

1. Court of Appeal decision in the *Ferme Brien & Fils Inc.* case (May 31, 2007)

The Court of Appeal upheld the decision of the Superior Court, which confirmed the decision of the Régie des marchés agricoles et alimentaires du Québec, indicating that the joint plan also covers derivative products, such as icings, maple butter, lollipops, salad dressings, toppings, maple caramel and maple jelly processed from, among other things, the maple syrup produced by Ferme Brien et Fils Inc.

In short, "the maple syrup that Ferme Brien produces in its sugar bush, no matter in which form it is subsequently marketed, whether it is combined with other ingredients or if it undergoes processing to become a food product," is subject to the joint plan.

2. Appeal Court decision concerning Marcel Doyon (April 16, 2007)

Once again, the Court of Appeal upheld the decision of the Superior Court which confirmed a decision of the Régie des marchés agricoles et alimentaires du Québec, condemning Mr. Marcel Doyon to pay damages amounting to more than \$104,000 and over \$3,000 in fees.

The debate focused mainly on the "authority of a final judgement" regarding a decision handed down by the Honourable Judge Ross Goodwin, who rejected the arguments in the application for judicial review concerning previous marketing conventions. It should be noted that Mr. Marcel Doyon has recently made application for permission to appeal this judgement to the Supreme Court of Canada.

3. Decision of the Régie concerning Mr. Henri Bourgoïn of New Brunswick (May 16, 2007)

In this decision, the Régie confirmed the legality of the liquidated damages imposed in the Marketing Convention and dealt with the presumptions of Mr. Bourgoïn, who claimed that he was not subject to the Quebec legislation, including the Marketing Convention, since he was a resident of New Brunswick.

The Régie concluded that maple syrup buyers, whether they are residents or not, are subject to the terms of the applicable conventions in the territory of Quebec and that "... Mr. Bourgoïn, like any other buyer when buying syrup in Quebec, is subject to the terms of the Marketing Convention that is applicable in Quebec, no matter where he resides."

The Régie added, "the opposite would lead to utter chaos and would, in a very short time, cause the collapse of the collective marketing mechanisms put into place to encourage the efficient and organized marketing of maple syrup."

The Fédération has asked that the Quebec Superior Court homologate this decision, in order to proceed with an application for its execution in New Brunswick.

Mr. Bourgoïn has appealed this decision.

4. Decision of the Régie concerning *Érablière G.F. Marois inc.* (June 29, 2007)

Érablière G. F. Marois inc. declared to have sold, in some years, maple syrup in four-litre containers and in other years, to have put its maple syrup in containers under five litres.

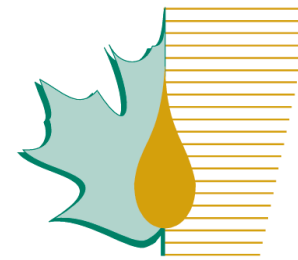
The evidence presented by Érablière G. F. Marois inc., Mrs. Fortin-Marois and Mr. Marois was judged to be not credible and the Régie sentenced them, on the basis of regional production statistics, to pay the Fédération \$27,900.10 (plus taxes and interest) for unpaid fees, \$320,588 in damages for not having their syrup graded and inspected and \$209,561.05 in penalties for having produced maple syrup without a quota.

5. Decision of the Régie concerning Mr. Richard Vallières, *Les Exportations R.J.S. inc. and 9146-2655 Québec inc.* (July 10, 2007)

The strategy used by Mr. Vallières, in this case, was to supply containers to producers so that they would sell their syrup to him in four-litre containers, where he would then transfer the cold syrup into maple syrup barrels destined for export sales.

The Régie determined that "... Mr. Vallières and the companies that he ran acted deliberately to enter into bottling agreements, with the objective of circumventing the terms of the Marketing Convention."

As a result, Mr. Vallières and the concerned companies were sentenced to pay \$300,000 in damages for having failed to have the quality of the product verified, as well as \$1.5 million in damages for having contravened the Marketing Convention.



SYRUP INFO Summer 2007

Newsletter from
la Fédération des producteurs acéricoles du Québec

SPECIAL EDITION – QUOTAS

Appreciation and Support for the Efforts of Maple Producers

by Pierre Lemieux, President



During the course of its present mandate, the Commission on the Future of Agriculture and Agrifood in Quebec (CAAAQ) has been crisscrossing the province in search of models of inspiration, winning formulas and examples of success. Throughout the presentations and accounts from every region of Quebec, from

every production sector and every field of interest, recent success stories have been rare.

However, on August 28, at the provincial hearings to be held in Quebec City, the Fédération will present the Quebec maple producers' success story. We have worked very hard to take charge of our future and collectively organize the production and marketing of maple syrup. It has been a difficult but fruitful journey and the rewards will benefit the entire maple industry. We have accomplished something to be proud of. The future is bright. It took vision, discipline and perseverance to transform the maple crisis of the late 1990's into an opportunity.

We are now talking about growth. Over the past year, with increasing demand and the elimination of the inventory burden, we have begun to discuss production sharing and its projected rate of increase. The committee on quotas has been working to present various development scenarios. Producers from all the regions and regional syndicates have participated in this brainstorming process in various ways, notably through 14 regional meetings last winter. Finally, on June 14, the "extended" board of directors (including the directors of the regional syndicates) studied the final version of proposals to be submitted to the Régie des marchés agricoles. Certain details generated more debate than others, but everyone agreed on the necessity of increasing the production quotas as early as 2008 and to keep a tight control on product quality, in order to take advantage of market opportunities.

During the regional hearings of the CAAAQ, several people complained that they received no advantages from the joint plan. In most cases, they did not realize – or did not want to admit – the benefits that they receive.

Many opportunities are available for maple producers to express their views and to make decisions for the collective good. Similarly, various forums allow them to exchange ideas with other stakeholders in the maple industry so that practices can keep pace with the evolving demands of the marketplace. Disagreement can be healthy when presented in a constructive manner. Unfortunately, too often the objecting parties paint everything black and are unable to propose any useful alternative solutions.

During its CAAAQ presentation, the Fédération will not miss the opportunity to stress the conditions for success that will permit our industry to continue its successful initiative, namely:

- to support, strengthen and promote the rights and privileges that the Act with respect to the Marketing of Agricultural Food and Fish Products confers to farmers, and more specifically:
 - to maintain the uniqueness of the maple producers' joint plan;
 - to affirm the producers' right to self-regulation through their joint plan;
 - to ensure that the Régie des marchés agricoles et agroalimentaires du Québec has at its disposal the means and powers necessary to fulfill its mandate and to administer the Act.
 - to preserve the maple sugar bush potential, both on public lands and within the agricultural zone (LPTAQ).
 - to adapt the income security mechanisms in a manner to ensure fairness between both the specialized and diversified producers and to allow the maple production sector to have access to the same income security mechanisms as the other agricultural productions (complementary program and crop insurance).
- And especially...
- to recognize and support the efforts of maple producers in the organization of the collective marketing of their products.

The 2007 crop and maple syrup inventories

According to the survey on the 2007 crop, conducted by the independent firm Groupe AGECO, the total harvest of maple syrup in Quebec for 2007 is estimated at 61.7 million pounds. This figure includes syrup sold directly on the farm. Although yields were extremely variable from one region to another, this translated at the provincial level to a decrease of over 10%, due to unfavourable climatic conditions.

As of July 30, 2007, the amount of bulk syrup delivered and graded is estimated to be 49 million pounds; a drop of 13.5% compared to the same period last year.

On the American side, USDA statistics show a decrease of 13% in production.

Generally speaking, the 2007 crop was severely affected by weather conditions and it is expected that syrup inventories from previous years will have to be used in order to meet the market demand in 2007. Before the 2007 crop, maple syrup inventories were at approximately 37 million pounds. In light of the projected sales, it is now estimated that these inventories will drop to between 8 and 13 million pounds by March 2008.

Market Development

In 2006, sales continued their constant rise (+10% on the Quebec market and +11% on the export market). The most recent figures (Statistics Canada) on maple product exports indicate that, during the first three months of 2007, sales have exceeded those for the same period of 2006.

Estimates of Market Demand

Market trends for the next several years cannot be predicted with precision. Furthermore, it is impossible to know in advance the weather conditions and the state of the crop for 2008.

However, assuming that bulk and retail sales of syrup continue to increase in 2007 (5%) and in 2008 (3%) and that on-farm sales (not regulated by the Act) remain stable, it can be estimated that, in order to meet market demand, syrup production for the bulk market should approach 90 million pounds.

An estimate of the production deficit

Presently, the number of declared taps exceeds the 37 million mark and the current quota (at 75%) represents 68 million pounds of syrup. However, it is known that in any given year, a certain percentage of these taps are not exploited and some operations do not fill their entire quota. For example, in 2006, only 44% of the enterprises produced at least 95% of their quota and 17% did not use their quota (because their production was sold entirely on the farm or because they did not produce at all). For the 2007 season, it is estimated that only 35.6 million taps were actually in use.

In this context, if the yield of the next crop is average (2.25 lb/tap), it would be reasonable to plan to increase the provisional quota (PQ) that producers are allowed to produce to 90%. In addition, it is believed that the market could absorb the production from additional taps, which would translate into the allocation of new provisional quota (10.5 million pounds), also limited to 90%.

PQ (actual) + PQ increase = 92 M lb + 10.5 M lb = 102.5 M lb

	Retail and bulk	Bulk
Total PQ	102.5 M lb	100.0 M lb
At 90%	92.3 M lb	90.0 M lb

Hurdles regarding the quality of syrup in small containers

Last April 18, during public hearings held by the Régie des marchés agricoles, the Fédération presented a request for approval of the Règlement sur les normes de qualité et classement du sirop en petits contenants.

The Association des érablières transformateurs de produits de l'érable (AETPE) opposed our request. We must now wait for the Régie's decision.

In conjunction with this, the Fédération is continuing its random sampling of the products on grocery-store shelves, as part of its investigation into the quality of syrup sold at the retail level.

Furthermore, information and training sessions dealing with the quality of syrup (in small containers) are being offered in several regions. Additional sessions will be offered in the fall. For further information on this subject, you may contact the agricultural continuing education representative for your region or call Mrs. Marie-Claire Hurteau, FPAQ grading agent at 450-679-7021, ext. 8858.



10 years of dedication



Ten years ago, on July 27, 1997, Mr. Charles-Félix Ross was hired as secretary-general for the Fédération des producteurs acéricoles du Québec. Over this past decade, the Fédération and the maple industry have undergone significant changes, the most important ones being:

- ✓ The establishment of the sales agency
- ✓ Intensification of promotional and market-development efforts
- ✓ Instigation of production quotas
- ✓ Efficient management of surplus maple syrup inventories
- ✓ The signing of the first Marketing Convention with buyers

Today, the maple industry is on the right track, thanks to the collective efforts and discipline of the maple producers themselves. Without a doubt, the perseverance, competence and professionalism shown by Mr. Ross have been determining factors in the implementation and development of the maple producers' collective vision.



Special financial assistance program (due to low yield in 2007)

In many regions, the weather conditions during the spring of 2007 were particularly unfavourable. Many maple bush operators experienced yield losses of 50% to 70%, resulting in lost income of over 40% in some cases, compared to their average over the last 3 years. The financial situation of these enterprises is extremely difficult.

In this context, the Fédération des producteurs acéricoles du Québec has asked MAPAQ to come to the aid of the maple producers hard-hit by lost income due to bad weather conditions. Similarly, the regional syndicates of Bas-Saint-Laurent and Cote-du-Sud held press conferences, in order to make the media, as well as elected officials and the general population, aware of the urgency to take action in support of these enterprises in difficulty. To date, MAPAQ has not responded. It should be remembered that the CAIS program cannot intervene in the short term to alleviate these enterprises' cash-flow problems and, contrary to many other agricultural production sectors, there is no crop insurance for maple production.

Distribution of funds by (RCPeQ)

In total, slightly over 2,700 applications were received by the firm mandated to proceed with the distribution of certain assets (\$12 million) of the Regroupement pour la commercialisation des produits de l'érable du Québec (RCPEQ). It should be remembered that the deadline for applications was May 31, 2007. The analysis of each case is almost completed, and at the time this article is being written, approximately two-thirds of the applicants have received written notice indicating the status of their files.

However, about 300 cases are still pending, since additional information had to be requested from the applicants (poorly completed forms, incomplete files, etc.). This part of the operation slows down the process considerably and delays the issuing of cheques to all producers.

Remember that all of the applications must be analyzed before each producer's share can be determined and before any cheques can be sent out. We estimate that producers will receive their cheques this fall.

How to distribute this increase?

In order to develop a fair and well-structured policy that would permit an increase in production as soon as 2008, the Fédération mobilized its leaders and staff, in order to consult with the producers affected by the joint plan, through various methods.



FPAQ's extended Board of Directors, June 14, 2007

Quota Committee and the Fédération's Board of Directors (Fall 2006 and Winter 2007)	The Quota Committee and the Board of Directors analyzed the Fédération's data in order to develop various scenarios.
Regional Syndicates (November 2006)	The principal conclusions and recommendations were sent to the regional syndicates so they could send their comments back to the Quota Committee. The Committee then adjusted the preliminary policy to reflect the comments received.
14 regional consultation meetings (Winter 2007)	The major elements of the quota allocation policy were presented and discussed in all the regions. This consultation tour permitted an evaluation of the support for the proposed principles. In addition, the comments gathered allowed further adjustments to the policy, by identifying for example, the necessity to give further attention to the following elements: <ul style="list-style-type: none"> • A re-evaluation of the "Strategic Reserve;" • The re-allocation of unused quota; • The sharing of input by present and new producers into the Reserve; • The tolerance limits over several years.
FPAQ's extended Board of Directors (June 14, 2007)	Each element of the quota allocation policy was studied. The text of the proposed modifications to the regulations, which would allow this policy to be implemented, was presented, adjusted and adopted. The project was then sent to the Régie des marchés agricoles.
Régie des marchés agricoles et alimentaires (RMAAQ) August 30, 2007	On August 30, the Régie will hold public hearings before approving the requested regulatory modifications. It will then be necessary to await their decision. They could revise the project that was submitted. Finally, the modification to the regulations must be published in the Gazette officielle du Québec for it to come into effect. This process will take several weeks.

Quota Allocation Policy (preliminary)

Here are the major elements of the proposed quota allocation policy, scheduled to be put into place for the 2008 crop.

Increase the quota from 75% to 90%	Decision by the FPAQ's Board of Directors
Increase the provisional quota (PQ) by 10.5 million pounds (M lb) in order to allow the realization of projects <ul style="list-style-type: none"> • Start-up projects (1.2 M lb) • Consolidation projects (6.3 M lb) <ul style="list-style-type: none"> - pails → tubing - expansion Growth of "insufficiently covered" (3.0 M lb)	Regulatory modifications to be approved by the RMAAQ
Prioritize the payment of syrup produced within a certain range of the PQ (between 75% and 90%)	
Encourage producers to produce an average of 90% of their quota over 5 years	

DECISION MADE BY THE BOARD DIRECTORS

Starting with the 2008 crop, the allowable % utilization of quota will be increased from 75% to 90%

To be automatically offered to all current quota holders in order to increase the production of lots already declared

Example: Provisional quota: 10,000 pounds
 2007 quota: 10 000 x 75 = 7,500 pounds
 2008 quota: 10 000 x 90% = 90,000 pounds

Warning: Certain elements of this policy require modifications to the regulation regarding quotas or to the regulation governing the sales agency. These modifications must be approved by the Régie des marchés agricoles before coming into effect.

Principale Modalities (to be approved by the RMAAQ)	Examples
START-UP PROJECTS	
1.2 M lb of provisional quota (reduced to 90%)	<p>Upon submission of a project</p> <p>Main criteria:</p> <ul style="list-style-type: none"> Evaluation grid based on: <ul style="list-style-type: none"> business plan education or pertinent experience proximity to residence processing of sap at the sugar bush maximum of 25,000 taps. a draw (if number of projects exceeds available quota).
CONSOLIDATION PROJECTS	
6.3 M lb (reduced to 90%) for the conversion of pails to plastic tubing and for expanding existing operations	<p>Upon request</p> <p>Quota given conditional to completion of project</p>
A. Conversion of pails to plastic tubing	<p>Main criteria:</p> <ul style="list-style-type: none"> Farm plan Quota increased by 1.1 lb for each tap converted to tubing (reduced to 90%) In good standing with the FPAQ Verification <p>This category is given priority</p>
B. Expansion of existing operations	<p>Main criteria:</p> <ul style="list-style-type: none"> Must own the sugar bush under expansion (except for maple operations on public land) Farm plan Maximum of 25,000 taps (including the expansion) Quota calculated at 2.5 lb/tap (at 90% - equivalent to 2.25 lb/tap) In good standing with the FPAQ <p>This category is allotted by "strata"</p>
<p>An enterprise with 10,000 taps wishes to convert 1,000 pail taps to tubing. If a request is submitted, a supplementary provisional quota could be allocated for 1,100lb. (1,000 taps x 1.1 lb), whereby 90% or 1,000 lb could be produced</p> <p>Allotment by "strata": The available quota will be distributed among the eligible applications up to 3,000 taps each. The remaining volume will be distributed among the applications not yet satisfied, by lots of 2,000 taps until available volume is depleted. In this way, the maximum number of projects will be completed. However, it is possible that the largest projects will receive only a portion of their request.</p> <p>Example: An enterprise (10,000 taps) wishes to tap an additional unused part of its sugar bush (+12,000 taps). The distribution by "strata" would allocate 3,000 + 2,000 + 2,000 = 9,000 taps.</p> <p>In this case, it would receive a supplementary provisional quota of 9,000 taps x 2.5 lb = 22,500 lb. Beginning in 2008, if the project is completed, it could then produce a volume of 90% or 20,250 lb, in addition to its current quota.</p>	
GROWTH OF "INSUFFICIENTLY COVERED" ENTERPRISES	
3 M lb for "growth" (reduced to 90%)	<p>Upon request</p> <p>Main criteria:</p> <ul style="list-style-type: none"> Having produced at least 95% of the current quota (at 75%) over at least 2 years between 2004 and 2007 In good standing with the FPAQ <p>Distributed on a "pro rata" basis between the eligible applicants, based on their current quota levels.</p>
<p>Current provisional quota: 10,000lb Production quota (at 75%): 7,500 lb Syrup delivered in bulk or declared retail:</p> <ul style="list-style-type: none"> 2004: 11,000 lb (110% of 75%) 2005: 6,000 lb (60% of 75%) 2006: 7,300 lb (96% of 75%) 2007: 3,000 lb (40% of 75%) <p>This producer, if he submits an application, could have access to an increase of his provisional quota since he produced at least 95% of his quota 2 years out of 4. The increase would depend on the number of admissible applications received.</p>	

New methods of payment to producers

Presently, the regulation regarding the sales agency provides for payment to producers, corresponding to the percentage of the crop actually sold and paid for by the buyers. For example, since 100% of the 2006 crop was sold during that year, producers were paid completely for their 2006 production. However, if the market had not absorbed the entire production for the year, say for instance only 70%, the producers would have been paid for only 70% of their syrup.

In the context of increasing quotas, it could happen that the 2008 crop is not entirely sold during the same year and the remaining syrup would be put into the strategic reserve.

Several producers fear that they would be "penalized" with regard to their payment, due to the authorization of new taps. In fact, if the regulation with respect to the sales agency is not modified, and the 2008 production exceeds sales, all producers would receive a partial payment in the same proportion, no matter if they had an increase in production, were limited to the same production as in the past, or if they had a smaller crop than normal (because of bad weather, for instance).

Therefore, the Fédération has also asked the Régie to modify the regulation concerning the sales agency in a way to ensure priority payment for a certain percentage of the provisional quota.

Here is how it would work:

Every year, before February 15 at the latest, the Board of Directors would examine the sales figures for the year and determine the percentage (between 75% and 90%) of the provisional quota for which producers would receive priority payment on the March 15 payment date. For example, if sales permitted, the Board could fix the level at 80% of the PQ. In that case, those who produced only 80% of their PQ, that is, a bit more than their present quota (75%), would be paid totally. Similarly, those who produced 90% of their PQ, as the proposed increase for 2008 would allow, would also receive a total payment for their production up to 80% of their PQ and the remaining delivered syrup would be paid in proportion to sales (up to the maximum authorized level of 90%).

Priority payment for a % of the PQ	
For example, if the board sets it at 80%:	
Global Quota for bulk sales (at 90%):	90.0M lb
80% of Quota:	80.0M lb
Total syrup delivered:	85.0M lb
Sales:	82.5M lb

Example 1		Example 2 *	
Total PQ held	100,000 lb	Total PQ held	100,000 lb
90% of PQ	90,000 lb	90% of PQ	90,000 lb
80% of PQ	80,000 lb	80% of PQ	80,000 lb
Deliveries	75,000 lb	Deliveries	90,000 lb
Payment	75,000 lb X 2.25 \$/lb	Payment	80,000 lb X 2.25 \$/lb + 10,000 lb X 2.25 X 50%

* The FPAQ could assume 100% of the cost of pasteurization for the syrup within the quota limits (between 80% and 90%).

Quota is meant to be produced

In order to better plan the development of production, to minimize any "under the table" sales and to assure that quota is issued to those who are really going to produce it, a new mechanism has been proposed. Thus, if the Régie approves the requested modification to the regulation, all holders of quota would be required, except in cases of "force majeure," to produce an average of 90% of their quota over a period of 5 years. If not, their quota would be reduced. It goes without saying that any over-quota deliveries would be included in the calculation.

Could an enterprise qualify for more than one category of project at the same time?

Yes, an enterprise could qualify for several projects at the same time. For example, in addition to having its provisional quota increased from 75% to 90%, an enterprise, if it met all the requirements, could also obtain additional quota for replacing pails with plastic tubing or for installing new taps.

How to apply?

The proposed policy on quota allotment requires modifications to the regulation regarding the sales agency and the regulation concerning quotas. All regulatory changes must be approved by the Régie des marchés agricoles before coming into effect. The Régie has decided to hold public hearings before rendering its decision. These hearings are scheduled for August 30, 2007. Since the Régie has the right to modify projects submitted to them, we must wait for their final decision to know the conditions that will apply. However, the Fédération has clearly explained to the Régie the importance of obtaining a rapid decision in order for producers to prepare their projects and benefit from the increase for the 2008 season.

As soon as the Régie has rendered its final decision, the detailed information (including the application forms for additional quota) will be sent out to all current holders of quota.