

Financial Protection for Fruit and Vegetable Farmers

Issue

Fresh fruits and vegetables are highly **perishable** and shelf-life is limited. When buyers of produce become insolvent, unpaid shipments cannot be repossessed and resold as there is typically no usable product that can be salvaged.

The absence of financial protection puts Canadian fruit and vegetable farmers at a **disadvantage**:

- Risk of not being paid for the product they have grown
- Identified as a **trade irritant with the U.S.**
- No access to reciprocal preferential protection when exporting to the U.S.

Solution

The implementation of federal **enabling legislation** to provide Canadian fruit and vegetable farmers with financial protection against insolvent buyers.

The legislation would **create assurance** for Canadian fruit and vegetable farmers by giving them priority access to the buyer's cash, inventory and accounts receivable from an insolvent produce buyer to help offset losses associated with product delivered but not paid for.

The legislation would be administered by the Minister of Agriculture and Agri-Food as **complimentary legislation** to the Bankruptcy and Insolvency Act.

Government's role

The Federal government would **implement enabling legislation** that would be used in the case of buyer insolvency, allowing fruit and vegetable farmers a first priority to access the buyer's cash on hand, inventory and accounts receivable related to the sale of fresh produce.

The farmer's priority access to the buyer's cash, inventory and accounts receivable related to produce would be available once the buyer has entered insolvency. The farmer's claim would be made to the trustee overseeing the insolvency proceedings. The priority access would be enabled by the proposed legislation.

Once the legislation is enacted, the government would not have a direct role in the insolvency process, and would not carry any financial liability as a result of the legislation. The legislation does **not require government to offset or backstop losses** incurred by farmers in the event a buyer cannot meet its financial obligations.

The lack of financial protection puts Canadian **farmers at risk of not being paid** for perishable produce when buyers become insolvent.

Implementing federal legislation would enable fruit and vegetable farmers to have **priority access to an insolvent buyer's cash, inventory and accounts receivable** related to the sale of fresh produce.

The legislation **does not require the federal government to carry financial liability** or backstop farmers' losses as a result of the legislation.



Benefits of financial protection

Supports numerous government priorities:

- Consumer access to healthy, **affordable fresh produce year-round**
- Fruit and vegetable **industry growth**, including economic contribution and job creation
- Improved international **trade**
- The issue was identified as a top priority by the Canada-U.S. Regulatory Cooperation Council

Supports industry stability:

- **Greater confidence** to invest in innovation and industry growth as risk of non-payment is reduced
- **Diminished reliance** on government farm support programs intended to stabilize farm revenues in relation to non-payment
- **Levelling the playing field** with other agricultural sectors that have government enabled financial protections available to them
- **Regaining reciprocal access** to equivalent protections in the United States under the Perishable Agricultural Commodities Act (PACA)

Supports Canadian consumers:

- The **consistency of price**, quality and availability of fresh fruits and vegetables would be improved for Canadian consumers
- Enabling legislation for financial protection, in combination with the role played by the Dispute Resolution Corporation makes Canada a market of choice for exporters all over the world and **increases food security** for Canadians

Additional information:

A detailed business case and corresponding policy rationale is outlined in a document titled *Benefits to Canadians of Establishing a PACA-like Deemed Trust*.

The industry has draft legislation available for consideration by the Canadian government, titled *Fresh Fruit and Vegetable Products Protection Act*.

Canadian farmers' preferential access to PACA was lost in 2014 due to a lack of protection in Canada for U.S. exporters.

Canadian fruit and vegetable farmers generate over **\$5.4 billion in farmgate sales**.

Fruit and vegetable **exports to the U.S. are valued at \$3.4 billion**.

Implementing financial protection in Canada opens the door for reciprocal preferential protections in the U.S.

