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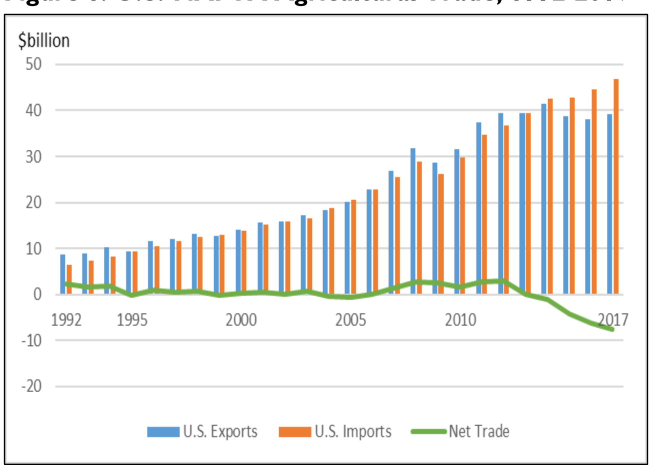
Agricultural Provisions of the U.S.-Mexico-Canada Agreement

On September 30, 2018, the Trump Administration announced an agreement with Canada and Mexico to replace the North American Free Trade Agreement (NAFTA) with the United States-Mexico-Canada Agreement (USMCA). USMCA, if finalized, will allow food and agriculture products to "trade more fairly," according to the U.S. Trade Representative, and will expand exports of U.S. agricultural goods. While USMCA includes provisions that address many sectors, this report summarizes the agriculture and sanitary and phytosanitary (SPS) provisions of the agreement. The President is expected to sign USMCA on November 30, 2018, before sending the agreement and implementing legislation to Congress for approval. It must also be approved by the governments of Canada and Mexico.

Canada and Mexico were the first- and third-leading export markets for U.S. agriculture and food products by value in 2017, worth $20.6 billion and $18.6 billion, respectively. Since NAFTA was signed in 1993—which eliminated most tariffs on agricultural goods sold among the three countries—the value of U.S. agricultural trade with its NAFTA partners has increased. Agricultural exports rose from $8.7 billion in 1992 to $39 billion in 2017, while imports rose from $6.5 billion to $47 billion over the same time period. There has been a trade deficit for agricultural products since 2014, including an $8 billion trade deficit in 2017 that is the largest deficit since NAFTA was signed.

Figure 1. U.S.-NAFTA Agricultural Trade, 1992-2017



Source: CRS from USDA, Global Agricultural Trading System. Data are not adjusted for inflation.

Canadian Dairy Policy Changes

Under USMCA, Canada has agreed to reduce certain barriers for U.S. dairy exports, a key demand of U.S. dairy groups. Canada restricts U.S. dairy exports through tariff-rate quotas (TRQs) with high over-quota tariffs. Currently, most of the in-quota tariffs for U.S. dairy exports to Canada are set at zero, but over-quota tariffs can be as high as 313.5%. Under USMCA, Canada would maintain its supply management system, but USMCA would expand TRQs that increase each year for U.S. exports of milk, cheese, cream, skim milk powder, condensed milk, yogurt, and several other dairy categories. In addition, USMCA includes broader provisions on transparency for the implementation of TRQs, such as requirements for advanced notice of changes to the quotas and making publicly available details on quota utilization rates.

Canada has further agreed to changes in its milk pricing system that has set low prices for Canadian skim milk solids, undercutting U.S. exports. Six months after USMCA goes into effect, Canada will eliminate its Class 7 milk price (which includes skim milk solids, Class 6 in Ontario) and will set its price for skim milk solids based on a formula that takes into account the U.S. nonfat dry milk price, among other factors. Both the United States and Canada will need to notify each other in the future if either introduces or changes a milk class price. Canada has further agreed to cap its skim milk powder and milk protein concentrate exports. USMCA also includes a requirement that the United States and Canada meet five years after the implementation of the agreement—and every two years after that—to determine whether to modify the dairy provisions of the agreement.

U.S. Poultry Access to Canada

USMCA increases the TRQs for U.S. poultry and egg exports to Canada. Much like the rules governing its dairy sector, Canada has a supply management system for chicken, egg, and turkey production and has allowed only a small amount of those products to be imported duty free. Under the agreement, the duty-free quotas for chicken starts at 47,000 tons, expands to 57,000 tons in year six, and then continues at a growth rate of 1% per year for the 10 years after that. Eggs would have a new TRQ of 10 million dozen annually, while the annual TRQ for turkey and broiler hatching eggs and chicks would be set by formulas based on Canadian production.

Canadian Grain Policy Changes

Under USMCA, Canada will revise its grain grading policies to treat U.S. wheat in a way that is "no less favorable than that it accords to like wheat of national origin." Canadian inspection certificates for wheat currently do not allow for a grade, so U.S. exports cannot receive premium prices that would come with a higher grade. USMCA provides that neither the United States nor Canada are allowed to have country of origin on wheat quality certificates for wheat from either country.

Sanitary and Phytosanitary Provisions

SPS measures are the laws, rules, standards, and procedures that governments employ to protect humans, animals, and plants from diseases, pests, toxins, and other contaminants. USMCA's SPS chapter calls for greater transparency in SPS rules and regulatory alignment among the three countries. Under the agreement, countries must base their SPS rules on "relevant scientific principles" and eliminate those rules that no longer have a scientific basis. While USMCA commits the United States, Mexico, and Canada to seek alignment and equivalence in their SPS regulations, it also requires them to notify and give opportunity to comment on any additions or changes to SPS rules. USMCA further lays out requirements for notifying exporting countries when an issue arises with a shipment and the exchange of information on SPS issues, and it maintains a trilateral Committee on Sanitary and Phytosanitary Measures to address issues as they arise.

Biotechnology Provisions

The agriculture chapter of USMCA lays out protections and coordination on agricultural biotechnology, an issue that is not addressed in NAFTA. USMCA requires the United States, Mexico, and Canada to make publicly available the details on the approval process for crops produced with biotechnology, encourage producers to submit concurrent applications for approval, and ensure that decisions on those applications are made in a timely manner. Further, when an import into a member country is found to have a low level presence of an unapproved crop produced with biotechnology, the importing country is to act quickly so as to not unnecessarily delay the shipment. USMCA also creates a Working Group for Cooperation on Agricultural Biotechnology to help with information exchange and advance "transparent, science and risk-based regulatory approaches" and policies in other countries and international organizations. The provisions of USMCA apply to crops produced with conventional biotechnology methods, including recombinant DNA and gene editing.

Beer, Wine, and Spirits Labeling, Sales

Canada allows its provinces to control the sale of beer, wine, and spirits, a system that in some cases has disrupted market access for U.S. products with barriers such as higher prices for imported products. USMCA requires that each country have the same treatment for distributing another country's spirits, wine, beer, and other alcoholic beverages as it would its own products. It also sets rules governing listing requirements for a product to be sold in a given country and sets limits on cost markups of alcoholic beverages from other countries. In a side letter to the agreement, Canada also agreed to have British Columbia remove its limitations on sales of non–British Columbian wines in grocery stores by November 1, 2019. The agreement further includes rules to promote transparency and harmonization of labeling for wine and spirits beverages among the three countries and prevent labeling from acting as a barrier to trade.

Geographical Indications and Distinctive Products

Geographical indications (GIs) are place names used to identify products that come from certain regions or places. GIs are intended to protect the quality and reputation of a distinctive product originating in certain regions. USMCA protects the GIs for food products that Canada and Mexico have already agreed to in trade negotiations with the European Union (EU) but lays out transparency and notification requirements for any new GIs that a country wants to recognize. The agreement also details a process for determining whether a food name is common or should be protected. In a side letter accompanying the agreement, Mexico confirmed a list of 33 terms for cheese that would remain available as common names for U.S. cheese producers exporting to Mexico. The list includes some terms that are protected as GIs by the EU, such as Edam, Gouda, and Brie.

USMCA protects certain U.S., Canadian, and Mexican spirits as distinctive products. Under the agreement, products labeled as Bourbon Whiskey and Tennessee Whiskey must originate in the United States. Similar protections exist for Canadian Whiskey and Tequila and Mezcal, which must be produced in Mexico. In a side letter accompanying the agreement, the United States and Mexico further agreed to protect American Rye Whiskey, Charanda, Sotol, and Bacanora.

Protections for Proprietary Formulas

USMCA includes protections for proprietary formulas for prepackaged foods and food additives that limit the information countries subject to the agreement can ask for from food companies looking to export. Countries can ask only for information that is necessary to "achieve its legitimate objective" and must protect the confidential information of products from another country as it would for domestic products.

U.S. Imports of Canadian Sugar, Dairy, Peanuts, and Cotton

The United States has agreed to allow more access for Canadian producers of dairy, sugar, peanuts and cotton. Under USMCA, the United States will increase TRQs on imports of Canadian dairy products and sugar and sweetened products. The agreement details the phase-out period for U.S. tariffs on cotton and peanut imports from Canada, which will be eliminated five years after the agreement takes effect. U.S. imports of peanut products—including shelled and unshelled peanuts and peanut butter—from Canada are currently subject to a 131.8% tariff.

Agricultural Trade Issues Not Addressed

While USMCA addresses several issues that have restricted U.S. agricultural exports to Mexico and Canada, it does not include all of the changes sought by U.S. agricultural groups. The agreement does not include changes to trade remedy laws to address seasonal produce as requested by Southeastern U.S. produce growers. It also does not address non-tariff barriers to market access for U.S. fresh potatoes in Canada and Mexico. Finally the agreement does not address a resolution for retaliatory tariffs on U.S. agricultural exports to those countries.

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