



**Submission to the House of Commons Standing Committee on International Trade
Regarding C-216: *An Act to Amend the Department of Foreign Affairs, Trade and
Development Act (Supply Management)***

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Introduction

This submission is presented on behalf of **Tree of Life Canada** (“Tree of Life”) as part of the House of Commons Standing Committee on International Trade’s study on *C-216: An Act to Amend the Department of Foreign Affairs, Trade and Development Act (Supply Management)*.

Operating coast to coast, Tree of Life is one of the largest distributors of specialty and natural foods in Canada and employs the largest specialty food sales force in the country. We are owned by KeHE Distributors, one of the leading American distributors of natural and specialty food products. Though we are involved in the importation of a broad range of products, this submission focuses on what we (hopefully) presume are the unintended impacts of the proposed Bill C-216 on the importation of UK specialty cream products into Canada. These impacts will be felt by us as well as our Canadian customers – which include over 2,000 Canadian businesses (mostly small teahouses and specialty goods stores) spread across the country.

With the goal of protecting Canada’s supply management system, Bill C-216 seeks to curtail the government’s ability to include supply management concessions in future trade deals. It is concerning that Parliament is considering removing the ability of government to freely negotiate trade treaties with other countries. If this Bill becomes law, it will remove the ability of Canada’s trade negotiators to properly assess the costs and benefits of potential trade-offs in the context of negotiations as well as run the risk of damaging our relationships with our valued trading partners, such as the UK.

To illustrate our serious concerns with Bill C-216, and to explain why we believe Canadian negotiators should be provided room to nimbly adjust to legitimate concerns about Canada’s tariff rate quota (TRQ) system, we present below a case study of our decade-long attempts to acquire cream quota to import UK specialty cream products from the UK – a product for which no Canadian producer even exists. More broadly, our case illustrates how the idiosyncrasies and incongruities that have evolved in Global Affairs Canada’s management of the TRQ system has created ‘orphans’ like British specialty cream, which hardly fits into any category and is therefore nearly impossible to import, even though it poses no threat to domestic producers. Cases like us have *nothing* to do with exposing protected markets to increased foreign competition.

Case Study: Specialty Creams

Clotted cream and double cream are unique to the United Kingdom. These products, originally made by farmers to reduce the amount of waste from their milk, are highly regulated by the UK Food Standards Agency, which requires that the fat content for clotted cream stand at a *minimum* of 55 percent (one of the highest fat content products in the dairy industry), and for double cream at 48 percent. To achieve these very high fat percentages, these specialty creams are prepared using a delicate method of heating and cooling, a process that preserves the complexity of the milk fat.

As an example, UK-based Coombe Castle International (“Coombe Castle”) has taken this traditional process and for the last 40 years has been manufacturing these products for consumption within the UK and for export worldwide. The clotted and double creams produced by Coombe Castle are unique, as they have a shelf life of 9 months. To achieve this, the creams need to be produced in a dedicated glass bottling plant, using custom-made equipment to separate the skim milk from the fat. For any would-be producer to replicate this process in Canada, the upfront capital investment of at least \$1.3M in specialized equipment would be very significant – a fact which has made it impractical and unattractive for Canadian companies to venture into the market. Of course, they are aware also that there is also no

guarantee that the result would even taste the same as a British product or would attract consumers at the same rate. Indeed, consumer research paneling suggests that a Canadian product might not have the same cachet as specialty cream imported from the UK – similar to the cachet that some of Canada’s products have abroad, such as maple syrup.

The Unintended Consequences of C-216

Below, we outline our concerns with the potential impacts of C-216 on businesses such as Tree of Life, which imports supply-managed goods that do not pose a threat to the Canadian market as there is no domestic equivalent. We also outline the impacts on our Canadian customers, spread across the country.

Access to the Canadian Market

For years (and until quite recently), importers of UK specialty cream products were nearly denied outright access to any quota – even though there is no domestic producer – simply because the products did not (and do not) naturally fit into any of the categories across the different cream TRQs.

Below, we provide a short summary highlighting the many struggles and obstacles Tree of Life has faced for over a decade while trying to import UK specialty cream products into the Canadian market. Notably, these obstacles have been erected and perpetuated even though they do not compete with anything produced in Canada.

Tree of Life has undertaken good faith efforts to meet the sustained demand for clotted cream and double cream with product obtained from alternative sources, such as Canadian dairies or dairies situated in countries with which Canada has an existing trade deal which includes a cream TRQ. Despite Tree of Life’s diligent efforts, these attempts have proved fruitless. Simply put, there are no products other than Coombe Castle’s clotted and double creams that meet the demand for shelf-stable cream with 48-55 percent fat, bottled in a glass jar.

First, since 2016, we have been denied access to the WTO Specialty Cream TRQ (a tiered system that prioritizes canned products); any leftover quota is given to glass jars, but since 2016 none has been allocated to our category, high-fat specialty creams.

Then, from 2016 to 2019, we were able to rely supplementary import permits, until we received a denial. It was then, upon GAC’s urging, that we resumed our previous (2009-13) pursuit of a source of domestic supply. At one point, a domestic dairy processor had been interested but ultimately decided it would not pursue this project because of the significant capital investment (i.e., a dedicated glass bottling plant and specific equipment to separate the skim milk from the fat). To date, no Canadian dairy company has indicated an interest in collaborating because the cost-benefit analysis of making the products in Canada has been determined to be a non-viable business proposition.

As a result, these specialty products had no route to stores’ shelves and/or customers’ tables in Canada from 2019 to 2021.

Canada-UK Negotiations

The upcoming Canada-UK negotiations toward a permanent free trade agreement (FTA) provide the best opportunity for Tree of Life to secure access to the Canadian market for UK specialty cream products. However, the implementation of C-216 could put an end to any such possibility. As C-216 calls for the exclusion of supply-managed sectors from future trade negotiations, including the Canada-UK FTA negotiations, importers such as ourselves would be unnecessarily and unfairly affected by this Bill as

it would thwart even the *possibility* of having a tailored Canada-UK Cream TRQ. Essentially, Bill C-216 would have the absurd effect of protecting a non-existent sector of Canada's dairy industry at the expense of *very real Canadian enterprises*, as explained below.

The Role of Supplemental Import Permits

Tree of Life was recently granted a small supplemental permit that will last us until the end of 2021. Though this will provide some reprieve to the small Canadian businesses that depend on the cream that Tree of Life imports, the future remains uncertain. Indeed, the potential effects of Bill C-216 on the Minister of International Trade's ability to issue supplemental import permits remain unclear. Although the Minister's authority to issue such permits derives from the *Export and Import Permits Act*, we are particularly concerned that the passage of this Bill would make it even more difficult to obtain supplemental import permits, currently our only route (and an unreliable one, at that) to getting UK specialty cream products into Canada.

Impacts on Canadian Businesses

Coombe Castle's specialty cream products pose no threat to supply management and the Canadian market, but their lack of presence in Canada does pose an impediment to the success – and a threat to the long-term survival – of hundreds of Canadian businesses. In the past, Tree of Life sold annually as much as 42,000 kilograms of Coombe Castle's 170-gram jars into Canada to over 2,000 individual customers, mostly small to mid-sized Canadian enterprises. It is worth noting that the demand for UK specialty cream by our clients (and potential clients) has always far outstripped the supply we were able to import at a reasonable cost. Business operators (such as tea shoppes and specialty stores) across the country used to be able to count on a steady stream of revenue generated by sales of Coombe Castle's specialty cream products. *Tea at The White House*, one of Tree of Life's many customers distressed by the disappearance of specialty cream products from the Canadian market, was previously able to pay two months' rent with sales of specialty cream bottles. If we are unable to import UK specialty cream at an affordable price (i.e., without paying a 292.5 percent tariff), many of these small businesses will be in peril.

Conclusion

Tree of Life respectfully urges Members of this committee to consider the unintended effects of this Bill (especially in the sector of high-fat specialty cream products) and to vote against C-216. Among other things, in the case of specialty creams, this Bill will provide protection for *non-existent specialty cream producers* at the expense of *very real Canadian businesses* across the country that depend on Tree of Life's ability to consistently import UK specialty cream products at an affordable price.

About Tree of Life

With origins dating back to the end of World War 2, Tree of Life is one of the largest distributors of specialty and natural foods in Canada. Operating coast to coast, it has the largest specialty food sales force in Canada. Tree of Life is owned by KeHE Distributors, one of the leading American distributors of natural and specialty food products.