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Sent by Email: aafc.fpcccomplaints-plaintescpac.aac@agr.gc.ca

Registrar
Farm Products Council of Canada
960 Carling Avenue
Ottawa, ON K1A 0C6

Dear Registrar:

Re: Complaint by Turkey Farmers of Ontario pursuant to subsection 7(1)(f) of the *Farm Products Agencies Act* against Turkey Farmers of Canada's allocation decision for the 2022-23 Control Period

(i) Introduction

1. We are lawyers for Turkey Farmers of Ontario ("**TFO**"). TFO submits this complaint to the Farm Products Council of Canada ("**Council**") in accordance with Council's By-Law Governing the Administration of Complaints. TFO's complaint is in relation to the August 25, 2022 decision of Turkey Farmers of Canada ("**TFC**") establishing the allocation for the 2022-23 Control Period (the "**Second 2022 Allocation**") and TFC's supporting Rationale submitted to Council on September 20, 2022.

2. TFO is the provincial commodity board representing Ontario, with authority under provincial legislation (the *Farm Products Marketing Act*, R.S.O. 1990, c. F.9) to control and regulate the producing and marketing of turkey within Ontario. TFO is also a member of TFC by virtue of the *Canadian Turkey Marketing Agency Proclamation* (C.R.C., c. 647) and as well is a signatory of the *Federal-Provincial Agreement in respect of the establishment of a Comprehensive Marketing Plan for the purpose of regulating the marketing of Turkeys in Canada, 1973*.

3. For the reasons that follow, TFO submits that Council should decline to prior approve the Second 2022 Allocation.

(ii) The Second 2022 Allocation

4. On August 25, 2022, the TFC Board decided to set the 2022 commercial allocation portion of the 2022 Allocation at 146 million kilograms, an increase of 7 million kilograms from the 2021-22 control period commercial allocation and 3 million kilograms more than the commercial allocation of 143 million kilograms submitted to Council previously.

5. The context for TFC's Second 2022 Rationale is not typical. TFC had submitted an allocation to Council for prior approval earlier in the year. This allocation (the **First 2022 Allocation**) and the March 16, 2022 supporting Rationale were the subject of a Complaint by TFO. The findings of the Complaint Committee resulted in TFC being denied the prior approval that is a prerequisite of the intended allocation amendment and the Regulation that follows.

6. The Second 2022 Allocation and the September 20, 2022 Rationale represent TFC's further attempt to obtain prior approval for its proposed 2022-23 allocation. Although each allocation should be considered independently, the Second 2022 Allocation and supporting Rationale are nonetheless cumulatively informed by the First 2022 Allocation and its Rationale, the Complaint Committee's findings, and the events that have occurred during the interim period from June 2022 to September 2022.

7. The principal conclusion of the Complaint Committee was that it was unable to determine if TFC "*carefully and meaningfully took into account the Proclamation criteria*". In response, a Memorandum with attached Templates (the "**Criteria Memorandum**") was developed by TFC "to assist" Directors in "documenting" their consideration approach. The Criteria Memorandum was utilized exclusively during the August 25, 2022 meeting when TFC approved the Second 2022 Allocation.

8. As well as increasing the commercial allocation portion of the Second 2022 Allocation from the 143 million kilograms established for the First 2022 Allocation, TFC also adopted a distribution formula (the "**New Formula**") respecting the Commercial Allocation portion composed of four components, three of which were the same three that constituted the previous distribution formula (the "**Old Formula**") submitted by TFC in support of the First 2022 Allocation.

9. TFO's criticism of the Old Formula was premised on its view that the application of it resulted substantially in a *pro rata* distribution, which TFO said was "the antithesis" of the Proclamation criteria. Its application was therefore "tantamount to an abdication by TFC of its objects as an agency". However, given its inability to determine if TFC even considered the criteria, it was unnecessary for the Complaint Committee to delve further into the substantive issues and determine whether the Old Formula appropriately manifested the criteria.

10. TFO submits that TFC has again failed to demonstrate that it engaged in a meaningful and careful consideration of the criteria. Rather than following the recommendation of the Complaint Committee, TFC instead chose to substitute its duty to engage in a careful consideration in favour of reliance on the hoped for demonstrative impact (to Council) of the Criteria Memorandum. Rather than actually evaluating the various Proclamation criteria, Directors indicated their general assent, or agreement, with the Criteria Memorandum itself. This does not equate to meaningful consideration.

11. The Complaint Committee had noted that consideration of the Criteria was brief and occurred after the allocation distribution methodology established. This finding does not mean that re-arranging the order of presentation so that the Criteria discussion occurs first is the solution. Application of the Criteria does not depend on when it is applied and timing does not insulate TFC's decision from an examination on the merits.

12. It is also significant that the Criteria Memorandum only emphasized part of paragraph 74 of the Complaint decision. The emphasis appears to indicate that in TFC's view the fault lay in the brevity of its Meeting Minutes. This interpretation appears to have then led to the conclusion that, by improving the narrative in its Minutes, TFC would stand a better chance of convincing Council that the Proclamation criteria were carefully and meaningfully considered.

13. The Criteria Memorandum was selective in its excerpts in relation to the Complaint Committee's recommendations. It omitted any reference to the significant recommendation found at paragraph 78, where the Complaint Committee referred specifically to the Commercial Allocation Policy and stated that, *"Although the Committee acknowledges TFC's ongoing efforts in developing a new allocation policy, suspending the NCAP and operating without one has left the Respondent Agency's allocation determination vulnerable. The Committee strongly recommends that TFC continues to work towards developing a new commercial allocation policy."* (emphasis added)

14. Council's recognition of the significance of the Commercial Allocation Policy (and the reciprocal significance of its absence) was a view fully aligned with both TFO and TFC. In previous Control Period Rationales, TFC had asserted that,

"Under the TFC National Commercial Allocation Policy, any overbase quota allocations of FP quota must be requested from the Agency by the Provincial Commodity Board.

Under this approach, processors are to estimate their FP quota requirements within a regional and provincial context, and working jointly with their Provincial Commodity Board, submit the request to the Agency.

This processor and Provincial Commodity Board driven process for requesting FP quota is seen by the Agency as the most practical means to take into account and apply the principle of CAP. By requiring Provincial Boards and their processing industry to assess market requirements and to request FP quota based on: demand conditions (e.g. niche products, branding, wholesale prices, inventories, secondary markets for off-cuts, local and national marketing opportunities); market opportunities and the viability of increased production, the factor endowments of CAP should be revealed over time: local resource availability (e.g. live production and processing capacity); and the structure of related and supporting industries (e.g. availability of feed grains, transportation, infrastructure, independent FP capacity)." (emphasis added)

(iii) The "New" Allocation

15. In correspondence dated June 20, 2022, TFO advised TFC of its provincial needs for additional production for the further processing market. TFO advised how it consulted with processors in a manner that replicated the building block or bottom up approach of the suspended CAP. TFO's evidence in that regard was and remains uncontradicted. Moreover, no other province has presented analogous evidence. TFO is seeking 2 million kilograms of additional supply.

16. Instead of allocating specifically to meet a market need, TFC's approach has been to increase the allocation overall by 3 million kilograms. It also intends to distribute the total 7 million kilogram increase from the 2021-22 allocation of 139 million kilograms on the basis of a formula: 35% *pro rata* / 35% population / 15% Nielsen volumes / 15% FIPI Feed.

17. As a result, Ontario will not receive the kilograms it needs; other provinces will receive kilograms they do not need; whole birds will be produced that no one needs; and all will have been done, again, in the absence of a viable Commercial Allocation Policy.

18. Instead of taking Council's recommendation seriously, TFC has elected to use the New Formula that produces a near identical outcome to the result that would occur if the Old Formula was instead carried forward and applied to the proposed allocation of 146 million kilograms. The miniscule differences produced by applying the Old Formula versus the New Formula to the 146 million kilograms is shown in the Chart that follows:

Comparison of "New Formula" vs "Old Formula"

	TOTAL	BC	AB	SK	MB	ON	QC	NB	NS
Old Formula Allocation	146,000,000	19,295,812	13,903,430	5,017,119	9,191,303	58,083,838	32,885,054	3,384,112	4,239,330
New Formula Allocation	146,000,000	19,302,750	13,920,916	5,015,198	9,170,501	58,102,386	32,852,396	3,388,138	4,247,715
Difference (kgs)	-	6,938	17,486	1,921	20,802	18,548	- 32,658	4,026	8,385
Difference (%)	-	0.04%	0.13%	-0.04%	-0.23%	0.03%	-0.10%	0.12%	0.20%

19. The 35/35/15/15 formula made its first and only appearance on August 25, 2022. In application, it has the effect of distributing the 7 million kilograms of growth on a percentage basis that closely parallels the outcome that would have resulted had the previous approach of 60/30/10 been applied. If the previous formula was applied to the 7 million kilograms, Ontario's allocation would be 58,083,838 kilograms, whereas the 35/35/15/15 approach produces an amount of 58,102,386 kilograms, representing a difference of only 0.03% (see: Appendix "A" for additional analysis).

20. TFC has again adopted an overwhelmingly *pro rata* approach in adopting the New Formula. The components that form the formula produce this *pro rata* sharing among provinces. TFC would be correct in assuming that taking a direct approach and only using *pro rata* to distribute growth would most likely not result in prior approval. Accordingly, the New Formula is an indirect approach to obtaining a *pro rata* result: TFC has composed a formula from elements that, in combination, are proxies for a direct *pro rata*.

21. TFO is mindful of the Complaint Committee's view that the results of the methodology do not automatically invalidate the methodology itself. However, in this case, the design of the methodology is intended to produce a result that, when it occurs, constitutes compelling evidence that the Criteria were not meaningfully applied. TFC was selective in its design. Despite the Criteria Memorandum listing over a dozen potential indices for consideration, TFC has adopted only four, three of which comprise 85 percent of the formula and are approaches that are either *pro rata* or effectively replicate *pro rata* outcomes (population and FIPI feed). Moreover, not only do population and FIPI feed replicate a *pro rata* distribution using 2021 data, in testing these indices with historical data, these methodologies appear incapable of outcomes that ever meaningfully vary from *pro rata* (see: Appendices "B" and "C" for additional analysis).

22. What the August 25, 2022 meeting lacks is any evidence of application of the Proclamation criteria to the marketplace. Rather, it is all hypothetical. Directors indicated why they liked a particular element, such as population, but that was not related in any fashion to the marketplace.

23. The language found in the Templates attached to the Criteria Memorandum re-appears consistently in the Rationale supporting the decision made on August 25, 2022. In its decision, the Complaint Committee noted the difference between the content of TFC Minutes and the Rationale and concluded that it "was not an accurate reflection of what...members discussed." TFO submits that, once again, the Rationale does not properly reflect the evaluations that took place. This repeating disconnect is a concern, from both a procedural and substantive perspective.

24. The Proclamation criteria are a fundamental consideration, but so are the objects of TFC which are:

- a) To promote a strong, efficient and competitive production and marketing industry for the regulated product or products in relation to which it may exercise its powers; and
- b) To have due regard to the interests of producers and consumers of the regulated product or products.

TFC's approach to allocating the 7 million kilograms of growth is neither efficient nor competitive. Instead, it once again maintains and attempts to perpetuate the undesirable and short-sighted characteristics identified over a year ago by TFC's consultants as typifying TFC's allocation decisions. The consultants described a repetitive approach to allocation setting that each time progressed into market share battles and which resulted in *status quo*. The findings of the Consultants and their commentary is germane to the evaluation of TFC's decision making, because the Consultants provide an arm's length independent assessment that TFC cannot avoid. When the alleged application of the Proclamation criteria gives a province kilograms it has not asked for, then that result cannot be properly reflective of an application of the Proclamation criteria.

(iv) TFC Ignored the "Conditional over 9 Kgs Proposal"

25. The Report of the Complaint Committee was released on June 29, 2022. As a shorter term alternative or transitional step to a new commercial allocation policy, an over 9 kg eviscerated conditional request program (the "**Program**") was developed by TFC. TFO viewed the Program positively as providing a short-term solution to the issues raised in its June 20, 2022 correspondence. Moreover, it was framed as a conditional allocation so as to not set any precedents with regards to any future discussions on allocation policy.

26. However, as the August 25, 2022 Minutes show, no genuine evaluation of the Program occurred. TFC therefore denied itself the opportunity to claim that, despite returning to Council empty-handed with no Commercial Allocation Policy, it had at least come up with a transitional approach in the form of the Program that bridged the gap.

27. Regarding the First 2022 Allocation, TFC could not get over the first hurdle of showing that it considered the Proclamation criteria (the evidence was that it had not). Merely considering the Proclamation criteria is still not sufficient: TFC must also demonstrate that it applied the Proclamation criteria in the context of the marketplace and relative market factors.

28. The latest information from TMAC was in June of 2022 and, based on those reported trends and forecasts, no increase in the allocation was recommended. While certainly Ontario benefits from any allocation increase, because it receives a portion of it, the point is that the better way to effect the increase would be through the request-based approach that TFO urges and that the Program contemplated, as opposed to increasing the allocation in a manner so that every province receives a share.

(v) Conclusion and Relief Requested

29. In the circumstances, TFC's assertion that the criteria were meaningfully and carefully considered is disputed. Moreover, the manner in which the criteria was applied is not appropriate in the context of TFC's allocation setting mandate. Critically, the outcome of the application of the Proclamation criteria is not consistent with its purpose.

30. TFO submits that TFC's Second 2022 Allocation is as vulnerable as the First 2022 Allocation. Arguably, it is even more so, because it wilfully ignored the recommendation of Council. TFC had in its hands a short-term solution in the form of the Program but bungled the opportunity. Instead, it revised the percentages of its Old Formula and then appended a fourth criterion. Its tinkering does not result in any noticeable variation in result from the application of the Old Formula. Lastly, TFC now implicitly proposes to Council that the **timing** of reference to the Criteria is of greater import at the end of the day than the substance of the application of the Criteria. TFO completely disagrees.

31. TFO recommends that Council decline to prior approve the TFC 2022-23 allocation until TFC engages in a careful and meaningful evaluation of the Proclamation criteria and then applies the criteria in order to arrive at an allocation that satisfies the objects of the Agency by providing for the distribution of the commercial portion of the allocation in a manner that purposively and substantively addresses Ontario's need for additional supplies.

32. TFO requests an expedited hearing process in this matter. We would also be available should Council determine that an informal discussion with the parties is appropriate.

(vi) Documentation Relied Upon

33. TFO intends to rely upon the documentation described on Appendix "D" as well as such additional documents it may deem advisable.

34. TFO is aware that some of the documentation may be viewed as confidential by TFC. Accordingly, TFO will be marking all documents as "Confidential" at this time, in order to afford TFC an opportunity to address any disclosure issues. TFO will be submitting this documentation in conjunction with our complaint correspondence under separate cover.

Yours truly,

WILSON, SPURR LLP



Geoffrey P. Spurr

GPS:ss

Encls.

c.c. Turkey Farmers of Ontario

c.c. Turkey Farmers of Canada

Appendix “A”

Comparison of “Old Formula” and “New Formula”

Allocating 146 million kgs nationally

Allocating 7 Mkg increase "Old Formula" (60/30/10)

		TOTAL	BC	AB	SK	MB	ON	QC	NB	NS
2021/22 Allocation		139,000,000	18,408,362	13,200,337	4,794,904	8,844,806	55,450,698	31,474,318	3,226,036	3,600,539
% Shares		100.00%	13.24%	9.50%	3.45%	6.36%	39.89%	22.64%	2.32%	2.59%
National Increase to Allocate		7,000,000								
Nova Scotia Adjustment		452,905								452,905
60% - 2021/22 pro-rata market shares		3,928,257	520,236	373,053	135,508	249,962	1,567,083	889,491	91,170	101,753
30% - provincial population shares										
Population (October 1, 2021)		37,620,554	5,249,635	4,464,170	1,180,867	1,386,333	14,915,270	8,631,147	794,300	998,832
% shares			13.95%	11.87%	3.14%	3.69%	39.65%	22.94%	2.11%	2.66%
Allocation		1,964,129	274,078	233,070	61,652	72,379	778,710	450,623	41,470	52,148
10% - Nielsen Sales										
Nielsen Sales		46,636,846	6,634,371	6,907,451	1,784,767	1,720,735	20,468,601	5,030,636	1,811,865	2,278,420
% shares			14.23%	14.81%	3.83%	3.69%	43.89%	10.79%	3.89%	4.89%
Allocation		654,709	93,136	96,970	25,055	24,156	287,347	70,622	25,436	31,985
Total Allocation		146,000,000	19,295,812	13,903,430	5,017,119	9,191,303	58,083,838	32,885,054	3,384,112	4,239,330
Marginal Increase		7,000,000	887,450	703,093	222,215	346,497	2,633,140	1,410,736	158,076	638,791
% share of marginal increase			12.68%	10.04%	3.17%	4.95%	37.62%	20.15%	2.26%	9.13%

Allocating 7 Mkg increase "New Formula" (35/35/15/15)

	TOTAL	BC	AB	SK	MB	ON	QC	NB	NS
2021/22 Allocation	139,000,000	18,408,362	13,200,337	4,794,904	8,844,806	55,450,698	31,474,318	3,226,036	3,600,539
% Shares	100.00%	13.24%	9.50%	3.45%	6.36%	39.89%	22.64%	2.32%	2.59%
National Increase to Allocate	7,000,000								
Nova Scotia Adjustment	452,905								
35% - 2021/22 pro-rata market shares	2,291,483	303,471	217,614	79,046	145,811	914,132	518,870	53,183	452,905
35% - provincial population shares									59,357
Population (October 1, 2021)	37,620,554	5,249,635	4,464,170	1,180,867	1,386,333	14,915,270	8,631,147	794,300	998,832
% shares		13.95%	11.87%	3.14%	3.69%	39.65%	22.94%	2.11%	2.66%
Allocation	2,291,483	319,757	271,914	71,927	84,442	908,495	525,727	48,381	60,839
15% - Nielsen Sales									
Nielsen Sales	46,636,846	6,634,371	6,907,451	1,784,767	1,720,735	20,468,601	5,030,636	1,811,865	2,278,420
% shares		14.23%	14.81%	3.83%	3.69%	43.89%	10.79%	3.89%	4.89%
Allocation	982,064	139,705	145,455	37,583	36,235	431,021	105,934	38,154	47,978
15% - FIPI Commercial Feed									
Adjustment Factor		1.038	0.942	0.962	0.973	1.043	1.051	1.008	1.053
Standardized Score	1.027	0.137	0.089	0.033	0.062	0.416	0.238	0.023	0.027
Adjusted %		13.39%	8.72%	3.23%	6.03%	40.53%	23.17%	2.28%	2.66%
Allocation	982,065	131,455	85,596	31,738	59,207	398,040	227,548	22,384	26,097
Total Allocation	146,000,000	19,302,750	13,920,916	5,015,198	9,170,501	58,102,386	32,852,396	3,388,138	4,247,715
Marginal Increase	7,000,000	894,388	720,579	220,294	325,695	2,651,688	1,378,078	162,102	647,176
% share of marginal increase		12.78%	10.29%	3.15%	4.65%	37.88%	19.69%	2.32%	9.25%

Comparison of "New Formula" vs "Old Formula"

	TOTAL	BC	AB	SK	MB	ON	QC	NB	NS
Old Formula Allocation	146,000,000	19,295,812	13,903,430	5,017,119	9,191,303	58,083,838	32,885,054	3,384,112	4,239,330
New Formula Allocation	146,000,000	19,302,750	13,920,916	5,015,198	9,170,501	58,102,386	32,852,396	3,388,138	4,247,715
Difference (kgs)	-	6,938	17,486	1,921	- 20,802	18,548	- 32,658	4,026	8,385
Difference (%)	-	0.04%	0.13%	-0.04%	-0.23%	0.03%	-0.10%	0.12%	0.20%

Appendix “B”

Analysis of TFC Provincial Population Calculation

Question

- Is TFC provincial population calculation capable of meaningful variation in provincial allocations, as compared to pro-rata market shares?
- Approach:
 - Rerun TFC 2022-23 provincial population calculation using past 13 years of provincial population data to allocate a hypothetical 350,000 kgs nationally
 - 350,000 kgs representing a 35% weighting of a hypothetical 1,000,000 kg national increase
 - Compare results against if 2021/22 pro-rata market shares had been used to allocate the 350,000

Methodology

- 1) Assess provincial populations
- 2) Use provincial population percentages to allocate 350,000 kgs nationally
- 3) Compare result to a pro-rata 350,000 kg allocation

1) Provincial populations – 2009-2021

Year	Total	BC	AB	SK	MB	ON	QC	NB	NS
2009	32,862,769	4,410,506	3,678,996	1,034,819	1,208,556	12,998,345	7,843,383	749,956	938,208
2010	33,229,993	4,465,546	3,732,082	1,051,443	1,220,780	13,135,778	7,929,222	753,035	942,107
2011	33,557,259	4,502,104	3,789,030	1,066,026	1,233,649	13,261,381	8,005,090	755,705	944,274
2012	33,928,793	4,566,769	3,874,548	1,083,755	1,249,975	13,390,632	8,061,101	758,378	943,635
2013	34,296,083	4,630,077	3,981,011	1,099,736	1,264,620	13,510,781	8,110,880	758,544	940,434
2014	34,648,001	4,707,103	4,083,648	1,112,979	1,279,014	13,617,553	8,150,183	758,976	938,545
2015	34,911,830	4,776,388	4,144,491	1,120,967	1,292,227	13,707,118	8,175,272	758,842	936,525
2016	35,312,921	4,859,250	4,196,061	1,135,987	1,314,139	13,875,394	8,225,950	763,350	942,790
2017	35,744,538	4,929,384	4,241,100	1,150,331	1,334,790	14,070,141	8,302,063	766,621	950,108
2018	36,262,485	5,010,476	4,298,275	1,161,767	1,352,825	14,308,697	8,401,738	770,301	958,406
2019	36,795,360	5,094,796	4,362,576	1,172,479	1,369,954	14,544,701	8,503,483	777,128	970,243
2020	37,227,810	5,158,728	4,420,029	1,179,300	1,380,648	14,745,712	8,578,300	783,204	981,889
2021	37,433,344	5,214,805	4,442,879	1,179,844	1,383,765	14,826,276	8,604,495	789,225	992,055

2) Use provincial population shares to allocate 350,000 kgs nationally

Year	Total	BC	AB	SK	MB	ON	QC	NB	NS
2009	350,000	46,973	39,183	11,021	12,872	138,437	83,535	7,987	9,992
2010	350,000	47,034	39,309	11,074	12,858	138,355	83,516	7,931	9,923
2011	350,000	46,957	39,519	11,119	12,867	138,315	83,493	7,882	9,849
2012	350,000	47,110	39,969	11,180	12,894	138,134	83,156	7,823	9,734
2013	350,000	47,251	40,627	11,223	12,906	137,881	82,774	7,741	9,597
2014	350,000	47,549	41,251	11,243	12,920	137,559	82,330	7,667	9,481
2015	350,000	47,885	41,550	11,238	12,955	137,417	81,959	7,608	9,389
2016	350,000	48,162	41,589	11,259	13,025	137,524	81,531	7,566	9,344
2017	350,000	48,267	41,528	11,264	13,070	137,771	81,291	7,507	9,303
2018	350,000	48,360	41,486	11,213	13,057	138,105	81,092	7,435	9,250
2019	350,000	48,462	41,497	11,153	13,031	138,350	80,886	7,392	9,229
2020	350,000	48,500	41,555	11,087	12,980	138,633	80,650	7,363	9,231
2021	350,000	48,758	41,541	11,031	12,938	138,625	80,452	7,379	9,276

6) Compare result to a pro-rata 350,000 kg allocation

	National	BC	AB	SK	MB	ON	QC	NB	NS
2021-22 pro-rata shares	100.00%	13.24%	9.50%	3.45%	6.36%	39.89%	22.64%	2.32%	2.59%
Allocation	350,000	46,352	33,238	12,073	22,271	139,624	79,252	8,123	9,066

Difference in provincial population allotments vs pro-rata allotments (kgs)

Year	Total	BC	AB	SK	MB	ON	QC	NB	NS
2009		621	5,944	1,052	9,400	1,187	4,283	136	926
2010		682	6,070	999	9,413	1,269	4,264	192	857
2011		605	6,281	955	9,404	1,309	4,241	241	783
2012		758	6,731	894	9,377	1,490	3,904	300	668
2013		899	7,389	850	9,365	1,743	3,522	382	531
2014		1,197	8,013	831	9,351	2,065	3,078	456	415
2015		1,533	8,311	836	9,316	2,207	2,707	516	323
2016		1,810	8,351	814	9,246	2,100	2,279	557	278
2017		1,915	8,289	810	9,201	1,853	2,039	617	237
2018		2,008	8,248	860	9,214	1,519	1,840	688	184
2019		2,110	8,259	921	9,240	1,274	1,634	731	163
2020		2,148	8,317	986	9,291	991	1,398	760	165
2021		2,406	8,302	1,042	9,333	999	1,200	744	210

Commentary

- In total, 104 hypothetical provincial allotments were calculated (13 years x 8 provinces)
- Of the 104 provincial allotments, all of which illustrated allocating 350,000 kgs nationally:
 - 78 represented less than a **5,000 kg** difference against pro-rata market share allocation to allocate 350,000 kgs
 - All 104 represented less than a **10,000 kg** difference against pro-rata market share
 - Calculation appears to function as a proxy for pro-rata market shares, excepting for a modest transfer of allocation from Manitoba to Alberta

Commentary

- 2022-23 quota regulation submission describes provincial population shares as indicative of comparative advantage of production
- Does a calculation that, in allocating one million kgs nationally replicates a pro-rata result +/- 5,000 kgs seventy five percent of the time represent a careful and meaningful consideration of comparative advantage of production?
- Should a carefully considered indicator for the “proximity of production to markets” and “lower transportation costs” replicate pro-rata, except for a movement of allocation from Manitoba to Alberta?

Appendix “C”

Analysis of TFC Farm Input Price Index Feed Calculation

Terminology

- **FIPI Feed 3 Year Average**
 - Calculated for each province
 - Comparing Q4 FIPI in given year versus Q4 FIPI from 3 years prior
 - e.g. 2021 vs 2018
- **Adjustment Factor**
 - Calculated for each province
 - Assesses provincial feed cost in relation to national average
 - Less than 1 if provincial costs above national average
 - Greater than 1 if provincial costs lower than national average
 - $= 1 / (\text{Province FIPI 3 Year Average} / \text{National FIPI 3 Year Average})$
- **Standardized Score**
 - Calculated for each province
 - $= \text{Adjustment Factor} * 2021/22 \text{ provincial commercial allocation}$
- **Adjusted Provincial Percentage**
 - Represents resulting provincial shares used to allot 15% of national allocation via FIPI feed
 - Calculated for each province
 - $= \text{Provincial standardized score} / \text{sum of all provincial standardized scores}$

Question

- Is TFC FIPI feed calculation capable of meaningful variation in provincial allocations, as compared to pro-rata market shares?
- Approach:
 - Rerun TFC 2022-23 FIPI feed calculation using past 13 years of FIPI data to allocate a hypothetical 150,000 kgs nationally
 - 150,000 kgs representing a 15% weighting of a hypothetical 1,000,000 kg national increase
 - Compare results against if 2021/22 pro-rata market shares had been used to allocate the 150,000

Methodology

- 1) Calculate provincial FIPI feed 3 year averages using 2006-2021 FIPI data
- 2) Calculate adjustment factors for eight provinces for 13 years
- 3) Calculate resulting standardized scores
- 4) Calculate adjusted provincial percentages
- 5) Use provincial percentages to allocate 150,000 kgs nationally
- 6) Compare result to a pro-rata 150,000 kg allocation

1) Calculate provincial FIPI feed 3 year averages using 2006-2021 FIPI data

FIPI Comparison Years	National	BC	AB	SK	MB	ON	QC	NB	NS
2009 vs 2006	140.0	156.8	151.3	133.7	114.4	136.2	142.8	136.7	144.6
2010 vs 2007	105.2	112.9	100.4	105.7	100.2	106.4	107.2	107.9	113.4
2011 vs 2008	104.9	99.8	98.4	101.8	100.4	116.9	103.5	105.8	98.8
2012 vs 2009	131.5	119.4	140.4	128.5	129.0	137.0	126.8	118.5	112.1
2013 vs 2010	121.7	132.3	128.3	114.3	111.9	112.5	126.1	124.5	125.2
2014 vs 2011	106.9	112.6	113.2	97.2	99.6	99.0	113.7	103.9	107.6
2015 vs 2012	93.8	104.9	99.8	93.7	92.7	85.2	92.0	96.2	102.4
2016 vs 2013	98.1	96.5	101.5	100.6	97.4	98.6	94.0	96.4	99.4
2017 vs 2014	97.0	97.5	98.5	106.3	102.1	94.7	92.8	92.8	91.8
2018 vs 2015	103.0	100.8	99.0	119.2	119.6	102.0	98.4	99.7	96.8
2019 vs 2016	106.3	102.3	101.7	114.9	121.0	109.0	102.8	108.2	98.6
2020 vs 2017	120.2	109.9	120.0	125.4	127.8	121.3	118.5	122.6	111.8
2021 vs 2018	129.8	125.1	137.7	134.9	133.4	124.4	123.5	128.7	123.2

2) Calculate adjustment factors for eight provinces for 13 years

FIPI Comparison Years	National	BC	AB	SK	MB	ON	QC	NB	NS
2009 vs 2006		0.893	0.925	1.047	1.223	1.028	0.981	1.024	0.968
2010 vs 2007		0.932	1.048	0.996	1.050	0.989	0.982	0.975	0.928
2011 vs 2008		1.051	1.066	1.030	1.044	0.897	1.013	0.991	1.062
2012 vs 2009		1.101	0.936	1.023	1.019	0.960	1.037	1.109	1.173
2013 vs 2010		0.920	0.948	1.065	1.087	1.081	0.965	0.977	0.971
2014 vs 2011		0.949	0.945	1.100	1.073	1.079	0.940	1.029	0.993
2015 vs 2012		0.894	0.940	1.001	1.011	1.101	1.020	0.975	0.916
2016 vs 2013		1.016	0.966	0.975	1.007	0.994	1.043	1.017	0.986
2017 vs 2014		0.995	0.985	0.912	0.950	1.024	1.045	1.045	1.056
2018 vs 2015		1.022	1.041	0.865	0.861	1.010	1.047	1.034	1.064
2019 vs 2016		1.038	1.045	0.925	0.878	0.975	1.034	0.982	1.077
2020 vs 2017		1.094	1.002	0.959	0.941	0.991	1.015	0.981	1.076
2021 vs 2018		1.038	0.942	0.962	0.973	1.043	1.051	1.008	1.053

3) Calculate resulting standardized scores

FPI Comparison Years	National	BC	AB	SK	MB	ON	QC	NB	NS	
2009 vs 2006			0.118	0.088	0.036	0.078	0.410	0.222	0.024	0.025
2010 vs 2007			0.123	0.100	0.034	0.067	0.395	0.222	0.023	0.024
2011 vs 2008			0.139	0.101	0.036	0.066	0.358	0.229	0.023	0.028
2012 vs 2009			0.146	0.089	0.035	0.065	0.383	0.235	0.026	0.030
2013 vs 2010			0.122	0.090	0.037	0.069	0.431	0.218	0.023	0.025
2014 vs 2011			0.126	0.090	0.038	0.068	0.431	0.213	0.024	0.026
2015 vs 2012			0.118	0.089	0.035	0.064	0.439	0.231	0.023	0.024
2016 vs 2013			0.135	0.092	0.034	0.064	0.397	0.236	0.024	0.026
2017 vs 2014			0.132	0.094	0.031	0.060	0.409	0.237	0.024	0.027
2018 vs 2015			0.135	0.099	0.030	0.055	0.403	0.237	0.024	0.028
2019 vs 2016			0.138	0.099	0.032	0.056	0.389	0.234	0.023	0.028
2020 vs 2017			0.145	0.095	0.033	0.060	0.395	0.230	0.023	0.028
2021 vs 2018			0.137	0.089	0.033	0.062	0.416	0.238	0.023	0.027

4) Calculate adjusted provincial percentages

FPI Comparison Years	National	BC	AB	SK	MB	ON	QC	NB	NS	
2009 vs 2006			11.81%	8.78%	3.61%	7.78%	40.96%	22.18%	2.37%	2.51%
2010 vs 2007			12.50%	10.08%	3.48%	6.76%	39.95%	22.51%	2.29%	2.43%
2011 vs 2008			14.20%	10.32%	3.63%	6.78%	36.51%	23.40%	2.35%	2.81%
2012 vs 2009			14.46%	8.82%	3.50%	6.43%	37.96%	23.28%	2.55%	3.01%
2013 vs 2010			12.00%	8.87%	3.62%	6.81%	42.48%	21.51%	2.23%	2.48%
2014 vs 2011			12.39%	8.84%	3.74%	6.73%	42.44%	20.97%	2.35%	2.53%
2015 vs 2012			11.58%	8.72%	3.38%	6.29%	42.93%	22.57%	2.21%	2.32%
2016 vs 2013			13.38%	9.12%	3.34%	6.37%	39.42%	23.48%	2.35%	2.54%
2017 vs 2014			12.99%	9.22%	3.10%	5.96%	40.29%	23.34%	2.39%	2.70%
2018 vs 2015			13.40%	9.79%	2.95%	5.43%	39.88%	23.46%	2.37%	2.73%
2019 vs 2016			13.77%	9.94%	3.20%	5.60%	38.96%	23.45%	2.28%	2.79%
2020 vs 2017			14.37%	9.43%	3.28%	5.93%	39.20%	22.78%	2.26%	2.76%
2021 vs 2018			13.39%	8.72%	3.23%	6.03%	40.53%	23.17%	2.28%	2.66%

5) Use percentages to allocate 150,000 kgs

FIPI Comparison Years	National	BC	AB	SK	MB	ON	QC	NB	NS
2009 vs 2006	150,000	17,714	13,169	5,414	11,665	61,444	33,274	3,561	3,758
2010 vs 2007	150,000	18,745	15,118	5,216	10,145	59,924	33,767	3,436	3,650
2011 vs 2008	150,000	21,302	15,485	5,439	10,170	54,765	35,107	3,521	4,210
2012 vs 2009	150,000	21,686	13,224	5,248	9,645	56,934	34,917	3,828	4,518
2013 vs 2010	150,000	17,995	13,303	5,425	10,220	63,720	32,271	3,349	3,717
2014 vs 2011	150,000	18,584	13,262	5,609	10,097	63,663	31,454	3,530	3,802
2015 vs 2012	150,000	17,364	13,086	5,064	9,437	64,395	33,854	3,319	3,481
2016 vs 2013	150,000	20,068	13,682	5,013	9,555	59,133	35,220	3,520	3,809
2017 vs 2014	150,000	19,489	13,831	4,654	8,938	60,440	35,015	3,587	4,047
2018 vs 2015	150,000	20,095	14,678	4,428	8,138	59,815	35,194	3,561	4,092
2019 vs 2016	150,000	20,661	14,914	4,794	8,397	58,441	35,176	3,425	4,192
2020 vs 2017	150,000	21,551	14,143	4,917	8,898	58,800	34,164	3,384	4,143
2021 vs 2018	150,000	20,078	13,074	4,848	9,043	60,796	34,756	3,419	3,986

6) Compare result to a pro-rata 150,000 kg allocation

FIPI Comparison Years	National	BC	AB	SK	MB	ON	QC	NB	NS
2021-22 pro-rata shares	100.00%	13.24%	9.50%	3.45%	6.36%	39.89%	22.64%	2.32%	2.59%
Allocation	150,000	19,865	14,245	5,174	9,545	59,839	33,965	3,481	3,885

Difference in provincial FIPI feed allotments vs pro-rata allotments (kgs)

FIPI Comparison Years	National	BC	AB	SK	MB	ON	QC	NB	NS
2009 vs 2006		-	2,151 -	1,076	240	2,121	1,605 -	691	80 -
2010 vs 2007		-	1,120	873	41	600	85 -	198 -	45 -
2011 vs 2008			1,437	1,240	265	626 -	5,074	1,142	40
2012 vs 2009			1,821 -	1,021	73	101 -	2,905	952	347
2013 vs 2010		-	1,870 -	942	250	675	3,881 -	1,694 -	132 -
2014 vs 2011		-	1,282 -	983	434	553	3,824 -	2,511	48 -
2015 vs 2012		-	2,501 -	1,159 -	110 -	108	4,556 -	111 -	163 -
2016 vs 2013			203 -	563 -	162	10 -	706	1,255	39 -
2017 vs 2014		-	376 -	414 -	520 -	607	601	1,050	106
2018 vs 2015			229	433	747 -	1,407 -	24	1,229	80
2019 vs 2016			796	669 -	380 -	1,147 -	1,398	1,211 -	57
2020 vs 2017			1,686 -	102 -	258 -	647 -	1,039	199 -	97
2021 vs 2018			213 -	1,171 -	327 -	501	957	790 -	62

Commentary

- In total, 104 hypothetical provincial allotments were calculated (13 years x 8 provinces)
- Of the 104 provincial allotments, all of which illustrated allocating 150,000 kgs nationally:
 - 73 represented less than a **1,000 kg** difference against pro-rata market share allocation to allocate 150,000 kgs
 - 51 represented less than a **500 kg** difference versus pro-rata
 - 16 represented less than a **100 kg** difference versus pro-rata
 - Single largest variation versus pro-rata was 5,074 kgs (2011/2008 calculation for Ontario)

Commentary

- 2022-23 quota regulation submission describes FIPI feed calculation as indicative of comparative advantage of production
- Does a calculation that, in allocating one million kgs nationally replicates a pro-rata result +/- 1,000 kgs seventy percent of the time represent a careful and meaningful consideration of comparative advantage of production?

Appendix “D”

PART 1: 1ST COMPLAINT BY TFO AGAINST TFC

Quota Regulation Submissions

- C-1 2019-20 TFC Quota Regulation Submission - Feb 11 2019 together with Council's approval letter dated March 20, 2019
- C-2 2020-21 TFC Quota Regulation Submission - Apr 16 2020 together with Council's approval letter dated April 21, 2020
- C-3 2021-22 TFC Quota Regulation Submission - Jan 8 2021 together with Council's approval letter dated February 10, 2021
- C-4 TFC letter to FPCC – March 16, 2022 including March 15, 2022 TFC Submission for 2022-23 Quota Regulation

TFC Minutes

- C-5 TFC Minutes – November 27-28, 2019
- C-6 TFC Web Conference Minutes – February 7, 2020
- C-7 TFC Minutes – March 25-26, 2020
- C-8 TFC Directors Only Web Conference Minutes – April 13, 2020
- C-9 TFC Minutes – November 24-25, 2021
- C-10 TFC Web Conference Minutes – February 3, 2022
- C-11 TFC Web Conference Minutes – February 14, 2022

TFO Correspondence

- C-12 TFO letter to TFC APRC – Aug 20 2020
- C-13 TFO letter to TFC – June 25 2021
- C-14 TFO letter to TFC – Nov 3 2021
- C-15 TFO letter to APRC – Nov 19 2021
- C-16 TFO letter to TFC – Feb 1 2022
- C-17 TFO letter to TFC – March 14, 2022
- C-18 TFO letter to FPCC – March 22, 2022
- C-19 Wilson, Spurr LLP letter to FPCC – March 31, 2022

TMAC Reports

- C-20 TFC TMAC Report dated February 9, 2022 - 2022/23 Control Period Commercial Allocation

Policies

- C-21 TFC National Commercial Allocation Policy (suspended)

Strategic Planning Documents

- C-22 Canadian Turkey Industry White Paper, Winter 2021, prepared by Monty Doyle and Jeremy Latta
- C-23 TFC Memo dated June 22, 2021 Re Strategic Planning Process

PART 2: 1ST COMPLAINT DECISION

- C-24 Agreed Facts dated June 3, 2022
- C-25 TFO Comparison of 2022-23 Allocation Options
- C-26 Complaint Committee Report dated June 29, 2022

PART 3: 2ND COMPLAINT BY TFO AGAINST TFC

Correspondence

- C-27 TFO letter to TFC – June 20, 2022
- C-28 TFO letter to TFC – July 15, 2022
- C-29 TFC letter to TFO – July 25, 2022
- C-30 TFO letter to TFC – July 29, 2022

TMAC Reports

- C-31 TFC TMAC Report dated June 6, 2022 – Based on May 2022 Inventories

TFC Minutes

- C-32 TFC Minutes – June 22-23, 2022
- C-33 TFC Web Conference Minutes – July 27, 2022 – Agenda only
- C-34 TFC Web Conference Minutes – August 25, 2022, including:
- C-35 TFC Staff Memorandum dated August 25 2022: “Consideration of Proclamation Criteria”
- C-36 TFC Staff Memorandum dated August 25, 2022: “2022/23 Commercial Allocation – Distribution of 143.0 mkg (i.e., 4.0 mkg increase)”
- C-37 TFC Staff Memorandum dated August 25, 2022: “Conditional Over 9 kg Eviscerated Allocation Proposal”

Additional Correspondence

- C-38 TFO letter to TFC – September 14, 2022
- C-39 TFC Rationale – September 20, 2022
- C-40 TFC letter to TFO – September 21, 2022
- C-41 TFO Complaint to FPCC – September 26, 2022