

We begin today with a bit more on MCOOL and prospect of a “fix” to this lingering challenge.

There are two parts to MCOOL (and any law, for that matter): The statute and the rule(s). The statute is what Congress passes. It may be very general or very specific in nature. Regardless of the level of specificity, the administration is charged with writing a rule (or set of rules) that spells out the specifics of what people or firms must do and how the federal government will go about enforcing the law. USDA has been charged since the beginning with writing and enforcing rules that met the letter of the MCOOL law. Their first rule was found by WTO to violate our trade obligations so they re-wrote the rule. The second effort, in the eyes of most observers, made the situation worse by requiring even more specific labels. WTO agreed. The U.S. appealed and the most recent ruling from WTO denied that appeal and cleared the way for retaliatory tariffs by Canada and Mexico. Beef and pork are on the list of potential (and almost certain) tariff targets for Canada. We would be absolutely shocked if beef and pork were not on Mexico's tariff target list. The entire process has finally led Secretary of Agriculture Tom Vilsack to conclude that USDA cannot write a rule that meets both the letter of the law and WTO requirements. Even Senator Chuck Grassley (R-IA), one of MCOOL's staunchest supporters, has finally concluded that the law will have to be changed. But how will that play out?

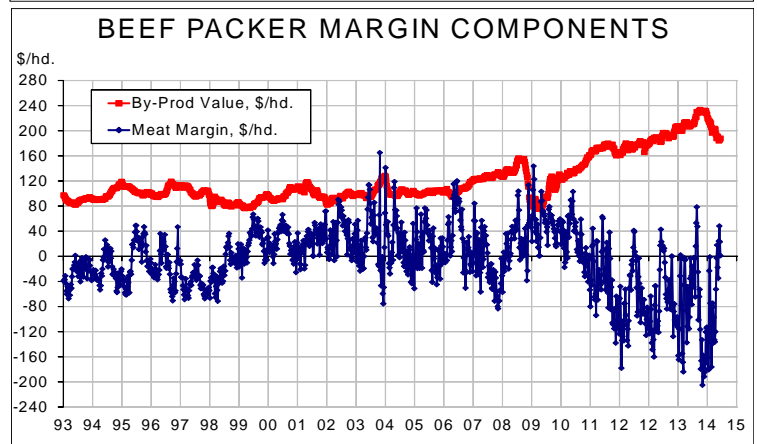
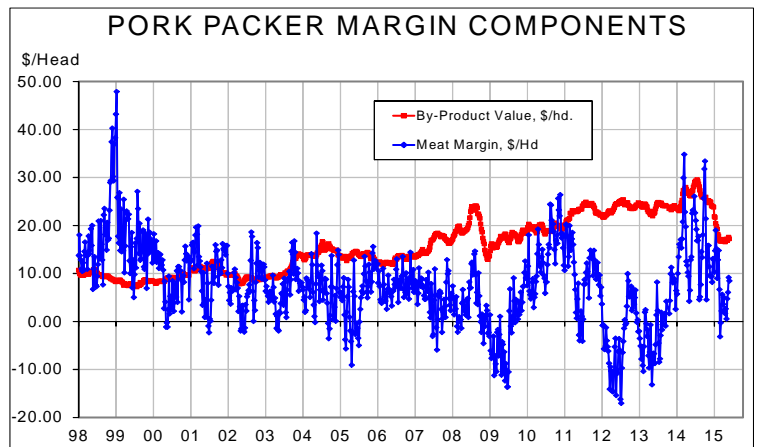
Our discussion on Friday regarding the quick action of the House Agriculture Committee in voting to repeal the MCOOL law for beef, pork and chicken was accurate. There is plenty of support in that committee for repeal, largely due to the aggressive leadership of the committee's chairman, Rep. Michael Conaway (R-TX). It remains to be seen whether the full House will share the committee's zeal for repealing the law or whether some proposal for changing the law will arise. House Ag Committee Ranking Member Colin Peterson (D-MN), a supporter of MCOOL, is pushing for the chamber to consider changes that fall short of complete repeal. He clearly has some clout, especially among his fellow Democrats.

The real challenge lies in the Senate from whence this idea and law emerged in the first place. Senator Grassley and his primarily-Northern-Plains colleagues that support MCOOL are not likely to support a repeal of the law but no specific proposals for changes have emerged. Regardless of what ideas are put on the table, many are concerned that the Senate will not act before its August recess, meaning that the tariffs may actually be put in place before Congress does anything.

We have heard of two possible solutions short of complete repeal that might be considered. First, Congress could make country-of-origin labeling for beef, pork and chicken voluntary, leaving the current requirements for labels and documentation in place in order to ensure that the labels are meaningful. This will not likely satisfy dyed-in-the-wool MCOOL proponents but no sort of “fix” will since they don't think the law should be changed anyway. The second possible solution would be to return to the long-held principle of “substantial transformation” which holds that any item that is substantially transformed after being imported becomes the product of the country in which the transformation occurs. This was the governing principle

of meat and poultry labeling before MCOOL. It means that meat products sold in the U.S. in the same form in which they are imported would be products of the exporting country or countries. But meat from animals imported for feeding or slaughter in the U.S. would be product of the U.S. In fact, meat cuts from carcasses imported in the U.S. would likely be product of the U.S. as well. There isn't a lot of trade in carcass form even in domestic markets anymore but that practice and the application of U.S. quality and yield grades to imported beef carcasses was one of the situations that formed the MCOOL movement in the first place.

One thing is clear — something must be done. While we are in the camp that Canadian tariffs will not be very damaging since Canada will keep more product at home and thus open some export opportunities for U.S. products, Mexico is a different story. Any tariffs imposed by Mexico will likely have a major impact on both meat and, especially, variety meats, a product group whose value has fallen sharply since last summer and that has detracted significantly from the value of both hogs and cattle. The charts below clearly show the declines in by-product/variety meat values.



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