



September 9, 2017

Canada-Pacific Alliance Trade Consultations
Global Affairs Canada
Trade Negotiations Division (TCW)
Lester B. Pearson Building
125 Sussex Drive
Ottawa, Ontario K1A 0G2

consultations@international.gc.ca

Re: Consultations on a possible Canada-Pacific Alliance Free Trade Agreement

To whom it may concern,

We welcome this opportunity to provide input on a potential free trade agreement (FTA) with Pacific Alliance countries, namely Chile, Colombia, Mexico, and Peru. Free trade is critical to the Canadian canola industry as we export over 90% of what we produce each year to meet demand for high-quality canola oil, meal, and seed. A Canada-Pacific Alliance FTA would support the Canadian canola industry's interest in attaining improved market access in Latin America. By proceeding with FTA negotiations with the Pacific Alliance, there is an opportunity to eliminate variable and prohibitive tariffs on canola oil entering Colombia.

The Canola Council represents all segments of the canola industry in Canada. Our membership includes Canada's 43,000 canola growers, as well as seed developers, processors who turn canola seed into canola oil and meal, and exporters. The Canadian Canola Growers Association represents canola farmers from Ontario to British Columbia on national and international issues, policies, and programs that impact farm profitability. Open and stable trade is the foundation for the \$26.7 billion our industry contributes to the Canadian economy annually and the 250,000 jobs it supports across the country.

As competitive global exporters, an FTA with the Pacific Alliance countries could provide some new export opportunities. In particular, Colombia holds potential for increased Canadian canola oil exports as it is a net importer of vegetable oil. Canadian exporters have provided Colombian importers with high-quality Canadian canola oil for several years. Despite the Canada-Colombia FTA (CCoFTA) that came into force in August 2011, Canadian exporters have been unable to competitively bring canola oil to Colombia because of variable and prohibitive duties on canola oil applied through the Andean Price Band System (APBS).¹

The canola sector's priority as part of a possible Canada-Pacific Alliance FTA:

- **Exempting Canola from the Andean Price Band System:** In the context of a possible negotiation with Pacific Alliance countries, the Canola Council and the Canadian Canola Growers Association request that the Canadian government secures an exemption for canola oil exports from Canada from the APBS. Colombia is currently maintaining the APBS through its membership in the Andean Community (formerly the Andean Group) trade

¹ The Andean price band system was brought into effect by Andean Group Decision 371 of November 26, 1994.

bloc, comprising Colombia, Peru, Ecuador, and Bolivia. Colombia's application of its price band system to imports of Canadian canola products puts those products at a significant commercial disadvantage in the Colombian market and negates the value of the Colombian FTA.

Colombia's tariff is adjusted to make imports competitive with local oil and is published on a bi-weekly basis. It is currently at 9% for the period of September 1 to 15 and has been as high as 40% in recent years. Also, Canadian canola imports into Colombia face higher tariff rates than canola products from the United States which under the US-Colombia Trade Promotion Agreement are exempt from the APBS.

While the application of the APBS to imports of canola products from Canada is permitted under the CCoFTA,² a legal opinion commissioned by the Canola Council concludes that Canada has very strong claims that the treatment of imported canola under the price band system is inconsistent with Colombia's WTO obligations³. The APBS is very similar to two WTO cases where price band systems have been successfully challenged under those provisions, and in particular, Peru's Price Range System, which was successfully challenged by Guatemala in *Peru – Agricultural Products*.⁴ Of note, Peru a member of the APBS, as well as the Pacific Alliance does not apply a price band tariff on canola oil because it was exempted by the Canada-Peru FTA that came into force in August 2009.⁵

Apart from the APBS unpredictable and variable tariffs, many similarities exist between the agriculture sectors of Pacific Alliance countries and Canada. As large agricultural producers, we both export a large percentage of our total production to international markets. As such we face many of the same trade restrictions linked to sanitary and phytosanitary (SPS) issues, non-tariff trade barriers, and restrictions on biotechnology products. Grain and oilseed trade can be suddenly disrupted by non-science based interventions related to SPS issues. An FTA between Canada and the Pacific Alliance countries has the potential to build momentum for consistent approaches to these issues that would promote stable and comprehensive market access between our economies and beyond.

As exporters that depend on international markets, the canola industry supports eliminating barriers to trade including tariff and non-tariff trade barriers wherever they exist. As such, the canola industry supports the pursuit of an FTA with the Pacific Alliance. That said, we also recognize that in practice, Canadian resources to pursue, negotiate, and implement trade agreements are limited. When it comes to allocating these limited resources to trade negotiations, the canola industry believes priority should be assigned to completing an alternative TPP, pursuing an FTA with China, and maintaining current access to the United States and Mexico. We believe that negotiations with these major economies are likely to result in more fruitful opportunities for our industry and the Canadian economy generally.

² Article 218 of the CCoFTA permits Colombia to apply the PBS to certain goods, including Canadian canola products.

³ Article II:1(b) of the *GATT 1994* and Article 4.2 of the *Agreement on Agriculture*.

⁴ Chile — Price Band System and Safeguard Measures Relating to Certain Agricultural Products, Panel Report (WT/DS207/R), 3 May 2002 and Appellate Body Report (WT/DS207/AB/R), 23 September 2002 ("Chile — Price Band System"); Peru — Additional Duty on Imports of Certain Agricultural Products, Panel Report (WT/DS4575/R), 27 November 2014 and Appellate Body Report (WT/DS4575/AB/R) 20 July 2015 ("Peru — Agricultural Products").

⁵ Annex 218 - Products subject to the Price Band System of Supreme Decree No. 115-2001-E-F does not include canola products – HS Code 120510, 151411, 151419, 230641.

The Canola Council and the Canadian Canola Growers Association are both members of the Canadian Agri-Food Alliance. We trust that you find this information helpful in your department's ongoing assessment. Please contact us if you have any further questions.

Sincerely,



Jim Everson
President
Canola Council of Canada



Rick White
Chief Executive Officer
Canadian Canola Growers Association