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## Chemicals, food 'low-hanging fruit' in border talks

By Carl Meyer

A closed-door process to harmonize regulations across North America, initially born in the Security and Prosperity Partnership and given new life with the new Canada-US perimeter border talks, has finally offered a small peak into what regulations the private sector considers the easiest targets—and a lot of it involves chemicals and food.

However, not everyone believes that harmonization is the answer, and analysts point out that what may appear to be easy to achieve will actually come with hidden obstacles, like problems around government jurisdiction and, of course, politics. Coupled with a general lack of public information from the government, that means the process still faces a lot of uncertainty.

On July 5, the Department of Foreign Affairs and International Trade published a summary on its website of the recommendations it received during a two-month public consultation with industry groups last year.

The recommendations—which are not yet government policy, but do in part represent the views of some federal departments that submitted—are sorted into 18 categories, ranging from chemicals to biotechnology to green energy.

Some red-tape topics discussed, like the US law over Country-of-origin labelling, are well-known and have already become controversial topics, while others—like the differences between Canadian and US regulations over Blueberry Scorch Virus—are rarely discussed outside of industry circles.

But the largest sections refer to chemicals, including their labelling system, which chemicals are banned where, how pesticides are created and used, how to handle chemical residues, which veterinary drugs are harmonized, testing for organic compounds like formaldehyde, and the average renewable fuel content in different countries.

Another large category is food and agriculture, including synchronizing biotechnology approvals, reducing food additive regulations, harmonizing the animal feed ingredients list, jointly recognizing salmonella, seafood and other food safety procedures, and harmonizing a whole list of plant health issues.

There are other, smaller sections covering renewable fuels, the shipping industry, vehicle safety, heating and plumbing standards, and green energy.

Canada-US analysts and industry representatives agree that these recommendations reveal the areas that Canadian industry considers the easiest to achieve results, as opposed to the ones that, say, impact the largest number of Canadians.

"I suspect that both governments are interested in what is the 'low hanging fruit,'" wrote former Canadian diplomat Paul Frazer, now the Canadian Chamber of Commerce's special adviser on Canada-US relations in Washington, in an email. "In other words, what is more likely to be addressed soon and offer up some early,

positive results."

Jean-Michel Laurin, vice-president of global business policy for the large industry association Canadian Manufacturers and Exporters—who said his group's submission was well-represented in the summary—also said the submissions had to be kept to areas where businesses could see feasible progress.

He said he wasn't surprised that there was a big focus on chemicals, because that has had the attention of Canadian business for many years.

Gordon Lloyd, vice-president of technical affairs at the Chemistry Industry Association of Canada, said he was pleasantly surprised that chemicals got as much play as they did. Especially in pesticides, he argued, it would be easy to harmonize regulations because of how close the Canadian and US standards already are.

### **Problems and opposition**

Mr. Laurin said there were many suggestions for Canadian companies to harmonize regulations with the US because the Americans have the larger market. Besides, he argues, it would be easier to address problems that affect the North American market, like hazardous products and food safety, if all countries did not act separately.

But Clare Demerse, director of the Pembina Institute's climate change desk, says harmonization isn't always as simple as it may appear.

On areas like energy efficiency and renewable fuels, she argues, Pembina's view is that "while Canada and the US should definitely co-operate, Canada needs to view the US as a floor, not a ceiling, for our ambition on climate change," she wrote in an email.

She argues the US isn't always a global leader when it comes to regulations, pointing out that the EU and China have more stringent vehicle fuel-efficiency standards than the US does, at least for now.

As well, sometimes what is presented as "low-hanging fruit" will still be hard to pick. For example, a large section is spent discussing food safety. The document notes that "Canada and the United States are both in the process of modernizing food safety legislation," and notes that areas of the US food safety legislation of "particular concern to Canadian industry," such as the US Foreign Supplier Verification Program, another mandatory food safety process called the Hazard Analysis and Critical Control Point, and other risk-based inspections.

But while the document recommends working with the US Food and Drug Administration to recognize Canada's accreditation and certification systems, Mr. Frazer says the FDA might not have the staff or the budget to do the job on food safety that recent legislation asks it to take on.

As well, some issues appear to be sub-federal. The section on the shipping industry largely discusses the fact that the State of New York "implemented stringent ballast water management discharge standards that are more restrictive than necessary." Mr. Frazer contends that Washington may not be too inclined to get involved in such state-created issues.

And David Biette, director of the Canada Institute at the Woodrow Wilson International Center for Scholars, wondered why plumbing standards were discussed, which he says typically have more to do with governments at the municipal or state level in the US.

### **Few answers so far**

While the regulatory talks were born years ago in the SPP's 2007 Montebello summit, when the three countries' leaders instructed their respective ministers to develop a Regulatory Co-operation Framework to "streamline regulations" between Canada, the US and Mexico, they have been carried out behind closed doors

for years.

In March 2010, the Department of Foreign Affairs and International Trade began a two-month process gathering input from businesses, organizations and individual Canadians on areas where regulations were negatively impacting Canadian trade in goods—for example, standards and technical regulations that apply to industrial and agricultural products.

But ever since that public consultation closed in May 2010, almost no details were released to Canadians: Nothing on the process for how it churns through submissions; who is involved; or which entities or individuals submitted proposals. *Embassy* asked DFAIT all of these questions but did not get a response by press time.

In fact, the process had almost completely fallen off the radar until the much-touted Perimeter deal announced by Prime Minister Stephen Harper and US President Barack Obama in February promised to give the consultations new importance with the creation of a new "US-Canada Regulatory Co-operation Council." Yet even since then, scant public information has been available.

One major problem is that without the knowledge of who submitted, analysts cannot conclusively say that what is being presented is an accurate cross-section of industry concerns, said Mr. Biette.

He also felt that the number of submissions received— according to DFAIT, it got answers from nine government departments, 16 industry associations, four private companies, and one private individual—was "rather thin."

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