When regulators shake hands: The CFIA–China food safety MOU

January 28, 2026

Canada-China trade relations are back in the news.

Between hyperbolic statements about the takeover of Canada by the Chinese Communist Party and threats of 100 per cent tariffs on Canada because of that imminent handover (minus ice hockey, it was hoped), it’s difficult to figure out exactly what was agreed and where we are heading.

The truth is far more prosaic than all that.

For some time now, Canada and China have been locked into a series of tit-for-tat trade disputes that have had a major impact on Canadian exports of agricultural products – and thus, on the agriculture sector in this country. The dispute was untenable, especially because of the current need to ensure a more balanced and diversified portfolio for Canadian exporters. And so, we arrived at a deal: removal of extraordinary tariffs on a limited number of Chinese electrical vehicle imports into Canada, in exchange for reduction of tariffs on Canadian exports of agricultural goods.

As for the threat of 100 per cent tariffs on Canadian exports to the United States, the legal basis was never quite spelled out. In any event, it has been withdrawn.

The “deal” was not, incidentally, just about tariff reduction. One of the more interesting – at least, for trade nerds – aspects of the “deal” was an attempt to reduce *friction* in agricultural trade through *regulatory cooperation* in food safety and agricultural trade.

The Canadian Food Inspection Agency (CFIA) and China’s General Administration of Customs (GACC) have entered into a Memorandum of Understanding (MOU) that establishes a structured framework for ongoing technical collaboration and regulatory dialogue between the two authorities – and thus, one hopes, enhanced agricultural trade between the two countries.

Background

CFIA is responsible for enforcing Canada’s food safety, animal health, and plant protection laws. Cooperation with other regulators is an important element in ensuring not only that Canadian have access to a diverse range of safe agricultural products, but also that Canadian exports face few hurdles as they cross continents and oceans to their target markets. Given China's detailed import controls and sanitary requirements, CFIA cooperation with Chinese regulators has been critical to maintaining and expanding access for Canadian agricultural and food products.

The renewed MOU builds on prior bilateral arrangements and reflects the increasing complexity of global supply chains and regulatory oversight, aligning shared objectives of public health protection and trade facilitation.

What is the significance of the MOU?

"Is this a trade deal that locks us into the Chinese orbit? Are we handing our food safety sovereignty over to the Chinese? Is Canada going to be taken over as a result?"

The answer to all of the above is an emphatic **no**. The MOU is not a treaty, in that it is not legally binding. It is a framework for cooperation.

"So just a piece of paper then – it's all about photo-ops and travels to exotic destinations!"

Not quite.

As a general matter, government-to-government relations do not operate within a binary "total takeover versus nothingburger MOU" framework.

More specifically, governments are complex; decisions move slowly through approval processes; everyone looks for precedents and structures, because no one – not the bureaucrats crafting and recommending policies, not the politicians approving them – really wants to be the first. MOUs provide sorely needed *frameworks* and *structures* to address existing and future problems. If an issue comes up, someone in the system will say, "we have the opportunity to set up a technical committee."

As well, agreements of this kind serve an important *symbolic* function. For example, the MOU refers expressly to the World Trade Organization (WTO). This is significant. It reaffirms the parties' shared commitment to the multilateral trading system and to the WTO rules governing sanitary and phytosanitary measures and technical barriers to trade. It makes clear that regulatory cooperation is anchored in binding WTO disciplines, including obligations relating to scientific risk assessment, the use of international standards, the application of the precautionary principle, and transparency and labelling requirements. Cooperation, in this sense, operates within a detailed and multilateral legal framework rather than as a purely aspirational objective.

For Canadian exporters, importers, and agri-food businesses, the MOU's significance lies in its practical role in promoting regulatory predictability, supporting market access, and reducing the risk of trade disruptions arising from food safety or animal and plant health concerns. As such, it serves as an important tool for managing regulatory risk and advancing Canada–China agricultural trade within an established legal and policy framework.

Next steps

The MOU is part of an overall package of measures aimed at reducing the heat in bilateral economic relations *and* enhancing market access for Canadian agricultural exports. Like any deal, it has to benefit both parties at the outset. And like any deal, it has to provide for opportunities for growth.

Speaking of which, the trade team at BLG is always at the ready to provide expert legal and strategic advice on growing *your* business.

By

Rambod Behboodi, Candice Kloes

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749