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Time to Act: Canadian produce industry on the verge of losing preferential status in U.S. markets

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Canadian fresh fruit and vegetables suppliers will soon lose preferential status when exporting to the United States, if the Canadian government fails to follow through on their commitment under the Canada-US Regulatory Cooperation Council. In 2011, the government committed to establish a comparable Canadian approach to protecting produce suppliers from buyers that default on their payment obligations but little progress has been made.

“According to data collected by the Fresh Produce Alliance, American suppliers are losing at minimum \$10 million annually through Canadian buyer insolvency,” said Anne Fowlie, Executive Vice-President, Canadian Horticultural Council, “this is, coincidentally, about the same amount that Canadian suppliers are recovering each year through the U.S. Perishable Agricultural Commodities Act (PACA) Trust. Hundreds more Canadian suppliers depend on the security PACA offers for ease of mind in their trade relationships.”

Until now, Canadians exporting to the U.S. have had the same rights under the US PACA system as American suppliers to recover payments easily and quickly if a buyer refuses to pay or declares bankruptcy with unpaid bills to produce suppliers. U.S. officials are warning that Canada's special status may soon be revoked if the Canadian government does not implement a reciprocal payment protection program in Canada.

Removal of benefits could be announced any day, putting Canada's \$1.6 billion in produce exports to the U.S. at higher risk of payment default. “Canadian industry can ill afford to take on added costs, given that three quarters of Canada’s 10,000 fruit and vegetable producers are small businesses with average sales of less than \$85,000 per year,” said Jim Di Menna, President and CEO of Red Sun Farms. He predicts, “Canadian exporters will be hit extremely hard because they will have to meet costly bonding requirements to achieve the same level of US PACA trust protection they have enjoyed in the past.”

The Canadian industry has requested the establishment of a limited statutory deemed trust, modeled on what currently exists in the U.S., which would provide effective, inclusive protection that takes into account the unique characteristics of trade in perishable products. If movement towards establishing this limited statutory deemed trust is not soon demonstrated, the consequences may prove disastrous for Canadian produce exporters and the communities where they operate.

The Canadian fresh fruit and vegetable sector and its supply chain supported 147,900 jobs and created \$11.4 billion in real GDP in 2013. Over 85% of the value of Canada's vegetables and fruit are grown in Quebec, Ontario, and B.C. Rural communities in these provinces are at greatest risk from produce buyer insolvency.

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Link to the Fresh Produce Alliance submission to Industry Canada

[https://www.ic.gc.ca/eic/site/cilp-pdci.nsf/vwapi/Fresh_Produce_Alliance_July_15_2014.pdf/\\$FILE/Fresh_Produce_Alliance_July_15_2014.pdf](https://www.ic.gc.ca/eic/site/cilp-pdci.nsf/vwapi/Fresh_Produce_Alliance_July_15_2014.pdf/$FILE/Fresh_Produce_Alliance_July_15_2014.pdf)

Briefing Note: Payment Protection for Canada's Fresh Fruit and Vegetable Industry (Link to document)