



# FARMING SECTOR





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### A. Generalities

The United States – Mexico – Canada Agreement (USMCA), contains a specific chapter for agricultural products, additional to the Specific Origin Regulations correspondent to the sector, Chapter 3: Agriculture.

According to the United States Trade Representative (USTR), the new dispositions maintain a tariff free import of agricultural origin products, just as how it was in NAFTA. For the US, creates new opportunities for market access to exports of dairy, poultry and eggs exports to Canada, in a bilateral exchange, United States granted access to dairy products, peanuts and processed products, as in a limited quantity for sugars and products containing sugar.

According to the Secretariat of Economy (SE), the benefits for México where:

- **A tariff free access is kept for agricultural products and Mexican agroindustries to the american market.**
- **They confirm agreed dispositions in international forums that ensure the removal of subsidies to the export in this kind of goods and clear and transparent mechanisms are determined that allow to guarantee the cooperation, communication and collaboration between the parts with the purpose to discuss agricultural themes of interest.**

The agreement includes a biotechnology section that aims to stimulate the investigation in the sector, established the exchange of information and cooperation in biotechnology for agriculture, including genetic modification.

Any future possibility of imposing any sector restriction is eliminated.



Contains a Chapter focused to reinforced sanitary and phytosanitary measures related to NAFTA. Chapter 9: Sanitary and Phytosanitary Measures (SPM), according to the SE, contains:

- Procedures dispositions in risk analysis, audits, imports inspection and certification, equivalences and regionalization matter.
- The creation of a SPM Committee, ad hoc technical groups, consults and the possibility to recur to the controversies solutions mechanism.
- Dispositions to strengthen compatibility of the SPM, which implies measures consideration from the other Part in the development of their own measures. The publication of projects of measures is encouraged for the other Part to comment about the topic, aiming to guarantee that these are reinforced through scientific evidence, as in norms, guidelines, and international recommendations.
- A compromise for sanitary authorities to recur in a simplified procedure for the acknowledgment of regionalization and the equivalence of measures. This allows for Mexico to have a quick recognition of the American and Canadian authorities when obtaining a certification such as plague-free and diseases.



In Geographic Indications they established criteria to promote a transparent procedure of opposition, which strengthens the protection system of geographic indications. It entitles the opportunity for brand owners to oppose to the geographic indication protection if they consider that causes confusions with the brand. Establishes a consulting mechanism between the Parts about Future geographic indications of acceptance with international agreements.

Mexico agreed to not restrict Mexican market access for American labeled cheese with certain names, maintaining the results from the negotiation with the European Union.





An annex for spiritual drinks is included, in which establishes non-discriminatory compromise and transparency in sales and distribution; label disposition and certification for avoiding technical obstacles in wine commerce and distilled drinks. Bourbon Whiskey, Tennessee Whiskey, Tequila, Mezcal and Canadian Whiskey maintains their acknowledgment as distinctive products.

The annex for patented formula for packaged foods establishes that every Part should protect the confidentiality of the information in the same manner for national products and imports. Moreover, it limits this same information requirements to what is necessary to achieve legitimate goals.

## B. BACKGROUND

On May 8 of 2017, the President of the United States notified to Congress the intention to renegotiate NAFTA, due to his consideration he had provoked a significant loss in employments as in industries in his country. Combined with the fact that the agriculture

Besides that the american farming sector has been unfairly treated by Canada by retring the export of certain products. Consequently, on July the USTR issued a document casting the goals for the negotiation, starting a series of consulting and public audits with the diverse productive sectors and general public.

Based on the comments made on the topic, the document of the goals for the renegotiation was renovated on November of the same year. For the farming sector, the following goals were established:



- Maintaining a mutual access, tariff free for agricultural products.
- Extending the market opportunities for american agricultural products in the NAFTA countries, including through the elimination of the final canadian tariffs in the import of dairy products, poultry, and egg products.



- Aims to eliminate and prevent non-tariff obstacles to agriculture exports from the United States, such as administrative restrictions, discriminatory barriers and unjustified technical barriers, applied to grain and alcoholic beverages from the United States.
- Eliminate unjustified measures that limits the market access of Canada and unfairly decreases market access opportunities in third-world countries for American dairy products.
- Establishes periods for reasonable adjustments for sensible agricultural products imports from United States, by consulting with Congress in relation to these products before starting tariff reduction negotiations.
- Promoting a mayor compatible regulation, on behalf the cooperation to reduce charges associated to unnecessary differences in the regulation, including regulations and standards from processed food and beverages.
- Establishing specific compromises for trading products developed with agricultural biotechnology, and a mechanism for information exchange and a mayor cooperation in the matter.

### **Sanitary and Phytosanitary measures:**



- Establish MSF demandable duties based in OMC rights and duties, in accordance with scientific measures, good regulatory practice, importation control, equivalence, regionalization and risk analysis and certification, clarifying that each country can individually establish the protection level that consider adequate for protecting food safety and animal and vegetable sanity in a compatible way with their international duties.
- Establish a mechanism for solving unjustified barriers that blocks food and agriculture products exports from the United States.





- Establish new and demanding rules to guarantee for the MSF based on science to be transparent, prospective, and non-discriminatory implemented.
- Improve communication, consultation and cooperation between governments to share information and transparently work together in MSF topics, including new technologies.
- Provide a mechanism to improve dialog and cooperation to carry with MSF issues and facilitate trade when possible.



During the third Round of Negotiations, the American government presented a seasonality proposal for the commerce of some agricultural products during harvest season, for which was rejected by the Mexican and Canadian private sector. The proposal was immediately removed from the table when bilateral negotiations aroused between Mexico and United States.



This is due to american farmers requesting for a mayor market access to Canada, principally for dairy and poultry products. The dairy industry has been one of the most sensible from the productive sectors to the Canadian government for which turned to be one of the key topics between the two countries, solved until the last moment from the bilateral negotiation when Canada grants a mayor access to such products originated from the US.



It is worth mentioning that the american porcine and dairy industry were affected by the tariff measures taken by Mexico in reprisal to the tariffs to United States in steel and aluminum, as in Canada implementing similar actions against american products.

The Ministry of Commerce from Canada and Mexico have expressed that the tariff removal negotiations to steel and aluminum should conclude before signing the Agreement, once the removal has taken effect to such actions from the Mexican and Canadian government. Nevertheless, there is no clarity in the subject.

A theme not less relevant, and that meant as a big deal to Mexico was to maintain the results from the negotiation of the Free Trade Agreement between Mexico and the European Union (FTA EU-MX) towards the legislative differences in geographical indications matter and copyright. Therefore, a non-exhaustive list was established with common use cheese names, such as: mozzarella, cheddar cheese and swiss, for which cannot be restricted by the FTA EU-MX.

Finally, it is important to remember that under the possibility that the United States government denounced NAFTA and leaving afterwards. The Mexican government was in the need to search for alternative markets to supply some products, for which modernization prompted for commercial agreements with highly potential country suppliers, in between with Brazil and Argentina for grains and meat products; with South America for cotton and rice.

## B. USMCA

### Chapter 3, is composed of:

- Article 3.1: Definitions
- Article 3.2: Area of Application
- Article 3.3: International Cooperation
- Article 3.4: Competitiveness on Exportation
- Article 3.5: Exportation Restrictions – Food Security
- Article 3.6: Subsidies
- Article 3.7: Agriculture Committee
- Article 3.8: Agriculture Advisory Committees
- Article 3.9: Agriculture Special Safeguard
- Article 3.10: Transparency and Consultation
  - Section A: Agricultural Technology
  - Mexico Annex – United States (Sugar)
  - Annex of Spirit Drinks, Wine, Beer and any other alcoholic beverage
  - Annex for Patented formulas for Packaged Food



If tariff balances of NAFTA are upheld, it is relevant to observe the Specific Origin Regulations and the Deductibility lists.

In Chapter one, one of the principal changes are noted in the dairy sector, Canada established new quotas for United States:



- Provides new market access by tariff fees for dairy products, poultry and egg.
- Tariff elimination for whey powders and margarine.
- Actual milk classifications 6 and 7 are eliminated; the prices of the components of these products will be estimated referenced of an agreed price.
- A mechanism has been established for tracking exports that passes the agreed threshold, for skimmed-milk powder, protein concentrate milk and infant formula, these products will be subject to surcharges.
- Allows for American cultivated corn from registered variety in Canada to be valued as official Canadian grain

In exchange, United States will allow more canadian dairy, peanuts and derived products, and a limited quantity of sugar, for border crossing.

The following dispositions for the elimination of agricultural subsidies that should be observed establishes that:

#### **Article 3.4: Export Competition.**

1. No Party shall adopt or maintain an export subsidy on any agricultural good destined for the territory of another Party.
2. If a Party considers that export financing support granted by another Party results or may result in a distorting effect on trade between the Parties, or considers that an export subsidy is being granted by another Party, with respect to an agricultural good, it may request to discuss the matter.



The responding Party shall agree to meet with the requesting Party as soon as practicable.

### **Article 3.6: Domestic Support.**

1. The Parties recognize that domestic support measures can be of crucial importance to their agricultural sectors but may also have trade distorting and production effects. If a Party supports its agricultural producers, the Party shall consider domestic support measures that have minimal or no trade distorting or production effects.

2. If a Party raises concerns that another Party's domestic support measure has had a negative impact on trade between the Parties, the Parties shall share relevant information regarding the domestic support measure with each other and discuss the matter with a view to seeking to minimize the negative trade impact.

### **Agriculture Committee.**

- Será conformado por un representante de cada gobierno
- Se reunirá una vez al año, y dentro del primer año a la entrada en vigor del Acuerdo.

### **Additionally, the following chapters should be observed:**

#### **Customs Administration y Commerce Facilitation:**

- It integrates provisions concerning customs cooperation and compliance, intending to accomplish the following points:
  - Regional and bilateral cooperation to improve the customs coordination and it promotes initiatives to detect and prevent customs offenses.
  - Information exchange that prevents customs offenses
  - Verifications by collaborating with customs authorities to obtain documents and conduct visits to enterprises.







### **Labor Sector:**

- Certain specific provisions are included for Mexico, in terms of collective bargaining, intending to guarantee the current right.
- The cases of sustained or frequent action or inaction, while implementing the labor law by a government, shall be subjected to the disputes settlement mechanism.



### **Environment:**

- Certain prohibitions are established concerning some subsidies that affect fishing, especially ships and operators involved in illegal fish poaching.
- Preventing and reducing marine debris, promoting the sustainable forest management and preventing whaling with commercial purposes are commitments included in this context.
- Trafficking transnationally and intentionally wildlife protected species shall be considered as a felony.
- Large and contemporary public participation and environmental cooperation mechanisms.
- Disciplines that intend to improve the effectiveness of the customs inspections of shipments that contain wildlife at the inbound ports.
- Certain disciplines are established to protect the air quality index, and ensuring the proper procedures for the environmental impact assessment.
- The cases of sustained or frequent action or inaction, while implementing the labor law by a government, shall be subjected to the disputes settlement mechanism.



### **Sanitary and Phytosanitary measures**

- Life protection and human health, animals and vegetables in the region of North America are guaranteed.
- Advance is made by taking scientific-based decisions



- Avoid unnecessary obstacles to commerce.
- Incorporate dispositions that allows, in case of non-compliance, to appeal to the controversies solution mechanism.



### Origin Regulations:

- The origin certificate can be issued by the exporter, producer or importer.
- The certificate format is removed, and the invoice certification or any other commercial document is permitted as long as minimum data of the information is declared.



### Copyright

- The geographical indications protection system is reinforced.
- Certain disciplines are prevented for well-known trademarks.
- The authorities may intercept the goods in case they suspect these inbound or outbound goods have been counterfeit.
- Implementing measures against counterfeit goods and piracy on a commercial scale.

Source:

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