

BRITISH COLUMBIA FARM INDUSTRY REVIEW BOARD

IN THE MATTER OF THE *NATURAL PRODUCTS MARKETING (BC) ACT* AND

MPL BRITISH COLUMBIA DISTRIBUTORS INC. (MPL)
AGENCY DESIGNATION APPROVAL FINAL DECISION

July 11, 2025

Introduction

1. On May 22, 2025, this Panel of the British Columbia Farm Industry Review Board (“BCFIRB”) issued an Interim Decision in its review of the BC Vegetable Marketing Commission’s (“Commission”) recommendation to approve the agency designation of MPL British Columbia Distributors Inc. (“MPL”). That decision determined that MPL had satisfied the probationary terms imposed by BCFIRB, that the Commission’s process had been fair and consistent with SAFETI principles, and that the Commission had appropriately assessed MPL’s application against the criteria in section 21(3) of the Commission’s Agency Order (now section 10 of the General Order).
2. However, the Panel identified one outstanding concern raised by Greenhouse Grown Foods Inc. (GGFI) and Windset Farms (Canada) Ltd. (Windset) (collectively, “GGFI and Windset”)—namely, whether the potential impact of U.S. tariffs on Canadian greenhouse products is a relevant factor in the agency designation context and, if so, whether further process was required to assess it adequately. The Panel invited submissions from the Commission and MPL and gave GGFI and Windset an opportunity to respond to those submissions.

Issue Before the Panel on Approval of Agency Designation

3. The narrow issue that we asked the parties to address in their supplemental submissions is whether the possibility of U.S. tariffs on Canadian greenhouse products is a relevant and material consideration in the context of approving MPL’s agency designation under section 8 of the *Natural Products Marketing (BC) Act Regulations* (NPMA Regulations), and if so, whether the Panel is required to undertake further process to assess this issue.
4. With respect to the approval of MPL as an agency on a non-probationary basis, the question for the Panel is whether MPL met the conditions established by BCFIRB in paragraph 80 and 81 of its Probationary License Decision, and whether approving MPL as an agency is consistent with sound marketing policy and SAFETI principles.

Legal Authorities

5. Under section 8 of the NPMA Regulations, no designation of any agency shall be effective unless approved in writing by BCFIRB.
6. Under section 7.1(2) of the *Natural Products Marketing (BC) Act*, BCFIRB may exercise its powers under this section at any time, with or without a hearing, and in the manner, it considers appropriate to the circumstances.

Analysis

Submissions Received

7. The Commission and MPL take the position that no further process is necessary, and that in the particular circumstances of the approval of MPL as an agency, the possibility of tariffs does not warrant BCFIRB delaying or expanding its section 8 approval review.
8. The Commission emphasizes that although market conditions, including the imposition of tariffs, may bear on the substantive merit of any agency designation, they are also inherently variable and not unique to MPL. The Commission emphasizes that it has the express authority to review agency designations as market conditions evolve and delaying final decisions for every speculative development would undermine regulatory certainty. The Commission also has the authority under section 10 of the General Order to conduct periodic reviews of agency performance, a mechanism specifically designed to address emerging concerns such as changing market conditions.
9. MPL agrees with the Commission, noting that any potential U.S. tariffs are speculative, legally uncertain, and, at present, paused for goods that comply with origin-rules under the Canada-United States-Mexico Agreement (CUSMA) (including vegetables harvested in Canada). As a result, MPL says that the possibility of tariffs on greenhouse vegetables is immaterial to the current approval decision. MPL agrees that any tariff related developments could be addressed by the Commission in the course of future reviews.
10. GGFI and Windset's reply goes beyond the tariff issue identified by the Panel and maintains that full agency status should not be granted to MPL without further review, citing significant and ongoing changes in the North American greenhouse vegetable market driven by evolving U.S. and Canadian trade policies. They specifically highlight the U.S. withdrawal from the Tomato Suspension Agreement in July 2025 (for which ten-year notice was given in 2015), the imposition of retaliatory tariffs, and the risk of redirected Mexican production into Canada, all of which they say could negatively impact BC producers. They express concern over MPL's lack of transparency regarding how it will prioritize BC-grown products within its parent company's broader North American marketing strategy, especially following Mastronardi Produce's recent investments in U.S.-based greenhouses. GGFI and Windset ask the Panel to examine these developments more closely through additional process before making a final agency designation.
11. MPL takes issue with Windset and GGFI's submission, which it says falls outside the scope of the question raised by the Panel and MPL's response, as it addresses broader shifts in the market, MPL's marketing intentions and argues

BCFIRB should revisit the conditions placed on MPL's licence (which conditions BCFIRB has already indicated have been satisfied).

Panel Findings

12. The issue of the Commission's failure to consider the impact of U.S. tariffs on MPL's agency application (raised by GGFI and Windset for the first time in BCFIRB's submission process) required a supplemental submission process to assist the Panel to determine whether those issues were material to the agency designation and whether further BCFIRB process was warranted as a result.
13. Based on the submissions received, the Panel agrees with the Commission and MPL that the possibility of U.S. trade tariffs is too remote to warrant any further process.
14. The Panel acknowledges that changes in international trade policy, such as an imposition of U.S. tariffs, could have material implications on an agency's business plan, particularly where a significant portion of that plan depends on access to U.S. markets. However, at this time, no such tariffs have in fact been imposed. While Canada has imposed countermeasures on U.S. produce, the future imposition of U.S. tariffs on Canadian greenhouse vegetables has yet to materialize.
15. MPL has been operating in BC under its probationary agency designation since October 2023, and the broader trade and market risks identified by GGFI and Windset are not unique to MPL. The evolving trade conditions impact the entire greenhouse vegetable sector and affect all agencies operating in the province. It will be the responsibility of the Commission, as first instance regulator, to monitor and address any trade and market risks as they develop within the existing regulatory framework, including section 10 of the General Order.
16. As for the other issues raised by GGFI and Windset (which exceeded the scope of BCFIRB's request for submissions), the U.S. withdrawal from the Tomato Suspension Agreement has been known to all parties since 2015. That concern, as well as GGFI and Windset's concerns about shifting marketing strategies, the integration of Mexican production within Mastronardi Produce's North American network, transparency in MPL's marketing plan and the potential for market disruption are all concerns that did not materialize through the duration of MPL's probationary license. Should they materialize going forward, they are matters that the Commission can deal with through its ongoing regulatory oversight of agencies.
17. As the Commission confirmed at paragraph 83 of its January 22, 2025, decision, agency designations are not held in perpetuity and MPL, like all other agencies,

will be subject to periodic reviews under section 10 of the General Order¹. The Commission expects MPL to demonstrate progress on its stated business objectives and to refrain from using its designation to import production into BC in a manner that disrupts existing agency-serviced markets. The Panel agrees that these safeguards provide an adequate mechanism for responding to future developments or deviations from MPL's commitments without requiring BCFIRB to engage in additional process before approving MPL as a designated agency.

18. The Panel therefore sees no sound marketing policy justification related to tariffs or any of the other issues raised by GGFI and Windset that would justify BCFIRB undertaking additional procedural steps prior to approving MPL as a designated agency.

Decision

19. For the reasons set out above, the Panel finds that the possibility of U.S. tariffs on Canadian greenhouse products has yet to materialize and therefore is not a material consideration for BCFIRB in the context of its approval of MPL's agency designation under section 8 of the NPMA Regulations and no further process by BCFIRB is warranted to hear from the parties with respect to that issue. The Commission's ongoing review authority under section 10 of its General Order is the appropriate avenue to address any future impact of tariffs or other market risks that may arise.
20. The Panel has undertaken its own assessment and has concluded that the designation of MPL as an agency is consistent with sound marketing policy. In the Probationary License Decision, BCFIRB was primarily concerned with whether MPL's participation as an agency would disrupt orderly marketing. There is no evidence that it has done so. To the contrary, it has made some progress towards implementing its business plan, its producers are seeing net returns, it has received support from at least two arm's length producers, it has complied with the Commission's orders, and it has demonstrated the knowledge, capacity and ability to operate effectively as an agency.
21. In the Interim Decision, we found that MPL had satisfied the probationary terms imposed by BCFIRB, and that the Commission's process was fair and consistent with SAFETI principles and appropriately assessed MPL's application against the criteria in section 21(3) of the Commission's Agency Order. Those reasons will not be repeated here.
22. The Panel confirms the approval of the Commission's recommendation to designate MPL as an agency under section 8 of the NPMA Regulations.

¹ Section 22 of the Agency Order at the time of the Commission's decision.

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23. In doing so, the Panel recognizes MPL’s evolving role in supporting the growth of BC’s greenhouse vegetable sector and its capacity to meet the fiduciary and compliance obligations of a designated agency to support orderly marketing within the province’s regulated marketing system. The Panel expects the Commission to continue monitoring MPL’s performance and to conduct periodic reviews of its agency designation, as it does for all agencies, in accordance with its General Order.

Dated at Victoria, British Columbia, this 11^h day of July 2025.



Neil Turner

Panel Chair and Vice Chair



Pawan Joshi

Member