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The Meat and Potatoes of the North American Free Trade Agreement.

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THE MEAT AND POTATOES OF THE NORTH AMERICAN FREE TRADE AGREEMENT

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I. Introduction: The International Context

Agricultural trade has always been particularly susceptible to governmental intervention and imposition of protectionist barriers. Governments have asserted various reasons for intervening in agricultural trade, including the need to ensure sufficient food supplies at stable prices, maintain domestic agricultural productivity, stabilize and increase farm income, and retain employment in agricultural and related activities.[1] Governments have often claimed that agricultural industries require greater protection than other industries because of the hardships that agricultural producers face, including (1) producers' dependence on weather conditions, (2) the small size of many agricultural enterprises, (3) the small market-share of the average farm, (4) the inability to affect market prices, (5) inadequate distribution systems, and (6) the lack of an organized labor force.[2]

One need only survey the latest round of negotiations on the General Agreement on Tariffs and Trade (GATT)[3] to understand the sensitivity of governments toward removal of protectionist trade barriers, especially when the stakes are the continued viability of domestic agricultural production and related industries. Agriculture, as opposed to other trade products, receives distinct treatment under the GATT, and has typically been exempt from the GATT's prohibitions on

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1. *See generally* Robert Hansen, Comment, *The General Agreement on Tariffs and Trade (GATT): Has Agriculture Doomed the Uruguay Round?*, 26 LAND & WATER L. REV. 761, 768 (1991) (discussing rationale for governmental intervention in agriculture).
2. *Id.*
3. General Agreement of Tariffs and Trade [GATT], *opened for signature* Oct. 30, 1947, 61 Stat. Part. 5, T.I.A.S. 1700, *reprinted in International Trade Agreements*, INT'L TRADE REP. 75:0801-0828 (BNA 1987).

quantitative export subsidies and import barriers.[4] Agriculture has been a critical issue in the Uruguay Round of negotiations because most signatory countries have provided some sort of commodity-support policies for their own producers. These support policies have generated countervailing export subsidies, or import restrictions, to protect domestic industries against a flood of low-cost products.[5] Since most countries have erected barriers and have created artificial prices for homegrown commodities, worldwide markets for agricultural goods have long been unstable and agricultural resources have been inefficiently produced and allocated.[6]

This article explores the evolution of agricultural trade regulation between the United States and Mexico culminating in the proposed North American Free Trade Agreement.[7] First, the article reviews the existing regulatory framework governing United States-Mexico agricultural trade. The article then highlights major, proposed revisions to this regime under the NAFTA, and offers perspectives on the effect of these revisions upon the United States agricultural industry sectors. This analysis includes a commodity reference guide, at Appendix A, which highlights specific commodity trade sectors and the NAFTA treatment of such sectors.

In agricultural trade, as in other areas, the NAFTA offers a phased reduction, but not elimination, of existing trade barriers. Analysts classify these trade barriers differently, referring to these restrictions as border measures, non-border measures, and qualitative restrictions;[8] tariff barriers, non-tariff barriers, and domestic agricultural policies;[9] or restrictive border measures, internal support measures,

4. *See generally* Kenneth S. Barrow & Matthew V. Parker, Comment, *U.S. Agriculture and the Omnibus Trade Bill: A Step in the Right Direction?*, 1989 B.Y.U. L. REV. 653, 661-63 (discussing implications of GATT on agriculture).

5. *Id.*

6. *Id.*

7. North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can. (text revised Sept. 6, 1992). References to the NAFTA in this article are to the text prepared September 6, 1992, by the governments of Canada, the United Mexican States, and the United States of America. The NAFTA includes extensive "side-by-side" tariff schedules for manufactured goods, textiles, and agriculture. Unless otherwise indicated, references to "NAFTA Tariff Schedule" are to the schedule relating to agriculture, entitled "NAFTA Side-by-Side Tariff Schedule," September 2, 1992.

8. FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*).

9. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL

and export subsidies.[10] For ease of reference, this article uses the more general terms "tariff barriers" and "non-tariff barriers."

Tariff barriers are self-defining since they obviously consist of tariffs applied to imported goods. Non-tariff barriers, however, are much more difficult accurately to isolate and identify because of their often subtle application and effect. Non-tariff barriers are commonly defined as any governmental policy or regulation that makes it more difficult for imported agricultural products to compete with similar domestic products within a given market. Non-tariff barriers include a wide range of measures, ranging from quotas and licensing requirements to technical or other quality standards for goods, monetary subsidies, and price supports.[11] Control and gradual elimination of these non-tariff barriers have been among the most difficult points of negotiation both in the Uruguay Round of the GATT negotiations[12] and the NAFTA.[13]

II. THE UNITED STATES AND MEXICO: THE EXISTING REGIME

A. *United States Barriers to Trade*

One need only refer to the voluminous text of Title 7 of the United States Code to measure the depth of agricultural production support and regulation in the United States. Title 7 includes, among other things, a myriad of federal loan and price support programs for agricultural producers. The subsidy programs were commenced in the post-Depression era in reaction to overproduction and were designed to support farm prices.[14] This overproduction naturally spurred ex-

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TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 35 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing non-tariff barriers).

10. *See* Robert Hansen, Comment, *The General Agreement on Tariffs and Trade (GATT): Has Agriculture Doomed the Uruguay Round?*, 26 LAND & WATER L. REV. 761, 768-69 (1991) (noting categories of agricultural trade barriers).

11. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (listing commonly used procedures to restrict imports).

12. *U.S., EC Negotiators Make Some Progress in Latest GATT Talks as Clock Winds Down*, 9 INT'L TRADE REP. CURRENT REP. 1752, 1752 (BNA 1992).

13. NAFTA ch. 7, art. 706 (setting out standards for export subsidies).

14. *See* 7 U.S.C. § 1441 (Supp. 1992) (relating to basic commodity price supports). *See generally* Kenneth S. Barrow & Matthew V. Parker, Comment, *U.S. Agriculture and the Omnibus Trade Bill: A Step in the Right Direction?*, 1989 B.Y.U. L. REV. 653, 655 (noting that over-production caused decreased prices).

pansion into foreign markets.[15]

The current agricultural crisis began in the 1970s when United States agricultural exports became extremely profitable and yearly world agricultural trade increased from $50 billion to over $225 billion by the end of the decade.[16] Increased production encouraged countries to dump agricultural products on the world market. Recognizing the importance of export markets to United States producers, Congress enacted many laws to promote exportation of products.[17] In the 1980s, however, as a global recession took hold, the demand for United States exports decreased, and countries developed protectionist policies to shore up their own domestic agricultural industries.[18]

The current United States policy seems to reflect the realization that it is in the nation's best interests to lower barriers worldwide, thereby expanding markets for United States goods.[19] Yet, a complex web of regulations protecting goods produced in the United States still remains in place.

1. United States Tariff Barriers

The authority to impose tariffs on agricultural imports is found primarily in Section 22 of the Agricultural Adjustment Act of 1933.[20] This act grants the Secretary of Agriculture the power to advise the President of any conditions that threaten certain agricultural policies of the United States. The President may then request that the United States International Trade Commission (ITC) investigate the threat.

15. *See generally* Kenneth S. Barrow & Matthew V. Parker, Comment, *U.S. Agriculture and the Omnibus Trade Bill: A Step in the Right Direction?*, 1989 B.Y.U. L. REV. 653, 656 (discussing growth into world agricultural trade).

16. *Id.*; *see also* Robert Hansen, Comment, *The General Agreement on Tariffs and Trade (GATT): Has Agriculture Doomed the Uruguay Round?*, 26 LAND & WATER L. REV. 761, 767 (1991) (noting that agricultural crisis began in 1970s).

17. *See generally* Kenneth S. Barrow & Matthew V. Parker, Comment, *U.S. Agriculture and the Omnibus Trade Bill: A Step in the Right Direction?*, 1989 B.Y.U. L. REV. 653, 655 (1989) (stating programs implemented by United States policymakers to stabilize markets).

18. *Id.*; *see also* Robert Hansen, Comment, *The General Agreement on Tariffs and Trade (GATT): Has Agriculture Doomed the Uruguay Round?*, 26 LAND & WATER L. REV. 761, 768 (1991) (listing types of policies implemented).

19. *See* North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can. (text revised Sept. 6, 1992) (evidencing current free trade policies); *see* Kenneth S. Barrow & Matthew V. Parker, Comment, *U.S. Agriculture and the Omnibus Trade Bill: A Step in the Right Direction?*, 1989 B.Y.U. L. REV. 653, 659 (noting congressional implementation of free trade policies).

20. 7 U.S.C. § 624 (Supp. 1992).

If the investigation reveals facts that reinforce the President's concern, the President may, by proclamation, impose fees and quantitative limitations on the imported articles. The fees are treated as duties imposed under the Tariff Act of 1930,[21] with specific tariffs being set forth in the Harmonized Tariff Schedule periodically published by the International Trade Commission.[22] The Trade Act of 1974[23] also authorizes the President to take any appropriate actions within the presidential powers—such as issuing an executive order—to make "positive adjustments" to decrease competition from imports, thereby preventing injury to domestic industries. These "adjustments" may include measures under Section 201—the Escape Clause—which allows the United States to "escape" from trade-liberalizing regimes.[24]

In general, while United States import tariffs are lower than their Mexican counterparts, they impose a significant barrier to increased exportation of Mexican goods to the United States.[25] The United States charges import tariffs ranging from .05 to 37.6% ad valorem for fruits and vegetables, 1.5% for livestock, 6% for meats, 3 to 20% for citrus, and 0 to 20% for dairy products. No tariffs are charged on grains or cotton.[26] The USDA Foreign Agriculture Service, Horticulture, and Tropical Products Division has reported tariffs of up to 37.6% on such items as Mexican-produced tomatoes, onions, chili and bell peppers, cucumbers, squash, lettuce, green beans, eggplant, and garlic. The Mexican SARH (*Secretaria de Agricultura y Recursos Hidraulicos*), the Mexican counterpart of the USDA, has also reported United States imposition of tariffs on carrots, turnips, artichokes, broccoli, asparagus, celery, spinach, melons, and frozen orange juice.[27]

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21. 19 U.S.C. § 1202 (Supp. 1992).

22. *Id.*

23. 19 U.S.C. §§ 2101-2487 (Supp. 1991).

24. 19 U.S.C. § 2253 (Supp. 1992); 19 U.S.C. § 2251 (Supp. 1992); *see also* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 446 (1990) (discussing various measures available to prevent economic injury).

25. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (discussing restrictions on export commodities).

26. B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 35 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

27. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 439-40 (1990) (listing products that have been subject to tariffs).

2. United States Non-Tariff Barriers

Non-tariff barriers, as mentioned above, are more difficult to identify than tariff barriers. Thus, it may be impossible ever to remove completely such barriers because the barriers range from the obvious to the extremely discreet. Since it would greatly expand the scope of this article to address each and every non-tariff trade barrier that has been erected, this article focuses on only those barriers treated expressly under the proposed NAFTA or which have the greatest effect on trade between the two countries.

a. Quotas

Quotas are quantitative restrictions that impose ceilings on the amount of a product that may be imported for a particular time period.[28] The Agricultural Adjustment Act[29] allows imposition of "quantitative limitations," as well as fees on imported goods if these goods are found to threaten certain United States agricultural policies. The Trade Act of 1974[30] also empowers the President to implement any appropriate measures to prevent injury to domestic industries. In addition, specific United States trade laws give authority to the President to impose quotas on certain items imported to the United States.[31]

Quantitative quotas affect the importation from Mexico of dairy products, peanuts, tobacco, meat, and sugar, among other products.[32] Mexico, however, produces only small quantities of most of these items; thus quota regulations have had less effect on Mexican exporta-

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28. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (explaining that United States President has authority to set quotas).

29. 7 U.S.C. § 624 (Supp. 1992).

30. 19 U.S.C. § 2253 (Supp. 1992).

31. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (discussing authority of United States President to set quotas).

32. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 36 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing quotas); FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8, 10 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (noting quotas placed on meats and sugar).

tion than have other non-tariff barriers.[33] Sugar quotas, however, have significantly affected the amount of sugar and sugar products exported to the United States by Mexico.[34]

b. Marketing Orders

Authority for the issuance of federal marketing orders exists under such legislation as the Agricultural Adjustment Acts of 1933 and 1938.[35] These orders allow Congress to require marketing of agricultural products to achieve orderly marketing through unified action.[36] Under the Agricultural Marketing Agreement Act of 1937,[37] imported produce must meet domestic standards of size, grade, quality, and maturity.[38] The primary United States marketing orders affecting Mexican trade relate to fruit and vegetable imports; Mexican tomatoes, onions, oranges, grapefruit, limes, and table grapes have all been subject to United States marketing standards.[39]

Marketing orders for fruits and vegetables are intended to improve producer returns through quality control, market flow, and volume management.[40] Because only selected horticultural products are sub-

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33. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 36 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (explaining that import quotas are authorized by Agricultural Adjustment Act of 1933).

34. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 442 (1990) (noting sugar quota's effect on limitation of sugar exportation).

35. 7 U.S.C. § 624 (Supp. 1992); 7 U.S.C. §§ 1281-1393 (Supp. 1992).

36. B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 37 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

37. 12 U.S.C. §§ 1141-1141j (1989).

38. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 440-41 (1990) (discussing federal laws placing standards on size, grade, and quality of both domestic and imported produce); B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 37 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing import tariffs on produce).

39. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 439-40 (1990) (listing products subject to United States standards).

40. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 37 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992)

ject to marketing orders,[41] Mexican producers have long argued that marketing orders are intended merely to protect domestic producers and, thus, discriminate against foreign producers.[42] United States producers, however, argue that the marketing orders are not discriminatory since the orders are not based on the source of the goods.[43]

c. Price Supports and Other Subsidies

United States agricultural trade law is replete with various price-support schemes and credit provisions for farmers and ranchers. Many price-support provisions are designed to benefit both United States producers and consumers. Similar subsidies authorized under the Agricultural Adjustment Act of 1933 also authorize production-control programs and the use of export subsidies.[44] These programs create artificial comparative advantages for United States products by stabilizing and maintaining low United States prices for agricultural goods, while allowing farmers to increase exports.[45] The United States government has enacted many other export programs, such as the Omnibus Competitiveness and Trade Act of 1988,[46] which protects export markets for specific United States products, and the Agricultural Trade Development and Assistance Act,[47] which encourages United States exports to developing countries. These policies serve to encourage higher levels of production and lower prices in the United States and importing markets, thereby promoting United States prod-

(on file with *St. Mary's Law Journal*) (discussing Agricultural Marketing Agreement Act of 1937).

41. *Id.*

42. *Id.*; *see also* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 437-38 (1990) (discussing relationship between Mexican producers and foreign markets).

43. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 35 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (noting Mexican argument that United States marketing orders restrict free flow of commodities).

44. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 12 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (discussing non-border measures affecting agricultural trade which pre-date GATT).

45. *See generally* Kenneth S. Barrow & Matthew V. Parker, Comment, *U.S. Agriculture and the Omnibus Trade Bill: A Step in the Right Direction?*, 1989 B.Y.U. L. REV. 653, 658 (characterizing subsidy programs as benefit to both farmers and consumers).

46. 7 U.S.C. § 5201 (Supp. 1992).

47. *Id.* §§ 1691-1736bb-6 (Supp. 1992).

ucts but inhibiting the development of local industries that can compete with cheaper United States imports.[48]

d. Antidumping and Countervailing Duty Laws

Antidumping duties are intended to halt unfair pricing practices by foreign exporters who charge a substantially lower price for a product that is exported than for the same product sold on the domestic market.[49] Countervailing duties, on the other hand, offset exporting countries' subsidies of certain goods.[50] The GATT allows imposition of antidumping or countervailing duties if there is evidence of a material injury to the importing country.[51] Charges of dumping, subsidy violations, and other unfair export-trade practices are addressed by the United States statutorily under the Escape Clause, and other antidumping and countervailing duty laws.[52] The Escape Clause is rarely used, but numerous applications for relief under United States antidumping and countervailing duty laws have been asserted, most of which have been denied.[53]

e. Sanitary and Phytosanitary Regulations

Sanitary and phytosanitary regulations are imposed upon imported goods ostensibly to protect public health and to control importation of plant diseases and pests.[54] Such measures include the Federal In-

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48. *See generally* Robert Hansen, Comment, *The General Agreement on Tariffs and Trade (GATT): Has Agriculture Doomed the Uruguay Round?*, 26 LAND & WATER L. REV. 761, 783 (1991) (analyzing United States export policies).

49. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 14 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (discussing Mexico's antidumping laws).

50. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 431-40 (1990) (discussing agricultural trade between United States and Mexico).

51. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 13 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (defining "material injury" as "harm which is not inconsequential, immaterial, or unimportant").

52. *Id.*; *see also* Agricultural Trade Developmental Assistance Act, 7 U.S.C. § 1691 (Supp. 1992) (providing rights and remedies for agricultural world trade).

53. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 446-47 (1990) (stating that escape clause not used to provide relief between Mexico and United States); FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 14-15 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (discussing qualitative barriers to trade).

54. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE

secticide, Fungicide, and Rodenticide Act,[55] which regulates pesticide use, and other regulations which govern meat products in order to control the spread of disease. Mexican swine, poultry, sheep, and goat meat are subject to bans.[56] Regulations relating to citrus canker, fruit fly, and white fly infestation also affect the importation of Mexican citrus and cotton products.[57] Avocadoes have been banned from the United States for many years because of alleged infestation by seed weevils.[58] Sanitary and phytosanitary regulation are the subject of intense negotiation not only under the NAFTA, but also under the GATT. Sensitivity to these regulations stems from the belief that such rules often are imposed not to protect human, plant, and animal health, but merely to restrict trade.[59]

f. Other Barriers

Other identified non-tariff barriers that the United States imposes include (1) the Generalized System of Preferences, which allows certain imports to enter the United States duty-free;[60] (2) voluntary restraint agreements, which provide voluntary restraints on the amount of exports in a given period;[61] (3) administrative procedures such as documentation of goods, rules of origin, customs procedures, and valuation;[62] and (4) transportation problems related to regulations

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AGREEMENT 37 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing sanitary and phytosanitary regulations).

55. 7 U.S.C. §§ 136-136y (Supp. 1992); *see also* the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301-92 (Supp. 1992) (setting regulations for interstate commerce affecting public health and safety).

56. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 442 (1990) (discussing health reasons for banning Mexican meat products).

57. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 37 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing measures relating to health and sanitary problems); Susan Lowery, *Tierra y Libertad: Mexican Agriculture Goes into Business*, TWIN PLANT NEWS, Oct. 1992, at 34-39 (discussing changes in Mexican Constitution).

58. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 15 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (noting that citrus fruits have also been banned owing to citrus canker and fruit flies).

59. *Id.*

60. FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*).

61. *Id.*; 7 U.S.C. § 1301 (1988).

62. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES

promulgated by the Interstate Commerce Commission or its state-level counterpart.[63] All these barriers make it more difficult for the Mexican exporter to deliver and sell his or her agricultural product in the United States.

III. MEXICAN BARRIERS TO TRADE

From the late 1940s to the early 1980s, Mexico followed an economic-development strategy of import substitution. High tariffs, as well as non-tariff import permits, quotas, and licenses, were used to protect Mexican industries from import competition.[64] The policies initially resulted in a tremendous growth in Mexican agricultural industries. The Mexican economy became reliant upon agricultural export earnings, particularly those revenues generated by the exportation of fruits and vegetables to the United States.[65] Although the exportation of fruits and vegetables provided much-needed foreign exchange for Mexico, Mexico's agricultural policies resulted in insufficient supplies of such basic foodstuffs as corn, sorghum, and wheat, which are imported primarily from the United States.[66] Mexico also has been unable to achieve self-sufficiency in livestock and dairy pro-

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FOR AGRICULTURE 17 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (describing administrative barriers as "invisible tariffs").

63. *See* 49 U.S.C. § 10530 (1992) (requiring foreign carriers to acquire certificates of registration); 49 U.S.C. § 10922 (1992) (requiring water carriers to acquire certificates of registration); 49 U.S.C. § 10923 (1992) (requiring permits for persons who provide transportation); James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.S. DAVIS L. REV. 431, 446 (1990) (noting many methods used to prevent economic harm).

64. James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.S. DAVIS L. REV. 431, 436 (1990); *see also* Ewell E. Murphy, *The Echeverrian Wall: Two Perspectives on Foreign Investment and Licensing in Mexico*, 17 TEX. INT'L L.J. 135, 144-45 (1982) (noting that Mexico registers deficits in imports over exports every year).

65. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431-32 (1990) (stating that Mexico exports over half of fruits and vegetables that Americans consume); B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 6 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (commenting on Mexican reliance on produce exports).

66. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 432-33 (1990) (noting that Mexico relies on imports to feed locally-consumed livestock); B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 4 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (stating that Mexico relies on imports for local livestock feed).

duction.[67] Though nearly 30% of the Mexican workforce is involved in agriculture,[68] Mexican agricultural policies have not improved productivity and have even resulted in declining per capita real agricultural production.[69]

Throughout the 1960s and early 1980s, Mexico attempted to achieve self-sufficiency through a variety of methods, but most comprehensively by providing subsidies to producers of basic commodities. These policies were extremely expensive and ineffective. Coupled with entrenched programs like the *ejido* land-tenure system[70] and with poor weather conditions, the Mexican policies led to an agricultural crisis requiring the importation of more agricultural products in 1988 than any other year.[71] The 1980s also brought an external debt crisis. This debt crisis encouraged Mexico to revise its protectionist policies and accede to the GATT in order to improve Mexico's global competitiveness.

Current Mexican President, Carlos Salinas de Gortari, played a major role, both in his present position and as a former advisor to President de la Madrid, in moving Mexico toward more liberal trade policies.[72] These policies include economic reforms based on opening markets, lower subsidies, partial privatization, lower inflation, and debt reduction.[73] One of the prime initiatives of the Mexican government was to accede to the GATT in 1986, and Mexico immediately demonstrated its commitment to opening markets by surpassing the GATT requirements related to tariff barriers.[74] Trade liberalization

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67. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 6 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (stating that Mexico is least self-sufficient in livestock and dairy sector).

68. *Id.* at 2.

69. *Id.*

70. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 17-19 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing *ejido* system of land tenure).

71. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 434 (1990) (discussing Mexico's 1988 agricultural season).

72. *See id.* at 435-39 (discussing Mexico's trade policies during 1980s).

73. GARY W. WILLIAMS & C. PARR ROSSON III, THE U.S.-MEXICO FREE TRADE AGREEMENT: ISSUES AND IMPLICATIONS FOR U.S. AND TEXAS AGRICULTURE 2 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-1-91, 1991) (on file with *St. Mary's Law Journal*).

74. *See* Richard D. English, *The Mexican Accession to the General Agreement on Tariffs*

resulted in an upsurge of trade between the United States and Mexico. Consequently, the United States began serving as Mexico's prime export market, and Mexico became the third largest importer of United States-produced agricultural products.[75] Even with this progress, however, Mexico retained many of its traditional barriers to trade.

A. *Mexican Tariff Barriers*

Prior to joining the GATT, Mexico charged tariffs as high as 100% on some agricultural imports. As a condition to membership under the GATT, Mexico agreed to lower maximum ad valorem tariff barriers to 50%.[76] Mexico exceeded this target, however, lowering tariffs from 0 to 20% of the C.I.F. value of imported goods,[77] and imposed tariffs in increments of 5%.[78]

The trade-weighted average tariff is now about 10%,[79] with tariff levels for cotton ranging from 10 to 15%, for grains, from 0 to 10%; for livestock and meat, from 0 to 25%; for citrus, 20%; and for dairy products, from 0 to 20%.[80] Duties vary because Mexican customs law—*ley aduanera*—allows reductions of duties for certain products

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and Trade, 23 TEX. INT'L L.J. 339, 366-91 (1988) (discussing Mexico's accession to GATT); James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 435 (1990) (discussing Mexico's accession to GATT).

75. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 19 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (reporting Mexico behind only Japan and Canada in importation of foreign products).

76. FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*); B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 35 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

77. *See* U.S. DEP'T OF COM., BASIC GUIDE TO EXPORTING 44 (1986) (stating that C.I.F. represents "cost, insurance and freight," a pricing term indicating that goods, insurance, and freight are included in quoted price).

78. *Mexico: Import and Exchange Controls*, INT'L TRADE REP., EXPORT SHIPPING MANUAL 113:26 (BNA 1992).

79. FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*).

80. B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 36 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

under certain circumstances and with frequent variations.[81]

B. *Mexican Non-Tariff Barriers*

1. Import Licenses and Permits

Mexico's primary method for enforcing quotas and controlling imports has been through use of import licensing.[82] This non-tariff barrier was a major point of negotiation between the United States and Mexico during the NAFTA discussions because licensing, more than tariffs, restricts trade on a more subjective basis.[83] In 1990, primarily by converting import licensing to tariffs, Mexico greatly reduced the number of licensed items to approximately 20 to 25% of imported value.[84] Notwithstanding the reduction of this critical trade barrier in 1990, 42% of United States farm products imported into Mexico were subject to licensing requirements.[85] Obtaining licenses for importation currently remains a major barrier for United States exporters.

Mexican import licenses are issued by the Secretariat of Commerce and Industrial Promotion (SECOFI) based upon guidelines established by committees composed of government officials and private-sector representatives of various commodity groups.[86] These licenses

81. *See Mexico: Import and Exchange Controls*, INT'L TRADE REP., EXPORT SHIPPING MANUAL 113:26 (BNA 1992) (noting frequent changes in duty reductions and restrictions). The Mexican government can also readily increase tariffs as demonstrated in November 1992 by the Mexican government's imposition of import tariffs on live cattle of 15%; on fresh or half-beef carcasses, fresh chilled beef imports, fresh bone-in-beef cuts, and boneless beef of 20%; and on frozen beef products and carcasses of 25%. Diana Sultenfuss, *Cattle Raisers Blast Mexico over Tariffs*, SAN ANTONIO LIGHT, Nov. 12, 1992, at B7. The Mexican government claimed it imposed the tariffs because of a dramatic increase in beef imports to Mexico and the internal weakness of the price for domestically-raised cattle and their byproducts. *Id.*

82. FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 10 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*); B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 37 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

83. James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 436 (1990).

84. *Id.*; *Mexico: Import and Exchange Controls*, INT'L TRADE REP., EXPORT SHIPPING MANUAL 113:28 (BNA 1992).

85. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 38 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing import controls and licensing requirements).

86. *Id.*

are usually effective for only a short period of time, and are based on the applicant's import needs over a projected period.[87] New licenses are issued if the importer can demonstrate that the majority of issued licenses have been used. Depending upon past performance, the licenses may be renewed repeatedly.[88] Mexico has used licensing to control the importation of such items as dry beans, potatoes, apples, grapes, poultry, tobacco, and products created out of these commodities, as well as grain and oilseed exports from the United States to Mexico.[89] However, in order to comply with the GATT, Mexico must eventually eliminate or justify remaining import-licensing requirements.[90]

2. Governmental Support Programs and Subsidies

Mexican agricultural policy has long sought self-sufficiency in important food crops and to improve the standard of living of the rural population.[91] Price-support programs, input subsidies, more accessible production credit, and investment in agricultural technology and infrastructure have been just some of the methods used by the Mexican government to improve agricultural production.

The most comprehensive effort, introduced in 1980, was the *Sistema Alimentario Mexicano* (SAM)—the Mexican Food System—which originated under the Lopez Portillo administration. The SAM was developed to provide a wide array of subsidies to agricultural producers, increase production of basic foodstuffs, and decrease depen-

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87. *See Mexico: Import and Exchange Controls*, INT'L TRADE REP., EXPORT SHIPPING MANUAL 113:28 (BNA 1992) (listing categories of goods requiring import licenses such as automobiles, agricultural products, and pharmaceutical products).

88. *Id.*

89. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 10 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (noting licensing as primary means utilized to enforce quotas on imported products).

90. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 38 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (noting that for compliance with GATT, Mexican import licensing requirements must be eliminated).

91. B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 41 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

dence on foreign imports.[92] The Mexican government implemented the SAM by establishing higher guaranteed prices, increased production credit, preferential interest rates for farm loans, lower crop insurance premiums, and subsidies on fertilizer purchases and seed. Mexico's financial difficulties in the 1980s, including its debt-burden and inflation, have reduced the role of the SAM.[93]

The de la Madrid administration instituted another government support program called the National Food Program (PRONAL). The goal of the PRONAL was to increase productivity in the food-processing industry and to improve the nutrition of the population. More recently, the Economic Stability and Growth Pact (PECE) sought to reduce inflation in cooperation with labor and private-sector interests.[94]

The National Company for Popular Subsistence (CONASUPO) regulates the market for basic foods, controls agricultural imports, and operates the guaranteed price-support program under which producers may either sell their crops to CONASUPO or on the open market.[95] Primarily through licensing requirements, CONASUPO regulates imports of such key commodities as wheat, corn, and beans by restricting importation until all domestically-produced commodities have been sold.[96]

As Mexico moved toward trade liberalization in recent years, CONASUPO dropped price guarantees, except for crops of strategic importance. Because of the implementation of an agreed pricing structure, CONASUPO now no longer purchases basic commodities to support prices. The end users participating in the agreed-pricing scheme must purchase all domestically-produced key commodities before importation is permitted. This arrangement has reduced the

92. *Id.* at 39; *see also* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 433 (1990) (discussing Mexico's efforts to remedy lack of self-sufficiency).

93. *See* James F. Smith, *United States-Mexico Agricultural Trade*, 23 U.C. DAVIS L. REV. 431, 433 (1990) (stating that SAM was too expensive to maintain during Mexico's economic crisis).

94. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 40 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (stating that Mexico's general economic-policy goal is to reduce inflation).

95. *Id.* at 41.

96. *Id.*

role of CONASUPO to one more like that of an organization for the marketing and distributing food.

Other major Mexican export subsidies include (1) preferential pre-export and export financing under the Fund for the Promotion of Exports of Mexican Manufactured Products (FOMEX), (2) tax rebates under the system of Rebate Certificates for Indirect Taxes (CEDI), (3) tax credits and exemptions under the Certificates for Fiscal Promotion (CEPROFI), and (4) preferential pricing of energy.[97]

Like the downsizing of the CONASUPO's role, most subsidy programs are now being terminated or diminished to conform more closely with the current trend of trade liberalization. Input guarantees in the forms of fertilizer, water, electricity, and seed, which have been the subject of United States complaints because of the difficulty in quantifying their effect, are being replaced with final product subsidies.[98] Mexico has established the Support and Services to Agricultural Marketing Organization (ASERCA) to phase out the intervention of CONASUPO, to administer a system of deficiency payments to producers, to issue any remaining production subsidies, and to provide assistance in moving supplies to market.[99] Privatization of many formerly heavily regulated areas under Article 27 of the Mexican Constitution—including permitting owners of *ejidos* to sell or rent their properties and to form business organizations—is still in its infancy. However, this privatization effort demonstrates Mexico's commitment to reform its agricultural system and to stay in step with worldwide trends.[100]

3. Customs and Documentary Requirements

Mexican customs officials place a tremendous emphasis on the ac-

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97. *See* FRED O. BOADU, THE U.S.-MEXICO FREE TRADE AGREEMENT: LEGAL ISSUES FOR AGRICULTURE 13 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-9-91, 1991) (on file with *St. Mary's Law Journal*) (discussing Mexican export subsidies).

98. *See U.S. FDA Approved Pesticides Banned for Mexico*, EL FINANCIERO INT'L, Aug. 17, 1992, at 4 (discussing white fly infestation in both American and Mexican crops).

99. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 43 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (describing ASERCA as general plan for administering movement of supply to market).

100. *See* Susan Lowery, *Tierra y Libertad: Mexican Agriculture Goes into Business*, TWIN PLANT NEWS, Oct. 1992 at 34-39 (discussing amendments to Article 27 of Mexican Constitution).

curacy and completeness of shipping documents. Complicated, lengthy, and cumbersome customs-clearance procedures at border crossings often add to the expense of transporting goods from the United States to Mexico.[101] Among other requirements, customs officials require (1) commercial invoices; (2) certificates of origin for some products; (3) special sanitary certificates for certain live-animal imports and animal products, which must be legalized at the nearest Mexican consulate; (4) certain phytosanitary certificates for seed, plants, and other plant materials, issued by the Mexican consulate as a federal documents; (5) a free-sale certificate if necessary; and (6) preshipment inspection for some goods.[102] Exporters must register packaged goods with the Secretariat of State for Health and Welfare to comply with Mexican food-safety laws, and must meet purity standards by providing a chemical analysis of certain products to Mexican customs officials. Exporters must also comply with labelling requirements before certain packaged products can be accepted into Mexico.[103]

4. Land Transportation and Infrastructure

Mexico's land transportation system and infrastructure are inadequate to handle the increasing trade volume and pose a significant barrier to importation and distribution of United States products.[104] The Mexican rail system is outdated, storage capacity for goods is limited, and roads are in disrepair.[105] Motor transportation into Mex-

101. Susan Lowery, *Tierra y Libertad: Mexican Agriculture Goes into Business*, TWIN PLANT NEWS, Oct. 1992 at 34-39; *see also* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (discussing border economics).

102. *Mexico: Import and Exchange Controls*, INT'L TRADE REP., EXPORT SHIPPING MANUAL 113:25-28 (BNA 1992).

103. *See id.* at 25 (stating that samples of products must be labeled as such).

104. *See* B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 38 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*) (noting that Mexican transportation system highly-regulated and most transportation contracts held by few companies); GARY W. WILLIAMS & C. PARR ROSSON III, THE U.S.-MEXICO FREE TRADE AGREEMENT: ISSUES AND IMPLICATIONS FOR U.S. AND TEXAS AGRICULTURE 8 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-1-91, 1991) (on file with *St. Mary's Law Journal*) (stating that Mexican rail system outdated).

105. *See* GARY W. WILLIAMS & C. PARR ROSSON III, THE U.S.-MEXICO FREE TRADE AGREEMENT: ISSUES AND IMPLICATIONS FOR U.S. AND TEXAS AGRICULTURE 8 (Tex.

ico is highly regulated and is controlled by a few firms, and access to United States motor-transport operators is denied.[106] Mexican transporters experience tremendous delays in loading and unloading food products, a problem that would obviously affect the importation of agricultural goods, particularly perishable commodities.[107]

IV. Towards Freer Trade: The NAFTA Agricultural Provisions

Mexico has made bold moves toward privatizing its agricultural industries and amending its protectionist policies, not only under the GATT, but unilaterally. These moves demonstrate a commitment to freer trade. The United States has also shown a willingness to make concessions to expand export markets by reducing its own barriers. Though trade policies between the two countries have already been greatly liberalized in the past few years, the NAFTA and its provisions relating to agriculture expand upon and memorialize the commitment of the two countries to capitalize on each other's agricultural strengths and provide quality, low cost commodities in each country.

Unlike most of the NAFTA's provisions, which reflect commitments among all three parties, the agricultural portion of the agreement is really two agreements in one. Chapter 7 of the NAFTA includes two bilateral agreements on market access; one governs trade between the United States and Mexico, the other trade between Mexico and Canada. The 1989 United States-Canada Free Trade Agreement (CFTA) is incorporated by reference to govern United States-Canadian agricultural trade. Under the United States-Mexico component of the agricultural provisions, Mexican licensing requirements and United States import quotas are subject to "tariffication" and a system of tariff-rate quotas (TRQ) within which products will trade duty-free. The relevant TRQ will then be phased out at established periods ranging up to ten or fifteen years.

Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-1-91, 1991) (on file with *St. Mary's Law Journal*) (discussing Mexican rail system).

106. B. Kris Schulthies & Gary W. Williams, U.S.-Mexico Agricultural Trade and Mexican Agriculture: Linkages and Prospects Under a Free Trade Agreement 38-39 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

107. *Id.* at 39.

A. *Non-Tariff Barriers*

1. Mexican Import Licensing

Under the NAFTA, Mexico's import-licensing system—often cited as the single most significant barrier to United States agricultural exports—will be eliminated; the quid pro quo will be the TRQ system, which will in turn be phased out over product-specific transition periods.

Generally, the relevant TRQ will be based on average annual 1989-91 trade volume, with quota increases growing at a compounded 3% annual rate. The United States and Mexico have also agreed to conduct ongoing discussions concerning possible increases in quota rates, as well as faster phase-out periods in specific product areas.[108]

2. United States Import Quotas

Like Mexico's import-licensing system, United States negotiators have agreed to convert the various import quotas authorized under Section 22 of the Agricultural Adjustment Act to a TRQ system.

3. Rules of Origin

With the proposed, detailed rules of origin pertaining to agricultural products,[109] the United States negotiators clearly intended to prevent Mexico from emerging solely as an export platform for products benefiting from subsidized third-country materials or commodities. Bulk agricultural commodities and certain highly sensitive processed products, such as orange juice and cheese, will be exempt from the de minimis provision. This provision will permit NAFTA final products to be comprised of up to 7% non-NAFTA product. Appendix A[110] includes a comprehensive review of the proposed

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108. *See* North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 7, Annex 704.2 app. A (text revised Sept. 6, 1992) (setting forth requirements for tariffs, restrictions, and GATT market access). *See generally* NAFTA Tariff Schedules (setting forth tariff limits).

109. North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 4, Annex 401.1 (text revised Sept. 6, 1992).

110. Appendix A is compiled from the NAFTA Tariff Schedule and the *NAFTA Agricultural Fact Sheets: Commodities*. NAFTA Tariff Schedule (on file with *St. Mary's Law Journal*); U.S. DEP'T AGRIC., NAFTA AGRICULTURAL FACT SHEETS: COMMODITIES (1992) (on file with *St. Mary's Law Journal*). The authors gratefully acknowledge the assistance of Mr. Roger A. Wentzel, Leader, Inter-America Team, International Trade Policy, Foreign Agricultural Service, for his assistance in providing these relevant materials.

rules, where applicable.

4. Grading and Quality Standards

The principle of national treatment will be adopted under the proposed NAFTA with respect to classification, grading, or marketing of domestic products destined for processing.[111] Thus, the United States and Mexico will be obligated to provide no less favorable treatment to similar United States and Mexican products imported for processing.

5. Sanitary and Phytosanitary Measures

The agricultural provisions of the NAFTA seek to impose scientific discipline on the development and enforcement of sanitary and phytosanitary measures protecting human, animal, and plant life or health.[112] The ultimate goal of these measures is to prevent the use of disguised non-tariff measures designed, in reality, to protect specific products. These provisions of the NAFTA require that all sanitary and phytosanitary measures be firmly based on scientific study, but also explicitly encourage the adoption of international and regional standards. Most important, however, the proposed measures expressly recognize the right of both Mexico and the United States to determine the actual level of protection necessary to insure and protect human, animal, and plant life or health.

6. Export Subsidies

The NAFTA includes what at best can be termed an "agreement to agree" ultimately to eliminate export subsidies in the North American market.[113] At the same time, the export subsidy provisions of the NAFTA permit the United States and Canada to establish subsidies for products exported to the Mexican market when these products are competing directly against subsidized exports from third-country parties.

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111. North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 7, Annex 704.3 (text revised Sept. 6, 1992). Under the investment provisions of the NAFTA, "national treatment" is treatment no less favorable than that accorded domestic investors with respect to the establishment, acquisition, expansion, management, conduct, operation, sale, or other disposition of investments. NAFTA ch. 11, subch. A, art. 1102.

112. North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 11 subch. B (text revised Sept. 6, 1992).

113. North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 11, art. 706 (text revised Sept. 6, 1992).

In a similar fashion, the United States, Mexico, and Canada have "agreed to agree" on a gradual elimination of domestic support programs that distort trade. The parties also agreed to eventually eliminate programs that are exempt from domestic-support-reduction commitments under the GATT.

B. *Tariff Barriers*

Resulting TRQs, or other remaining tariffs on agricultural products traded between the United States and Mexico, will be phased out immediately or over five-, ten-, or fifteen-year periods.[114]

In order to set out more completely the TRQs and other tariff-related provisions, as well as the relevant phase-out periods on important product areas, Appendix A provides a comprehensive review of product-specific treatment that should be useful to the agricultural sector.[115]

C. *Agricultural Safeguard Measures*

The key safeguard to domestic production in Canada, the United States, and Mexico will be the TRQ. Again, the TRQ will permit a certain amount of duty-free trade or preferential NAFTA tariffs. The amount of trade that exceeds specific TRQs will be assessed at various levels, typically based upon the most-favored-nation ("MFN") tariff that is in place when the NAFTA takes effect. The TRQ will generally reflect annual import volume for the 1989-91 period, with annual increases of 3% compounded annually. Appendix A outlines the relevant TRQ in each specified product area.

Special seasonal safeguards will apply to seven United States products and seventeen Mexican products.[116] Additionally, special provisions for sugar will provide an initial six-year export allocation, with the possibility of increasing Mexico's export capacity in the event

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114. *See generally* North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 7 (text revised Sept. 6, 1992) (discussing phase-out plan). The only exception to this general rule appears to be beer; tariffs on trade in beer will be phased out over an eight-year period. *Id.*

115. *See* Appendix A *infra* (providing review of product-specific treatment under the NAFTA).

116. North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 7, Annex 704.4 (text revised Sept. 6, 1992).

Mexico qualifies as a net exporter.[117]

D. *Implementing Institutions*

The NAFTA requires the parties to the agreement to establish a joint Committee on Agricultural Trade to monitor the implementation and administration of the NAFTA's agricultural provisions and to promote cooperation among the parties. The Committee will provide a forum for semi-annual consultations. The Committee on Agricultural Trade will also be charged with developing and implementing a system for resolving private commercial disputes that arise in connection with agricultural transactions.

E. *Summary and Related Areas*

Although not a panacea, the NAFTA proposes a sharp reduction in and eventual elimination of tariff barriers, and confirms previous commitments to reduce further the remaining non-tariff barriers. The related NAFTA provisions in areas of investment,[118] transportation,[119] and intellectual property,[120] while not eliminating impediments to freer trade, will set in motion a gradual, further integration of the agricultural economies of the United States and Mexico. It remains to be seen, of course, which sectors within the United States and Mexico will benefit most from this evolution.

V. WINNERS OR LOSERS?

In the United States, who might win or lose under the NAFTA agricultural-trade provisions is clearly an open issue. With the publication of the NAFTA in September 1992, the debate on the relative benefits and burdens of the agriculture provisions truly began in earnest. As this public discussion continues in the United States, more definitive assessments of the NAFTA's impact will be possible. Pres-

117. *See* NAFTA, ch. 7, Annex 704.2, app. B (discussing sugar trade); NAFTA, ch. 7, Schedule 704.2(I)(B)(3) (setting forth regulations for net production surplus determination).

118. *See* North American Free Trade Agreement [NAFTA], Aug. 12, 1992, U.S.-Mex.-Can., ch. 11 (text revised Sept. 6, 1992) (regulating investments between United States and Mexico). NAFTA, Annex I, Schedule of Mexico, at pp. I-M-6, 10 (discussing regulations concerning Mexican investments).

119. *See* NAFTA, Annex I, Schedule of Mexico, at I-M-84 (setting forth regulations for Mexican land transportation); NAFTA, Schedule of the United States, at I-U-21 (regulating United States land transportation).

120. NAFTA, ch. 17, art. 1709.

ently, however, some tentative conclusions can be offered based primarily upon the comments of public- and private-sector representatives within the United States, such as the reports of the Agricultural Policy Advisory Committee (APAC) and the Agricultural Technical Advisory Committees for Trade (ATACs).[121] These reports reflect private-sector comment submitted to the United States Trade Representative, the President, and Congress, pursuant to Section 135(e) of the Trade Act of 1974.[122]

Both the APAC and ATACs have offered tentative evaluations of the NAFTA agricultural provisions in the context of four primary objectives sought under the NAFTA framework. The four objectives are: (1) the reduction of barriers in areas offering export opportunities; (2) the construction of sufficient transition buffers, safeguards, and rules-of-origin provisions where market sensitivities exist; (3) the provision of equivalent labor, environmental and sanitary, and phytosanitary rules and regulations; and (4) the enforcement of any agreement through a strong dispute-settlement process.[123]

APAC concluded that in the aggregate commodity context, the NAFTA meets the essential criteria and objectives outlined above; however, when each and every commodity area is reviewed in a separate context, this assessment becomes decidedly mixed.[124]

The livestock, poultry, and egg industries have expressed general support for the agricultural provisions. The industries, however, remain concerned that food safety and inspection regulations and potential enforcement problems relating to sanitary and health standards applied by Mexico will become non-tariff barriers.[125]

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121. *See generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*); U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*).

122. 19 U.S.C. § 2155(e) (Supp. 1992).

123. U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 2 (1992) (on file with *St. Mary's Law Journal*).

124. *Id.*; *see generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*).

125. U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 11 (1992) (on file with *St. Mary's Law Journal*); *see generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE

Although generally supportive of the export opportunities made available under the NAFTA, the dairy industry has been sharply opposed to the erosion of Section 22 import quotas. The industry has expressed concern that the concession in this area favoring Mexico might be construed as effecting some precedent in the ongoing GATT negotiations. Here again, the dairy industry has expressed great concern over the effective enforcement of rules of origin as quotas increase and tariffs decrease.[126]

The reaction of the horticultural products industry to the agricultural-trade provisions has been the most sharply mixed. Most sectors have welcomed the perceived greater access to the Mexican market, but the citrus sector has been particularly concerned about the proposed reduction in tariff rates under the relevant TRQ and will likely persist in its requests to lengthen the transition period.[127] This mixed view of the impact upon the horticultural industry reflects the conventional wisdom that Mexico currently has a competitive advantage in the more labor-intensive agricultural product areas, particularly the horticultural and citrus sectors.[128]

Unlike the horticultural products industry, the grains industry has predominantly supported the NAFTA. This support perhaps reflects the minimal exportation of Mexican grain to the United States.[129]

TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*) (providing *Report of the Agricultural Technical Advisory Committee for Trade in Livestock and Livestock Products & Report of the Agricultural Technical Advisory Committee for Poultry and Eggs* regarding poultry industry's view of NAFTA).

126. *See* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 12 (1992) (on file with *St. Mary's Law Journal*) (commenting that parties to NAFTA hoped to bring expansion to markets). *See generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*) (providing *Report to the President by the Agricultural Technical Advisory Committee for Trade in Dairy Products* regarding dairy industry's view of NAFTA).

127. *See* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 16 (1992) (on file with *St. Mary's Law Journal*) (stating that fruit and vegetable industry might experience adjustment problems).

128. B. KRIS SCHULTHIES & GARY W. WILLIAMS, U.S.-MEXICO AGRICULTURAL TRADE AND MEXICAN AGRICULTURE: LINKAGES AND PROSPECTS UNDER A FREE TRADE AGREEMENT 49, 55-56 (Tex. Agric. Market Res. Center, Int'l Market Res. Rep. No. IM-6-92, 1992) (on file with *St. Mary's Law Journal*).

129. *See* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 17 (1992) (on file with *St. Mary's Law Journal*) (reporting that grain industry strongly supported NAFTA

The grains and feeds industry has also been particularly pleased with the market-access provisions of the NAFTA which will eliminate Mexico's import licensing system.[130] With the exception of the peanut industry, the oilseeds industry has also offered generally positive assessments of the NAFTA, although it harbors concern for the enforceability of rules of origin, the reciprocity of tariff reductions, and the implementation of a dispute settlement procedure.[131]

In sharp contrast to most other industry sectors, the sugar and cotton industries have voiced initial, strong opposition to the NAFTA's agricultural trade provisions. Producers in the sugar industry have objected vehemently to the market access provisions and the elimination of Section 22 import quotas with respect to Mexico, although the producers' counterparts among industrial consumers are supportive of the agreement.[132] Similar concerns have been voiced by the cotton industry, together with the general lament that the rules of origin relating to the textile trade are based upon a "yarn forward," not "fiber forward," rule.[133] Importantly, however, cotton industry reaction has been split among producers and merchants, with the latter expressing

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agreement). For the years 1989-91, the USDA has recorded no imports from Mexico of sorghum, wheat, or rice and only de minimus imports of soybeans and soybean products. *See generally* U.S. DEP'T OF AGRIC., NAFTA AGRICULTURAL FACT SHEETS: COMMODITIES (1992) (on file with *St. Mary's Law Journal*).

130. *See generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*) (providing *Report of the Agricultural Technical Advisory Committee for Trade in Grain and Feed* which states that NAFTA will provide expanded markets).

131. *See* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 18 (1992) (on file with *St. Mary's Law Journal*) (noting that oilseed representatives believe that NAFTA will increase exports). *See generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*) (providing *Report of the Agricultural Technical Advisory Committee on Oilseeds and Products & Comments on Peanut Provisions* which express approval of NAFTA by oilseed representatives).

132. *See* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 20 (1992) (on file with *St. Mary's Law Journal*) (reporting objections to NAFTA by sugar producer representatives). *See generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*) (providing *Report of the Agricultural Technical Advisory Committee for Trade in Sweeteners* containing statement of nonsupport).

133. *See* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL POLICY ADVISORY COMMITTEE REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT 21 (1992) (on

conditional support based upon the maintenance of existing export-marketing loan programs offered by the United States.[134]

Finally, processed-foods industry representatives have also expressed conditional support of the agreement.[135] Areas of concern for these industries vary with the specific food product, but involve (1) erosion of Section 22 quotas, (2) enforceability of the proposed rules of origin—and criticism that the rules function solely on the basis of tariff classification rather than a value-added analysis—and (3) loss of competitive advantage for the horticultural sector.[136]

VI. CONCLUSION

The initial mixed reaction of the agricultural industry to the NAFTA signals that a bumpy road lies ahead for final ratification of the agreement. Because the NAFTA leaves so many important agricultural trade issues unresolved, debate will ensue on various forms of implementing legislation proposed to deal with related, important issues not expressly covered by the agreement. For example, United States House Agriculture Committee Chairman Kika de la Garza recently proposed a five-point program dealing with key food, safety and environmental issues.[137] Under these proposals, the NAFTA's implementing institutions would include a bi-national pesticide committee, designed to develop harmonized rules for pesticide use and dispute resolution. Similarly, a United States-Mexico Environmental Board would be formed, border environmental cleanup funding would be increased, and added incentives for cleanup projects within Mexico would be created through the use of debt-for-the-environment

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file with *St. Mary's Law Journal*) (expressing concern by cotton-industry representative about any erosion in Section 22 authorities under NAFTA).

134. *See generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*) (providing *Report by the Advisory Committee for Trade in Cotton & Alternative Report by the Merchant Members of the Agricultural Technical Advisory Committee for Trade in Cotton* expressing reservations regarding benefit of NAFTA).

135. *See generally* U.S. DEP'T OF AGRIC., REPORT OF THE AGRICULTURAL TECHNICAL ADVISORY COMMITTEES REGARDING THE NORTH AMERICAN FREE TRADE AGREEMENT (1992) (on file with *St. Mary's Law Journal*) (providing *Report of the Agricultural Technical Advisory Committee for Trade in Processed Foods* expressing belief that there will be both winners and losers under NAFTA).

136. *Id.* (discussing areas of concern within processed-food industry).

137. *See Five-Point Plan*, TWIN PLANT NEWS, Sept. 1992, at 50 (outlining Representative de la Garza's plan concerning Mexican food safety and environmental issues).

swap arrangements.[138] Other separate proposals to deal with food safety and environmental- and infrastructure-development issues are also proliferating,[139] underlining the simple fact that the NAFTA will in no way resolve all non-tariff trade barrier issues between the United States and Mexico. Furthermore, many of these issues, particularly those relating to the reduction of trade subsidies, probably cannot be resolved in a bilateral context, but must await progress in the GATT negotiations. Still, the NAFTA represents a positive, substantial step forward in the continuing evolution of United States-Mexico trade relations, and represents a basis for the development of a new and lasting partnership.

138. *Id.*

139. *See* Katie Hickox, *Amending the Text*, TWIN PLANT NEWS, Sept. 1992, at 52 (citing legislation expressing views on NAFTA).

APPENDIX

UNITED STATES-MEXICAN AGRICULTURAL TRADE UNDER THE NORTH AMERICAN FREE TRADE AGREEMENT COMMODITY REFERENCE GUIDE

COMMODITY REFERENCE GUIDE

TAB A *GRAINS/OILSEEDS:*
- CORN
- GRAIN SORGHUM
- WHEAT
- BARLEY/MALT
- RICE
- SOYBEANS AND PRODUCTS
- DRY BEANS

TAB B *FRUITS/NUTS/VEGETABLES:*
- DRIED FRUITS AND NUTS
- FRESH GRAPES
- FRESH DECIDUOUS AND STONE FRUITS
- FRESH POTATOES
- FRESH TOMATOES
- FRESH CUCUMBERS
- DRY/FRESH ONIONS
- FRESH EGGPLANT
- FRESH SQUASH
- FRESH PEPPERS
- FRESH ASPARAGUS
- FRESH BROCCOLI
- FRESH CAULIFLOWER
- FRESH MELONS
- FRESH CITRUS
- ORANGE JUICE
- PROCESSED VEGETABLES

TAB C *LIVESTOCK/DAIRY/POULTRY:*
- CATTLE AND BEEF
- SWINE AND PORK
- POULTRY
- EGGS
- MILK POWDER
- CHEESE

TAB D *OTHER SELECTED COMMODITIES*
- COTTON
- SUGAR

TAB A
GRAINS/OILSEEDS

CORN

TARIFFS:

The United States will immediately eliminate the 0.2 cents per kilogram tariff on corn imported from Mexico.

NON-TARIFF BARRIERS:

Mexico will convert its corn import-licensing regime for the United States and Canada to a transitional TRQ that will be phased out over fifteen years.

This transitional TRQ means the United States will have duty-free access to the Mexican market for 2.5 million metric tons of corn, with 3% annual compounded growth rate over the 15-year transition period.

However, anything over that 2.5 million will be subject to an initial tariff equaling $206 per metric ton, but not less than 215%. An aggregate 24% of this over-quota tariff will be eliminated in the first 6 years and the remainder phased out over the next 9 years.

The NAFTA will also establish separate TRQs for imports of corn to Mexico from Canada. Similarly, Canada will gain duty-free access to Mexico. This TRQ duty-free access, however, is limited to 1,000 metric tons of corn. The annual TRQ growth rates, the initial level of the over-quota tariff, and the over-quota tariff phase-out design are similar to that for United States.

GRAIN SORGHUM

TARIFFS

United States Import Tariffs:

The United States will immediately eliminate the 0.88 cents per kilogram tariff on grain sorghum imports from Mexico.

Mexican Import Tariffs:

The 15% seasonal tariff on grain sorghum imports to Mexico from the United States for the period of May 16 to December 15 will be eliminated. For the remainder of the year, this grain will enter Mexico duty-free.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting United States and Mexico in grain sorghum trade are not readily identifiable.

WHEAT

TARIFFS:

The United States will phase out the 0.77 cents per kilogram tariff on durum wheat imports from Mexico over 10 years. However, for non-durum wheat imports, the United States tariff of 0.77 cents per kilogram will be reduced to zero over 5 years.

NON-TARIFF BARRIERS

Mexico will eliminate its wheat import-licensing requirements for wheat imported from the United States and Canada, and will require only that these countries pay the tariffs imposed.

One such tariff will be imposed on United States wheat exports to Mexico. This wheat will qualify for a 15% tariff, which will be reduced to zero in equal installments over a 10 year phase-out.

Canadian import-licensing requirements on wheat imports from the United States were eliminated as part of the CFTA. However, the CFTA did not eliminate Canadian wheat import-licensing requirements for Mexico. Canada will eliminate such requirements as against Mexico.

BARLEY/MALT

TARIFFS:

Present United States tariffs on barley and malt from Mexico range from 0.23 cents to 0.34 cents per kilogram for barley and 0.66 cents per kilogram for malt. However, the United States will immediately eliminate such tariffs.

NON-TARIFF BARRIERS:

Mexico will eliminate its import-licensing regime for barley and malt imported from the United States and Canada but will require a ten-year transitional TRQ tariff.

Conversely, the United States will have to pay a transitional TRQ tariff on barley and malt exported to Mexico if the exports equal the aggregate 120,000 metric tons of barley and malt, expressed in barley equivalents. For aggregation purposes, 700 kilograms of malt will equal one metric ton of barley. This 120,000 metric ton amount will increase at a 5% annual compounded growth rate over the 10-year phase-out scheme.

United States barley and malt exports over this weight will be assessed a tariff. Initially, the barley tariff will equal $155 per metric ton, but not less than 128%, and the malt tariff will equal $212 per metric ton, but not less than 175%. An aggregate 24% of the tariff over the TRQ will be eliminated in the first 6 years of the NAFTA and the remainder will be phased out over the last 4 years of the 10-year phase-out.

The NAFTA will also establish separate aggregate TRQs for barley and malt imports from Canada to Mexico. Canada will gain duty-free access for an aggregate of 30,000 metric tons of barley and malt. Here, the annual growth rates for Canada's TRQ, the initial level of the tariff over the TRQ, and the TRQ phase-out design will be similar to those of the United States.

RICE

TARIFFS:

United States Import Tariffs:

The United States will eliminate tariffs on rice imports from Mexico over a ten-year period. Currently, these tariffs range from 0.69 cents per kilogram to 3.3 cents per kilogram.

Mexican Import Tariffs:

Tariffs on sourced rice from the United States to Mexico will also be phased out over a ten-year period. The current Mexican tariffs are 10% for rough rice and broken rice, and 20% for brown and milled rice.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting United States and Mexico rice trade are not readily identifiable.

SOYBEANS AND PRODUCTS

TARIFFS:

United States Import Tariffs:

The United States will immediately eliminate the 0.7 cents per kilogram tariff on soybean meal imports from Mexico. United States will phase-out the 22.5% tariff on crude and refined soybean oil imports from Mexico over 5 years. Soybean imports from Mexico to the United States already enter duty-free.

Mexican Import Tariffs:

Mexico will eliminate the 10% *ad valorem* tariff on United States crude soybean oil imports over a 10-year period. Mexico will reduce the 20% tariff assessed on refined soybean oil imports from the United States over the same 10-year period. For soybean meal imports from the United States, Mexico also will eliminate the 15% *ad valorem* tariff over a period of 10 years.

The seasonal tariff on United States soybeans exported to Mexico will be immediately reduced from 15% to 10%. This reduction will change the dutiable season from August 1-January 31 to October 1-December 31. In addition, the 10% seasonal tariff will be eliminated over a 10-year period. Mexican soybean imports for the remainder of the year are already duty-free and need no reduction.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting United States and Mexico soybean and product trade are not readily identifiable.

RULES OF ORIGIN:

Refining of crude oil will not confer origin for *any* vegetable oil, including soybean, corn, sunflower, safflower, cottonseed, peanut, linseed, grapeseed, tung, sesame, and topical oils.

DRY BEANS

TARIFFS:

The United States will immediately eliminate tariffs on dry beans imported from Mexico. These tariffs vary from 1.1 to 3.3 cents per kilogram.

NON-TARIFF BARRIERS:

Mexico will eliminate its drybean import-licensing regime for the United States and Canada. Mexico will alternatively implement a transitional TRQ for the first 15 years of the treaty.

The United States will have TRQ duty-free access to the Mexican market for 50,000 metric tons of dry beans. This amount will increase at an annually compounded rate of 3% over the 15-year transition period.

The Mexican drybean import tariff against the United States over this duty-free 50,000 metric tons will be initially equal to $480 per metric ton, but not less than 139%. An aggregate 24% of the tariff over the TRQ will be eliminated in the first 6 years, and the remainder will be phased out over the balance of the phase-out period.

The NAFTA will further establish separate TRQs for Mexico's dry bean imports from Canada for 1,500 metric tons of dry beans. The annual growth rates for Canada's TRQ, the initial level of the over-TRQ tariff, and the tariff phase-out design will be similar to that for the United States.

TAB B
FRUITS/NUTS/VEGETABLES

DRIED FRUITS AND NUTS

TARIFFS:

United States Import Tariffs:

The United States will immediately eliminate import tariffs on raisins, prunes, and dried apples imported from Mexico. In addition, the NAFTA will eliminate all United States tariffs on fresh and dried nuts imported from Mexico.

Mexican Import Tariffs:

Mexico will immediately eliminate the 20% tariff on United States imports of raisins and prunes but Mexico's 20% tariff on dried applies imported from the United States will be phased out over 10 years. The NAFTA will eliminate the Mexican fresh and dried nut import tariff which now varies from 15 to 20%.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting United States and Mexican dried fruit and fresh and dried nut trade are not readily identifiable.

FRESH GRAPES

TARIFFS:

Although the current United States tariffs on fresh grape imports from Mexico are $1.41 per cubic meter for the period of February 15 to March 31 and $2.12 per cubic meter for the period of July 1 to

February 14, the United States will immediately eliminate this seasonal tariff. These Mexican exports already enter the United States duty-free for the rest of the year, and, thus, are unaffected by the NAFTA.

NON-TARIFF BARRIERS:

Mexico will eliminate its fresh grape import-licensing regime for United States exports and replace it with a tariff. The 20% tariff on United States fresh grape exports to Mexico for the period October 15 to May 31 will be eliminated immediately by the NAFTA. Furthermore, the United States fresh grape exports to Mexico for the remainder of the year will be assessed a 20% tariff, which will be reduced to zero in equal installments over a 10-year phase-out period.

FRESH DECIDUOUS AND STONE FRUIT

TARIFFS:

United States Import Tariffs:

The United States will immediately eliminate fresh apple, pear, quince, apricot, cherry, peach, nectarine, plum, and prune plum import tariffs on Mexican exports. These current United States tariffs range from 0.4 cents per kilogram to 1.1 cents per kilogram, but some products imported from Mexico, including apples and cherries, already enter duty-free and need no reduction.

Mexican Import Tariffs:

Mexico will also immediately eliminate its 20% tariff on United States exports of fresh cherries. For fresh pears, quinces, plums and prune plums imported from the United States, Mexico will immediately cut the 20% tariff to 15%, and phases out this reduced tariff over 5 years. However, Mexico's 20% tariff on United States-produced fresh apricots will be eliminated over 5 years. In addition, Mexico will phase out the 20% tariff on fresh apples, peaches, and nectarines imported from the United States over 10 years.

Moreover, Mexico will implement a special agricultural safeguard for fresh apple imports from the United States and Canada. This safeguard will allow 55,000 tons to be exported to Mexico at the preferential NAFTA tariff. It will also allow the 55,000 ton quota to grow at an annually compounded rate of 3%. This preferential tariff will be 20% and will be phased out over the first 10 years of the NAFTA.

Anything over the 55,000 tons will have the lower of 20% or Mexico's most-favored-nation (MFN) tariff.

Accordingly, Canadian apples will receive the same safeguard treatment, but the initial quota will be 1,000 metric tons.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting United States and Mexico in the above mentioned-fresh deciduous and stone fruit trade are not readily identifiable.

FRESH POTATOES

TARIFFS:

The United States will immediately eliminate the 0.77 cents per kilogram tariff on yellow (Solano) potatoes and will phase out the 0.77 cents per kilogram tariff on "other" potatoes over a 5-year period under the NAFTA.

NON-TARIFF BARRIERS:

Mexico will also eliminate its fresh potato import-licensing regime for United States and Canadian exports, but will implement a transitional TRQ. This TRQ will be in effect for the first ten years of the NAFTA.

Initially this TRQ access to the Mexican market will be fixed at 15,000 metric tons of fresh potatoes and will be adjusted at a 3% annual rate over the 10-year transition period.

United States exports to Mexico in excess of the TRQ will be initially assessed a tariff equal to $354 per metric ton, but not less than 272%. An aggregate 24% of this tariff over the TRQ will be eliminated in the first 6 years and the remainder will be phased out in the last 4 years of the 10-year transition period.

A separate TRQ will also apply to fresh potato imports from Canada to Mexico. Canada's TRQ will be fixed at 4,000 metric tons of fresh potatoes. The annual growth rates for Canada's TRQ, the initial level of the over-quota tariff, and the over-quota tariff phase-out design, will be similar to that for the United States.

FRESH TOMATOES

TARIFFS:

Several United States tariff schedule lines will be created for tomatoes, including two lines for cherry tomatoes.

These tomato tariffs will be governed by two time-periods having special agricultural safeguard: a seasonal TRQ. Under this safeguard, a fixed quantity of United States imports from Mexico will enter at the NAFTA preferential tariff rate, while the amount in excess will be assessed the lower of the MFN rate in place on June 12, 1991 or the MFN rate in effect when the safeguard action is taken.

Under this safeguard, the quota receiving the preferential NAFTA rate will be based on the high annual import volume between 1989 and 1991, plus 5%. These quotas will grow at an annually compounded rate of 3% over the transition period.

Mexico will match the United States in its tariff line changes and specific duties. Mexico's new specific duties will be phased out over the applicable transition period. During this transition period, the duty assessed on United States imports will not exceed Mexico's 10% *ad valorem* duty. Mexico will not, however, use the safeguard on tomatoes.

The United States phase-out schedule and safeguard quotas will be as follows:

SAFEGUARD

ITEM	SEASON	TARIFF	PHASE-OUT	BASE*
Tomatoes	Mar. 1-July 14	4.6 cents/kg	10 years	165,000 mt
Tomatoes	July 15-Aug. 31	3.3 cents/kg	5 years	N/A
Tomatoes	Sept. 1-Nov. 14	4.6 cents/kg	5 years	N/A
Tomatoes	Nov. 15-Feb./last	3.3 cents/kg	10 years	172,300 mt
Cherry tomatoes	May-Nov. 30	3.3 cents/kg	5 years	N/A
Cherry tomatoes	Dec. 1-Apr. 30	3.3 cents/kg	Immediately	N/A

* Will increase 3% annually, compounded

NON-TARIFF BARRIERS

Non-tariff barriers affecting tomato trade are not readily identifiable.

FRESH CUCUMBERS

TARIFFS:

Several United States cucumber tariff lines will be created allowing maximum transition time-lines for more sensitive periods but still granting Mexico improved access during its principal shipping season.

Similarly, Mexico will match these cucumber seasonal tariff lines and phase-out schedules, but none of Mexico's phase-out periods will exceed 10 years. In addition to Mexico's seasonal tariffs, its other cucumber tariffs will be 10%.

The United States phase-out schedule for cucumbers will be as follows:

SEASON	TARIFF	PHASE-OUT
Dec. 1-Feb./last	4.9 cents/kg	Immediately
Mar. 1-May 31	6.6 cents/kg	15 years
June 1-June 30	6.6 cents/kg	5 years
July 1-Aug. 31	3.3 cents/kg	Immediately
Sept. 1-Sept. 30	6.6 cents/kg	5 years
Oct. 1-Nov. 30	6.6 cents/kg	15 years

NON-TARIFF BARRIERS:

Non-tariff barriers affecting cucumber trade are not readily identifiable.

ONIONS, DRY, FRESH

TARIFFS:

Two onion tariff import lines will be created for Mexican exports to the United States. These onions imported from Mexico will be covered by the special agricultural safeguard, the seasonal TRQ. Under this safeguard, a certain quantity of imports will enter at the NAFTA preferential tariff rate, while the amount in excess will be assessed the lower of the MFN rate in place on June 12, 1991 or the MFN rate in place when the safeguard action is taken.

This safeguard will also provide that the quota which receives the preferential NAFTA rate will be based on the high annual import volume between 1989 and 1991, plus 5%. This quota will grow at an annually compounded rate of 3% over the transition period.

Mexico will match the United States with regard to its onion tariff line changes and specific duties, but its duty on United States exports will not exceed Mexico's 10% *ad valorem* MFN duty. These new specific duties will be phased out over the applicable transition period. Mexico will not, however, use the safeguard on onions.

The United States phase-out schedule and safeguard quotas for onions will be as follows:

SEASON	TARIFF	PHASE-OUT	SAFEGUARD BASE*
Jan. 1-Apr. 30	3.9 cents/kg	10 years	130,700 mt
May 1-Dec. 31	3.9 cents/kg	10 years	N/A

* Will increase 3% annually compounded.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting onion trade are not readily identifiable.

FRESH EGGPLANT

TARIFFS:

Three United States eggplant tariff lines will be created under the NAFTA. These eggplant imports from Mexico to the United States will be covered by a special agricultural safeguard which is a seasonal TRQ. Under this safeguard, a certain quantity of imports enter at the NAFTA preferential tariff rate, while the excess will be assessed at the lower of the MFN rate in place on June 12, 1991 or the MFN rate in place when the safeguard action is taken.

Under this safeguard, the quota receiving the preferential NAFTA rate will be based on the high annual import volume between 1989 and 1991, plus 5% and will increase at an annually compounded rate of 3% over the transition period.

Furthermore, Mexico will immediately cut its 10% eggplant duty on imports from the United States.

The United States eggplant phase-out schedule and safeguard quotas will be as follows:

SEASON	TARIFF	PHASE-OUT	SAFEGUARD BASE*
Dec. 1-Mar. 31	2.4 cents/kg	Immediately	N/A
Apr. 1-June 30	3.3 cents/kg	10 years	3,700 mt
July 1-Sept. 30	3.3 cents/kg	Immediately	N/A
Oct. 1-Nov. 30	3.3 cents/kg	10 years	N/A

* Will increase 3 percent annually, compounded.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting eggplant trade are not readily identifiable.

FRESH SQUASH

TARIFFS:

Two United States squash tariff lines will be created by the NAFTA. Under this tariff, the United States squash imports from Mexico will be covered by a seasonal TRQ. Under this safeguard TRQ, a certain quantity of imports will enter at the NAFTA preferential tariff rate, while the excess will be assessed the lower of the MFN rate in place on June 12, 1991 or the MFN rate in place when the safeguard action is taken.

Also, under this safeguard, the quota receiving the preferential NAFTA rate will be based on the high annual import volume between 1989 and 1991, plus 5%. This TRQ will increase at an annually compounded rate of 3% over the transition period.

Mexico will immediately eliminate the 10% squash imports duty from the United States.

The United States phase-out schedule and safeguard quotas for squash will be as follows:

SEASON	TARIFF	PHASE-OUT	SAFEGUARD BASE*
Oct. 1-June 30	2.4 cents/kg	10 years	120,800 mt
July 1-Sept. 30	2.4 cents/kg	5 years	N/A

* Increases 3% annually, compounded.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting squash trade are not readily identifiable.

FRESH PEPPERS

TARIFFS:

Four new United States tariff lines will affect fresh peppers. The United States chili pepper imports from Mexico will also be covered by the special agricultural safeguard, the seasonal TRQ. Under this safeguard, a certain quantity of imports will enter at the NAFTA preferential tariff rate, while the excess will be assessed the lower of the MFN rate in place on June 12, 1991 or the MFN rate in place when the safeguard action is taken.

Also, under this safeguard, the quota receiving the preferential NAFTA rate will be based on the high annual import volume between 1989 and 1991, plus 5%. This quota will grow at an annually compounded rate of 3% over the transition period. Mexico will eliminate immediately its 10% duty on bell peppers and other non-chili peppers imported from the United States. For chili peppers, Mexico will create a tariff line to match the United States duty and will phase-out this duty over 5 years. Mexico, however, will not use the safeguard on peppers.

This United States phase-out schedule and safeguard quotas for peppers will be as follows:

ITEM	SEASON	TARIFF	PHASE-OUT	BASE*
Peppers, other	Nov. 1-May 31	5.5 cents/kg	10	None
Peppers, other	June 1-Oct. 31	5.5 cents/kg	5	None
Peppers, chili	Oct. 1-July 31	5.5 cents/kg	10	29,900 mt
Peppers, chili	Aug. 1-Sept. 30	5.5 cents/kg	Immediately	None

* Will increase 3% annually, compounded.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting peppers trade are not readily identifiable.

ASPARAGUS, FRESH AND PROCESSED

TARIFFS:

Several United States asparagus tariff lines will be created allowing maximum transitions for more sensitive periods, but granting Mexico improved access during its main shipping season. Two seasonal import periods will have the longest phase-out period of fifteen years, reflecting high United States tariffs and competition from Mexican imports.

Mexico will match the United States seasonal tariff lines and phase-out schedule, except that Mexico will use a ten-year transition instead of a fifteen-year period. The current Mexican tariff on asparagus is 10%.

For frozen asparagus, the current United States duty of 17.5% will be lowered to 13%, and phased out over 10 years. On the other hand, the United States tariff of 17.5% on prepared and preserved asparagus will be phased out over 10 years.

The United States fresh asparagus phase-out schedule will be as follows:

SEASON	TARIFF	PHASE-OUT
Sept. 15-Nov. 15*	25%	Immediately
Jan. 1-Jan. 31	25% lowered to 17.5%	15 years
Feb. 1-June 30	25%	15 years
July 1-Dec. 31	25%	5 years
Jan. 1-Dec. 31 white asparagus	12.5%	Immediately

* Air shipped only.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting asparagus trade are not readily identifiable.

FRESH BROCCOLI

TARIFFS:

Two United States broccoli tariff lines will be created allowing maximum transition time-lines for more sensitive periods, but granting Mexico improved access during their main shipping season.

One of these period will have a longer phase-out of fifteen years, reflecting high United States tariffs and Mexican import competition.

Mexico will match United States seasonal tariff lines and phase-out schedule, except that none of Mexico's phase-out periods will exceed ten years. Currently, the Mexican tariff on broccoli is 10%.

The United States broccoli phase-out schedule will be as follows:

SEASON	TARIFF	PHASE-OUT
Jan. 1-May 31	25%	15 Years
June 1-Dec. 31	25%	5 Years

NON-TARIFF BARRIERS:

Non-tariff barriers affecting broccoli trade are not readily identifiable.

FRESH CAULIFLOWER

TARIFFS:

Several cauliflower United States tariff lines will be created for cauliflower. These tariffs on United States cauliflower imports from Mexico will be lowered from 17.5% to 12.5%.

Mexico will match United States cauliflower tariff line changes and phase-out periods for imports from the United States. Currently, Mexico's tariff is 10%.

The United States phase-out schedule for cauliflower will be as follows:

SEASON	TARIFF	PHASE-OUT
Jan. 1-June 4	12.5%	10 Years
June 5-Oct. 15	5.5%	Immediately
Oct. 16-Nov. 30	12.5%	5 Years
Dec. 1-Dec. 31	12.5%	Immediately
Jan. 1-Dec. 1 for reduced in size	12.5%	10 Years

NON-TARIFF BARRIERS:

Non-tariff barriers affecting cauliflower trade are not readily identifiable.

MELONS

TARIFFS:

Several United States cantaloupe, watermelon, and other melon tariff lines will be created allowing maximum transitions for more sensitive periods, but granting Mexico improved access during its main shipping season.

One watermelon import period will be covered by special agricultural safeguard: a seasonal TRQ. Under this safeguard, a certain quantity of imports from Mexico will enter at the NAFTA preferential rate, while the excess will be assessed at the lower of the MFN rate in place on June 12, 1991 or the MFN rate in place when the safeguard action is taken.

Again, under this safeguard, quotas receiving the preferential NAFTA tariff rate will be based on the high annual import volume between 1989 and 1991, plus 5%. This quota will grow at an annually compounded rate of 3% over the transition period.

Mexico, however, will match the United States tariff line changes and phase-out periods for some different seasons. Mexico's melon tariff is currently 20%.

The United States phase-out schedules for melons are as follows:

SAFEGUARD

ITEM	SEASON	TARIFF	PHASE-OUT	BASE*
Cantaloupe	Jan. 1-May 15	Free	Immediately	N/A
Cantaloupe	May 16-July 31	35%	15 Years	N/A
Cantaloupe	Aug. 1-Sept. 15	20%	10 Years	N/A
Cantaloupe	Sept. 16-Nov. 30	35%	15 Years	N/A
Cantaloupe	Dec. 1-Dec. 31	35%	Immediately	N/A
Watermelon	Dec. 1-Mar. 31	20%	Immediately	N/A
Watermelon	Apr. 1-Apr. 30	20%	Immediately	N/A
Watermelon	May 1-Sept. 30	20%	10 Years	54,400 mt
Watermelon	Oct. 1-Nov. 30	20%	Immediately	N/A
Other melons	Dec. 1-Apr. 30	8.5%	5 Years	N/A
Other melons	May 1-May 31	8.5%	10 Years	N/A
Other melons	June 1-Nov. 30	35%	15 Years	N/A

* Increases by 3% annually, compounded.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting melon trade are not readily identifiable.

FRESH CITRUS

TARIFFS:

Several new United States orange, mandarin, and tangerine tariff lines will be created.

Mexico will match United States tariff line changes and duties on oranges and grapefruit, and will immediately eliminate its 20% duty on lemons.

The United States citrus phase-out schedule will be as follows:

ITEM	SEASON	TARIFF	PHASE-OUT
Oranges	Dec. 1-May 31	2.2 cents/kg	5 Years
Oranges	June 1-Nov. 30	2.2 cents/kg	Immediately
Mandarins/tangerines	Oct. 1-Apr. 30	2.2 cents/kg	10 Years
Mandarins/tangerines	May 1-Sept. 30	2.2 cents/kg	5 Years
Lemons	Jan. 1-Dec. 31	2.75 cents/kg	10 Years
Limes	Jan. 1-Dec. 31	2.2 cents/kg	10 Years
Grapefruit	Aug. 1-Sept. 30	2.2 cents/kg	Immediately
Grapefruit	Oct. 1-Oct. 31	1.8 cents/kg	10 Years
Grapefruit	Nov. 1-July 31	2.9 cents/kg	10 Years

NON-TARIFF BARRIERS:

Non-tariff barriers affecting fresh citrus trade are not readily identifiable.

ORANGE JUICE

TARIFFS:

United States and Mexican frozen concentrated orange juice (FCOJ) and single-strength juice tariffs will be phased out over fifteen years.

The United States will fix a FCOJ TRQ for Mexico such that forty million gallons (single strength equivalent) will be taxed at one-half of the MFN applied tariff rate. Additionally, there will be no growth in the quota volume over the transition period. However, the tariff over the TRQ will begin at the current MFN applied rate of 9.25 cents per liter, but will decline 13% over the first 6 years, will be constant for years 7 through 10, and then will be phased out in equal installments over the remaining 5 years. The in-quota tariff will remain unchanged until it equals the over-TRQ tariff (in year thirteen), at which point it will be phased-out at the same rate as the over-TRQ tariff.

Mexico and United States inbound TRQ for single-strength orange juice will be four million gallons of juice at one-half the MFN applied tariff. This TRQ tariff will remain unchanged until it equals the over-quota tariff (in year eight), and then will be phased out at the same rate as the tariff for juice over four million gallons. Any juice above this 4 million gallons will be assessed with currently-applied MFN rates of 5.3 cents. For concentrate orange juice, the current United States MFN tariff of 9.25 cents per liter will be phased out over 15 years.

Mexico will match United States tariff line changes, duties, and its fifteen year phase-out period. These United States import duties cannot exceed Mexico's own *ad valorem* 20% duty. These new specific duties will also be phased out over the applicable transition period.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting orange juice are not readily identifiable.

RULES OF ORIGIN:

All single-fruit juices, including fresh, frozen, concentrated, reconstituted, and fortified juices, must be made from 100% NAFTA fresh citrus fruit.

PROCESSED VEGETABLES

TARIFFS:

United States tariffs on many processed vegetables imported from Mexico will be phased out over ten years. Some of these items include frozen broccoli, frozen cauliflower, and tomato paste.

For some of these products, Mexico will grant an immediate United States tariff reduction that will be phased out.

The 35% United States tariff on dried onion (whole, powdered, or flour) and dried garlic Mexican imports will be phased out over 15 years.

Mexico will match the United States duties by lowering its duties from 15 to 20% for some of these same products—for example, tomato paste.

The United States phase-out schedule will be as follows (United States and Mexican duties will all be on an *ad valorem* basis):

ITEM	OLD TARIFF	NEW TARIFF	PHASE-OUT
Broccoli, frozen	17.5%	15%	10 Years
Cauliflower, frozen	17.5%	15%	10 Years
Tomato paste	13.6%	11.5%	10 Years
Dried onions, powder	35%	No change	15 Years
Dried onions, whole	35%	No change	15 Years
Dried garlic	35%	No change	15 Years

NON-TARIFF BARRIERS:

Non-tariff barriers affecting processed vegetable trade are not readily identifiable.

TAB C
LIVESTOCK/DAIRY/POULTRY

CATTLE AND BEEF

TARIFFS:

United States Import Tariffs:

The United States will immediately eliminate the 2.2 cents per kilogram beef cattle import tariff from Mexico. In 1990, this specific cattle import tariff from Mexico was equivalent to an *ad valorem* 1.2%.

The United States will also immediately eliminate fresh, chilled, and frozen beef and veal import tariffs from Mexico. The tariff range extends from a specific tariff of 4.4 cents per kilogram to 4% or 10% on an *ad valorem* basis. United States beef edible offal (variety meats) imports already enter the country duty-free.

Mexican Import Tariffs:

The current Mexican import tariffs on live cattle and fresh, chilled, and frozen beef and veal are zero.

Mexico's 20% beef edible offal import tariff from the United States and Canada will be phased out over a 10 year period.

NON-TARIFF BARRIERS:

When the NAFTA takes effect, Mexico will be exempted from the import quotas dictated by the United States Meat Import Acts.

SWINE, PORK AND PORK PRODUCTS

TARIFFS:

United States Import Tariffs:

Live swine and some fresh, chilled, and frozen pork imports from Mexico already enter the United States duty-free. The 2.2 cents per kilogram United States tariffs on the remaining fresh, chilled, and frozen pork products imported from Mexico will be eliminated immediately upon enactment of the agreement. United States edible offal tariffs are already zero for imports from Mexico.

Mexican Import Tariffs:

Mexico's 10% Canadian swine-breeding import stock tariff will also be eliminated. Mexican purebred swine imports already enter duty-free.

For imports of United States and Canadian slaughter-swine and fresh, chilled, and frozen pork and hams, Mexico will implement NAFTA special safeguards. These safeguards will allow certain quantities of United States and Canadian exports to be subject to preferential NAFTA tariffs, while amounts in excess will be assessed the lower of the applied MFN tariff in place on June 12, 1991 or the MFN rate in effect when the safeguard action takes place. For these products, the initial in-quota tariff of 20% will be phased-out over 10 years. The quota amount will grow at an annually compounded rate of 3%.

Mexico's import tariffs of 10 or 20% on United States edible offal (except pigskins, which enters duty-free) will be phased out over 10 years.

NON-TARIFF BARRIERS:

Non-tariff barriers affecting United States-Mexico live swine or pork and pork product trade are not readily identifiable.

POULTRY

TARIFFS:

The United States will immediately eliminate poultry import tariffs.

NON-TARIFF BARRIERS:

Mexico will eliminate its fresh, chilled, and frozen poultry import-licensing regime for imports from the United States. This regime will be replaced with a ten-year transitional TRQ.

This transitional TRQ will allow 95,000 metric tons of poultry to enter duty-free and that amount will grow annually at a compounded rate of 3% over the 10-year transition period. The United States exports to Mexico in excess of 95,000 metric tons will be assessed a tariff initially equal to $1,850 per metric ton, but not less than 133% for whole turkey; and $1,680 per metric ton, but not less than 260% for chicken and other poultry. Over the first 6 years of the agreement, an aggregate 24% of these tariffs on goods over the 95,000 metric tons will be eliminated. The remainder will be phased out over the rest of the 10-year transition period.

Separate TRQs that will be established for the following United States poultry and products exported to Mexico (quota amount in metric tons, over-quota tariffs in percent *ad valorem* and dollar-per-metric-ton) are as follows:

PRODUCT	NAFTA TRQ	OVER-QUOTA TARIFF
Whole turkey	2,000	133%/$1,850
Other whole poultry	13,000	260%/$1,680
Turkey parts and offals	28,000	260%/$1,850
Other poultry parts and offals	25,000	260%/$1,680
Mechanically deboned poultry	95,000	260%/$1,680

Poultry trade liberalization between Mexico and Canada will be excluded from the NAFTA; hence there will be no elimination of tariffs or non-tariff barriers for Mexican-Canadian trade in these products.

EGGS

TARIFFS

The United States will immediately eliminate the 3.5 cents per dozen table and fertilized eggs import tariff from Mexico.

NON-TARIFF BARRIERS:

Mexico will eliminate its table and fertilized egg import-licensing regime and replace it with a 10-year TRQ.

This TRQ will initially allow 6,500 metric tons of eggs (equivalent to about 9.6 million dozen) to enter duty-free, and this amount will grow at an annually compounded rate of 3% over the 10-year transition period. Anything over this weight will be assessed a 50% tariff. An aggregate 24% of this tariff will be eliminated over the first 6 years of the agreement, and the remainder will be phased out over the rest of the 10-year transition period.

Eggs were excluded from the NAFTA trade liberalization for bilateral trade between Mexico and Canada.

MILK POWDER

TARIFFS:

See below.

NON-TARIFF BARRIERS:

The United States will establish a transitional TRQ allowing 422 metric tons of milk powder imports to enter duty-free. This TRQ will grow at a annually compounded rate of 3% over a 10-year transition period.

Anything over the 422 metric tons will be assessed a tariff initially equal to $900-$1,100 per metric ton, but not less than 78-83% *ad valorem*, depending on the exact type of milk powder. This tariff will be phased out over ten years.

Mexico will eliminate its milk powder import-licensing regime and will replace it with a fifteen year transitional TRQ.

This transitional TRQ will allow an aggregate 40,000 metric tons of skim and whole milk powder into the Mexican market. This 40,000 metric ton amount will increase at an annually compounded rate of 3% over a 13-year transition period.

Anything in excess of the 40,000 metric tons will be assessed a higher tariff, initially equal to $1,160 per metric ton, but not less than 139%. An aggregate 24% of this excess tariff will be eliminated over the first 6 years of the agreement. The remainder will be phased out over the rest of the 15-year transition period.

Mexico and Canada excluded their bilateral dairy trade from the NAFTA liberalization.

CHEESE

TARIFFS:

Cheese tariffs for both the United States and Mexico will be eliminated in conjunction with treatment of non-tariff barriers (see below).

NON-TARIFF BARRIERS:

Mexico will eliminate its cheese import-licensing regime and replace it with a tariff.

United States cheese exports to Mexico currently subject to import licensing will be assessed a 20% tariff, to be reduced to zero in equal installments over a 10-year transition period. The only exception will be United States fresh cheese exports, which will be assessed a 40% tariff, to be phased out over 10 years.

United States import restrictions (Section 22 quotas) on Mexican cheese will be replaced by a ten-year transitional TRQ. Initially 5,550 tons of Mexico's cheese exports will enter the United States duty-free. This will be an aggregate quota that includes all cheese subject to Section 22 quotas. This quota will increase by a 3% compound rate over the transition period. Anything over the 5,550 tons will face a tariff equivalent of 69.5%, or a specific duty ranging from $1,200 to $2,180 per ton, depending on the type of cheese. This tariffs will be phased out linearly over ten years.

Mexico and Canada excluded their bilateral dairy trade from the NAFTA liberalization.

TAB D
OTHER SELECTED COMMODITIES

COTTON

TARIFFS:

United States cotton tariffs will be phased out in conjunction with the treatment of Section 22 import quotas on cotton (see below).

Mexican cotton tariffs will be 10%. Most will be phased out over 5 or 10 years.

NON-TARIFF BARRIERS:

United States import restrictions (Section 22 quotas) on Mexican cotton will be replaced by a NAFTA TRQ which will remain in place during a ten-year transition period. Mexico, which currently has a Section 22 quota of 4,029 metric tons, will initially be allowed to export 10,000 tons of cotton to the United States duty-free. This quota will increase by a 3% compound rate over the transition period. Anything above this quota will face a tariff equivalent of 26%, which will be phased out on a straight line basis to zero over 10 years.

Non-tariff barriers affecting Mexican cotton trade are not readily identifiable.

RULES OF ORIGIN FOR COTTON TEXTILE PRODUCTS:

Fiber-forward:	cotton yarns; cotton knit fabrics
Yarn-forward:	most cotton woven fabrics; most cotton/man-made blends
Fabric-forward:	cotton luggage, handbags, flat goods, cotton fabrics that are coated, laminated, or impregnated

Single Substantial transformation:	men's shirts from certain high-count cotton fabrics; men's shirts from cotton/man-made blends; apparel from specific fabrics (corduroy, velveteen)

Tariff-rated quotas will be established to allow additional entry of some non-NAFTA-origin apparel. The de minimis provision will allow up to 7% by weight of fibers and yarns to be non-NAFTA in origin.

SUGAR

TARIFFS:

United States and Mexican sugar tariffs will be phased out in conjunction with the treatment of United States and Mexican border protection on sugar (see below).

Mexico and Canada will retain their sugar tariffs with respect to their bilateral trade.

In the initial 6 years of the agreement, Mexico's sugar exports to the United States will be limited to the current export allocation of 7,258 metric tons. However, in any year that Mexico reaches net exporter status during the initial 6 year period, it will be permitted to export up to 25,000 tons of its net exportable surplus.

Beginning in year 7, Mexico may ship up to 150,000 tons of its net exportable surplus to the United States. This ceiling will grow 10% per year over the remainder of the 15-year transition.

If Mexico at any time during the transition period reaches net exporter status for two consecutive years, beginning in year seven or the second year of net export status, whichever is later, Mexico will be permitted to ship its total exportable surplus to the United States duty-free.

During years 1-6, the United States will reduce its second tier sugar tariff import from Mexico by 15%.

Additionally, Mexico will align its tariff regime with that of the United States by year seven of the agreement, implementing a TRQ with rates equal to those of the United States. During years seven through fifteen, the United States and Mexican bilateral sugar trade tariffs will be reduced on a straight-line basis to zero.

The United States sugar re-export program will remain in place for exports to Mexico, but United States shipments under the program will be subject to Mexico's MFN tariff rate.

The United States and Mexico will each allow duty-free access for raw sugar imports which are refined in the importing country and re-exported to the producing country.

RULES OF ORIGIN:

Refining sugar does not confer origin. For example, if a Mexican company imports raw sugar and refines it, the refined sugar may not be exported to the United States at NAFTA preferential tariff rates.