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## Canada

### Agricultural Situation

### This Week in Canadian Agriculture, Issue 22

2005

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**Report Highlights:**

\* Friend of the Court Status Granted in Cattle Trade Injunction Appeal \* Australia to Appeal Pork Ruling \* When it Rains it Pours \* NAFTA Panel Orders Review of Tariffs on Canadian Wheat \* Strict Dairy Labeling Requirements Added to C-27 \* Husky Energy Inc. Looking to Become Largest Producer of Ethanol in Western Canada \* NAFTA Panel Finds Against Department of Commerce

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Includes PSD Changes: No  
Includes Trade Matrix: No  
Unscheduled Report  
Ottawa [CA1]  
[CA]

This Week in Canadian Agriculture is a weekly review of Canadian agricultural industry developments of interest to the U.S. agricultural community. The issues summarized in this report cover a wide range of subject matter obtained from Canadian press reports, government press releases, and host country agricultural officials and representatives.

*Disclaimer:* Any press report summaries in this report are included to bring U.S. readership closer to the pulse of Canadian developments in agriculture. In no way do the views and opinions of these sources reflect USDA's, the U.S. Embassy's, or any other U.S. Government agency's point of view or official policy.

**FRIEND OF THE COURT STATUS GRANTED IN CATTLE TRADE INJUNCTION APPEAL:** The Canadian Cattlemen's Association's request for *amicus curiae*, or "friend of the court" status in USDA's appeal of the preliminary injunction keeping the U.S. border closed to live Canadian cattle has been granted by the Ninth Circuit Court of Appeals, San Francisco. Requests for *amicus curiae* status filed by Alberta Beef Producers, the Government of Canada, American Farm Bureau and National Cattlemen's Beef Association and others were also granted. *Amicus curiae* briefs permit those affected by the outcome of a case to provide relevant information for consideration by the judge deciding the matter. Some friend of the court briefs provide valuable information about legal arguments, or how a case might affect people other than the parties to the case.

**AUSTRALIA TO APPEAL PORK RULING:** The Australian government will reportedly appeal last week's court decision that determined that pork imports from certain countries (the U.S., Canada and Denmark) could expose Australian pigs to Post Weaning Multisystemic Wasting Syndrome, a disease of young pigs. Canadian pork exports to Australia have not been halted, but Martin Rice, Executive Vice-President of the Canadian Pork Council is concerned over the use of the courts to block trade. He told *Farmscape* that dangerous precedent was being set by courts being sympathetic with cases that are brought forward to them arguing that any risk is unacceptable. He claimed that if this were to become the normal practice then (global) agricultural trade would stop since there is no such measure as zero risk. A spokesperson for International Trade Canada said the Canadian government has expressed Canada's concerns over the issue to Australian authorities.

**WHEN IT RAINS IT POURS:** As the memories of last year's poor weather and growing conditions were just beginning to fade in the minds of Western Canadian farmers, Mother Nature has decided to yet again challenge many of those same farmers with a very wet start to this year's growing season. According to Manitoba's department of Agriculture crop report, producers in many areas of Manitoba are wrestling with extremely wet weather conditions, which have delayed planting and in some cases flooded some of the fields in which seeding had already been completed. The "Rain of the Century" which occurred last week affected a significant part of Southwest Manitoba, washing out numerous roads and bridges and leaving a substantial amount of farmland flooded and many crop areas underwater. The concern now for producers in that area is that the crops seeded prior to the heavy rain will not be able to emerge if the soil is hard-packed when it dries up. Other areas of the province also received a large amount of rain and in some places tornados and hail caused some damage. In Central Manitoba, the persistently wet conditions will most likely result in many of the acres intended for special crops being switched to canola, sunflowers and flax, depending on seed availability. Numerous fields are being broadcast-seeded by aircraft and high-flotation ground rigs. Some of the acres may go unseeded if any significant rainfall occurs in the next week. Moisture stress, seed rot and some re-seeding are occurring. Many acres of canola, flax, soybeans, sunflowers and corn have not been planted and were switched to cereals in the very wet Eastern region of the province. The delays in seeding have farmers racing against the clock to get crops into the ground prior to the crop insurance deadline for planting. Unfortunately for producers in Manitoba, the forecast does not look favorable, as more rain is predicted for the various regions of the province. Excessive rain is also plaguing Southern Alberta, resulting in flash flooding in some areas. The damage to crops has yet to be determined and will most likely not be known until the water has dissipated. Crop damage like drowning out, erosion, crusting, yellowing and others are all a possibility. Despite the large amount of rain, some areas that were desperate for moisture in Alberta were grateful. The positive side to all the rain is that it should drown the grasshoppers that were beginning to hatch. According to the Saskatchewan department of Agriculture, seeding was 93 percent complete, with more than 80 percent of the crops rated in good to excellent condition. Saskatchewan has also seen its share of excess rain, with heavy rainfall, especially in the eastern areas of the province, causing flooding and surplus topsoil moisture.

**NAFTA PANEL ORDERS REVIEW OF TARIFFS ON CANADIAN WHEAT:** A NAFTA panel found that the U.S. International Trade Commission (ITC) had failed to demonstrate that imports of Canadian hard red spring (HRS) caused injury to U.S. producers and the U.S. hard red spring industry. The ruling responded to the Canadian Wheat Board's (CWB) appeal of the 2003 injury determination by the ITC, which led to the imposition of the tariff on Canadian HRS. The panel has ordered the ITC to come up with stronger evidence to justify the duty placed on Canadian HRS. The 14.5 percent duty will remain in place while the ITC conducts its review. The ITC has 90 days to re-consider the question of injury. The duties placed on Canadian HRS resulted in a virtual stoppage of Canadian HRS exports to the United States. The CWB views the ruling by the NAFTA panel as a victory over the North Dakota Wheat Commission. In addition, the U.S. Department of Commerce (DOC) has been ordered by a different NAFTA panel to review the subsidizing effect of three separate Canadian government financial guarantees provided to the CWB. The DOC was granted a 60-day extension to gather supplemental information from the Canadian government and that determination is due in August 2005.

**STRICT DAIRY LABELING REQUIREMENTS ADDED TO C-27:** In its review of Bill C-27, the Canadian Food Inspection Agency Enforcement Act, the Standing Committee on Agriculture and Agri-Food has added a clause that would restrict the use of dairy terms on packaged products. The clause would prevent the use of dairy terms on product labels unless the product contains the dairy ingredient represented by the dairy term. In addition, the clause prohibits the marketing of an agricultural product that has a dairy term on the label if the agriculture product is intended to substitute for a dairy product. The clause defines dairy ingredients as butter, buttermilk, butter oil, cream, cheese, ice cream, milk, sour cream, whey, yogurt or any other thing prescribed. There are some exceptions within in the new clause. For example, peanut butter would not be prohibited, nor would the use of artificial flavouring preparations. The Dairy Farmers of Canada (DFC) had been pressing the issue of dairy terms on packages for a number of years and were pleased to see this clause included within Bill C-27. The members of the Agriculture Committee unanimously adopted the clause.

**HUSKY ENERGY INC. LOOKING TO BECOME LARGEST PRODUCER OF ETHANOL IN WESTERN CANADA:** Husky Energy Inc. is looking to expand its small ethanol plant in Minnedosa, Manitoba from the 10 million liters it currently produces, to 130 million liters. This expansion, in combination with its plant in Lloydminster, Saskatchewan, will result in Husky becoming the largest producer of ethanol in Western Canada. Husky is also looking at building a plant in Prince George, British Columbia. Unlike ethanol production in Eastern Canada, which uses corn, ethanol in Western Canada is primarily made from wheat or other plant sources. Husky has also recently announced plans to spend \$2.625 million (CDN) over five years on research at the University of Manitoba on new types of wheat for use in ethanol production, as well as on more efficient ways of producing the fuel. Husky is awaiting federal government approvals on a capital grant for its Manitoba project. The federal government is investing money to encourage the production of ethanol in attempts to cut greenhouse gas emissions to help meet its commitments under the Kyoto Protocol.

**NAFTA PANEL FINDS AGAINST DEPARTMENT OF COMMERCE:** A NAFTA panel decision has ordered the U.S. Department of Commerce (DOC) to revoke the anti-dumping order on West Fraser Mills Ltd. The panel ruled that DOC's determination that it was not required to refund duties paid by West Fraser was inconsistent with U.S. law. In 2004, the DOC had determined that West Fraser's dumping margin was less than 2 percent, which meant that the company was not legally required to pay an anti-dumping duty. The panel also ordered the DOC to recalculate the anti-dumping duties for other Canadian companies investigated. According to West Fraser, the company has already paid more than \$24 million (US) in duties and the company would like the DOC to refund those duties. Commerce has 30 days to issue a new determination.

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