontario. At the last minute, after all of the provinces had agreed to a differential growth formula, the Atlantic Provinces (Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland) presented a proposal called the Atlantic Canada Safeguard Agreement (ACSA). They were concerned that the new formula would be punitive to those provinces as their growth potential was less than that for the rest of Canada and their allocations would be less than they had under the previous pro-rata allocation methodology.

The concept of the ACSA was that when the differential growth (formula based) allocation resulted in individual Atlantic provinces receiving fewer kgs in excess of agreed upon thresholds of growth during the 66 periods covered by the agreement compared to the previous pro-rata allocation methodology then they would receive kgs from the other six provinces. As growth was anticipated to be about one and one half percent (1.5 %) it was not anticipated that the ACSA would be triggered until late in the 66 period operating Agreement. Also it was estimated that the number of kilograms that would change hands would not be significant.

After all the years and the recent intensive negotiations the provinces had reached negotiation fatigue. It was not appreciated that the Atlantic provinces had introduced this new proposal at the last minute however considering that the volume was estimated to

be small and the implementation many years in the future there was agreement among the provinces including BC to sign the ACSA.

Consequently there were two separate agreements dated November 10, 2014. One was Schedule "B" to the Operating Agreement signed by the chair of CFC, the chairs of each provincial board and of each provincial supervisory board. This document was an amendment to the Federal Provincial Agreement and outlined the details of the new differential growth formula for 66 periods. The ACSA was signed by the chairs of each provincial board and the chair of CFC and was not part of the Operating Agreement.

The FPCC have recognized that the ACSA was not incorporated into the CFC Operating Agreement even though it has been implemented and was triggered in period A-147. FPCC have requested that the ACSA be incorporated into Schedule B (Operating Agreement). The CFC, in a March 15, 2019 letter, has requested that the modified ASCA which will incorporate the ACSA into the operating Agreement be signed by each of the provincial chicken and supervisory board chairs.

### **Options for BC Chicken Marketing Board in 2014**

Following the extensive negotiations to reach a differential growth formula that was the basis of Schedule B (Operating Agreement) the BCCMB was not pleased with the last minute request from the Atlantic Provinces. The choices for the BCCMB were limited: sign or do not sign.

Considerations of the BCCMB over signing the ACSA included:

- During 2014 negotiations were underway on the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTP), negotiations for a renewed NAFTA were on the horizon and other international trade agreements were under consideration.
- Supply management was a topic of consideration in all of the trade negotiations. There was a concern in the supply managed sector that the absence of Alberta from the CFC indicated a weakness in the supply management credentials of the chicken industry and could be used negatively by critics during international trade negotiations.
- There was a strong desire in BC and in the other eight provincial signatories and CFC to bring Alberta back into the national system.
- The BCCMB accepted the CFC calculations that the quantity to be transferred to the Atlantic Provinces would be minimal and would not occur until late in the 66 period agreement.

Like other provinces BC gave up a portion of future allocation to get an agreement on the differential growth formula and giving more to a region with limited growth potential was not appealing. However, considering the importance of finalizing the new operating agreement and having accepted the calculations of the CFC on the timing and impact of the ACSA the BCCMB agreed to sign the ACSA.

## How does the ACSA work

The agreement is triggered once the cumulative allocations (starting in period A127) according to the allocation formula and discrete supply to Ontario in comparison with the cumulative allocations calculated using the previous “pro-rata” methodology exceed agreed upon thresholds:

New Brunswick	1,384,446 kgs
Nova Scotia	1,764,391 kgs
Prince Edward Island	163,271 kgs
Newfoundland	587,892 kgs

Once these provincial thresholds are reached, CFC will allocate 1 kg of growth for every 2kgs of difference as calculated above. Safeguard kgs are deducted from the other six provinces based on the provincial shares of combined base allocations for the period.

Appendix 1 supplied by CFC explains in detail how these calculations work.

## Cost /Benefit Analysis

When the ACSA was signed it was based on an estimated allocation growth of 1.5% per year. Growth has greatly exceeded that modest estimate.

A145 - 150	5.4%
A151 – 156	5.4%
A157 – 162	2.4%

The growth rate has exceeded the 1.5% estimate in 2014 and hence it triggered the ACSA in period A-147 for New Brunswick and in A-151 for both Nova Scotia and Newfoundland. Table 1 illustrates the impact on BC and other provinces of the ACSA during the period A-145 to A-16

The ACSA first triggered for New Brunswick in A-147. During that first year BC transferred 8,172 kgs to New Brunswick amounting to 0.005 % of BC’s domestic allocation. Both Nova Scotia and Newfoundland triggered the ACSA in the second year A151-A-156 and BC contributed 55,368 kg or 0.035 % of domestic allocation growth declined in the third year A-157-162 and BC contributed 25,546 kg or 0.016 % of domestic allocation.

<u>Domestic Allocation Before ACSA</u> kgs	<u>Kgs deducted under ACSA</u>	<u>Impact as % BC Allocation</u>
A145-150 152,623,786 kg	8,172 kg	0.005%
A151-156 156,928,461 kg	55,368 kg	0.035%
A157-162 159,753,512 kg	25,546 kg	0.016%

Over the period A-145 to A-162 BC has contributed 89,086 kg or 0.019 % of domestic allocation. To put this in perspective that is 4,949 kg per period which equals 15.5 kg or \$26.00 per grower per period.

Although the amount of chicken contributed by BC to the ACSA is small in relation to BC allocation (0.019%) all production counts. There is no economic benefit to BC in giving up this product. Currently the Operating Agreement is approximately at its half way point and the ACSA was triggered sooner than expected so the total contribution from BC will be greater than was anticipated when the ACSA was signed in 2014.

## **Options**

Obviously there are two options for the BCCMB, sign the agreement to include the ACSA in the operating Agreement or do not sign.

The Primary Poultry Processors Association of BC (PPPABC) presented their views on signing in a letter dated April 25, 2019 including:

- Reiterated their opposition to the amount of allocation given up by BC in the Operating Agreement
- Do not see why one region of Canada should have preferential treatment based on a negotiated position, maybe BC needs a safeguard agreement.
- Encouraged the Board to consider whether there are options to negotiate a a better deal for BC in exchange for signing the ACSA

The BC Chicken Growers Association (BCCGA) in a letter dated May 3, 2019 echoed the views of PPPABC and recommended that the Board consider options to increase BC's allocation before signing the ACSA.

## Impacts of Not Signing

The impacts of BC not signing the ACSA in order to include it as part of the Operating Agreement are not clear. When this question was put to the CFC Executive Director he could not definitively state what the repercussions would be. The two outcomes considered were:

- FPCC could decide to not approve allocations
- FPCC could continue to approve allocations, perhaps with some conditions

The reaction of FPCC to having one province refusing to sign to incorporate the ACSA is an unknown. It may be appropriate for the BC Farm Industry Review Board (FIRB) to have a discussion with FPCC to seek clarification on this subject. One could speculate on FPCC's reactions to one province reusing to sign:

- FPCC could decide not to approve allocations. This seems unlikely as the allocations agreement is separate from the ACSA which is the whole point of the current exercise to get the ACSA included in the Operating Agreement. Perhaps FPCC could disallow the implementation of the ACSA, thus stop the transfer of

volume to the Atlantic provinces until such time as all of the required signatures were obtained. This would certainly create tensions between BC and the Atlantic provinces.

- FPCC could continue to approve allocations and request CFC to continue to work with BC to find a solution that would persuade them to sign the ACSA. This would recognize that the Operating Agreement is half way through its 66 period term and a side agreement, the ACSA that has been implemented for the last three years with compliance by all provinces, should not derail the Operating Agreement.

*For what reasons would BC refuse sign to have the ACSA incorporated into the Operating Agreement?*

The ACSA provides no economic benefit to BC and has cost the BC industry 89,086 kg live weight or 0.019% of domestic allocation over the last three years. The cost to the BC chicken growers has been approximately \$150,000 in lost revenue over that three year period. The loss to processors is 65,479 kg eviscerated. The loss of processors' revenue would depend on what products the chicken was sold as. Although this amount is relatively insignificant it is still a loss of BC production.

The BCCMB could consider not signing as a matter of principle, giving up even a small quantity suggests that it is valid to give away BC allocation for the common good.

### Impact of Signing

In 2014 BC signed the ACSA in good faith believing the analysis of CFC that it would result in an insignificant transfer of kilograms and it would not occur until well into the latter periods of the Agreement. The volume of kilograms transferred is relatively small however the transfer was triggered much sooner than anticipated (due to high growth rates) thus resulting in a greater total volume of transfer over the 66 periods of the Operating Agreement than originally projected assuming that growth will continue to exceed 1.5%.

Signing the incorporation of the ACSA into the Operating Agreement will change nothing for BC. BC agreed with the terms of the ACSA when the BCCMB signed the accord in 2014 and re-signing in 2019 will not change the obligations that were agreed to originally.

Signing the ACSA now will:

- Satisfy the FPCC so it would remove the ACSA as a reason not to approve allocations
- It would show solidarity with other provinces, particularly Atlantic Canada
- Ensure that BC will continue to transfer kilograms of production to Atlantic provinces

- Upset the PPPABC and BCCGA who oppose giving up allocation without some quid pro quo
- May influence the outcome of future negotiations when the current Operating Agreement expires as provinces prepare to each show why they too need a discrete supply of special accord

### **Considerations on BC Withdrawing from the Operating Agreement**

Withdrawing from the operating agreement is a drastic measure. BC did this in the past and made significant gains in allocation.

Alberta's recent exit and re-entry gave them more allocation also. During the time that Alberta was out of the national agreement they did not seem to suffer any harm, in fact at CFC they sat at the Board table, offered their opinion on every issue, gave their input on votes even though they did not vote and sat on CFC committees. There did not appear to any negative consequences to Alberta for being out of the national agreement and, in the end, they gained allocation in order to bring them back.

Are BC's grievances sufficient to warrant notice of withdrawal from the national agreement? Certainly BC wants more allocation but is this a sufficient reason to withdraw? PPPABC has long complained that too much volume was given away, particularly to Ontario, in the 2015 Operating Agreement notwithstanding the growth of production since 2015 (which reduces the impact of the Discrete Supply to Ontario as a percentage of BC's production).

If BC can gain in their share of allocation by withdrawing perhaps it is worth considering. The allocation formula in the Operating Agreement is in place for 66 periods ending in A-192 (2024). It is unlikely that the formula will change before the renegotiations begin on renewal of the Operating Agreement. The time to consider withdrawal is during the negotiations of the next iteration of the Operating Agreement before 2024. BC could develop a strategy prior to renegotiations to: adjust the formula to BC's advantage; request something like a "discrete supply" for BC or a Western Canada or BC accord like the ACSA or prepare a case for withdrawal.

### **Quid pro quo for signing ACSA**

Can BC use their signing of the ACSA as leverage or "bargaining chip" to get something from CFC and the other provinces as suggested by PPPABC and BCCGA? Perhaps those organizations have some concrete suggestions of what they would consider to be appropriate opportunities to "trade" for BC's signature. The value of BC's signature will depend, in part, on how important it is to have ten provinces sign the document. As referred to above the consequences of not signing are unknown. This is a judgement call, is BC's signature truly essential or can allocations continue without it? Does BC have real clout or is it a "paper tiger"? What are the potential requests that BC could ask for in exchange for their support?

### More TRQ for BC

There is no argument that BC's share of TRQ is unfair and inadequate. BCCMB, BCCGA and the PPPABC have all made presentations to Global Affairs Canada with argument supporting more TRQ for BC from the latest round of trade agreements. More TRQ would help the BC further processing sector in competing with Ontario and Quebec processors.

The decision to change the system to award more TRQ to BC rests with Global Affairs Canada not CFC or other provinces thus this is not a useful bargaining chip on whether BC signs the ACSA. It is unlikely that other provinces would support a greater share of TRQ going to BC as those who now hold TRQ would not want their share reduced and others may want more for themselves.

### Discrete Allocation for Specific Types of Chicken

In the past BC has won special allocation for specific types of birds such as specialty (Asian) chicken. If there are specific types of birds unique to BC that are not yet covered under existing agreements this could be an opportunity to "trade" a supporting signature for more specialty allocation. Would it be to BC's advantage to have organic production recognized as a separate allocation?

### National Cost of Production

The concept of a national cost of production has been discussed for some time. Provinces are not unanimous in their views on conducting a national exercise and remain adamant that setting live price is a provincial responsibility. If the conduct of a national COP is of value to BC then it could push for a discussion at the national table however it is likely that this is a long term initiative that does not fit with the immediate decision for signing the ACSA.