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NAFTA Renegotiation: Issues for U.S. Agriculture

The North American Free Trade Agreement (NAFTA) entered into force on January 1, 1994 (P.L. 103-182), establishing a free trade area as part of a comprehensive economic and free trade agreement among the United States, Canada, and Mexico. In May 2017, the U.S. Trade Representative (USTR) notified Congress of the Administration's intent to renegotiate NAFTA.

Reactions to the announcement have been mixed, with some industries supporting NAFTA "modernization" as a way to address a range of trade concerns and others urging the need to proceed more cautiously so as to not destabilize current U.S. export markets. For example, the U.S. dairy industry wants the Trump Administration to address Canada's dairy pricing policies that milk producers contend discriminate against the United States. U.S. potato growers also support renegotiation to address outstanding concerns in U.S.-Mexico potato trade involving certain sanitary and phytosanitary (SPS) and other non-tariff barriers to trade. Other sectors—including the corn, rice, and pork industries—worry there could be risks to existing U.S. export markets if the negotiations were to fail and warn against unforeseen consequences of re-opening the trade deal. Some worry renegotiation could backfire, leading to tougher requirements regarding, for example, SPS and other standards, rules of origin, additional tariffs or quotas, labor and environmental standards, or other requirements.

Agricultural Trade Under NAFTA

Canada and Mexico are key U.S. agricultural trading partners. Since NAFTA was implemented, the value of U.S. agricultural trade with its NAFTA partners has increased sharply. Agricultural exports rose from $8.7 billion in 1992 to $38.1 billion in 2016, while imports rose from $6.5 billion to $44.5 billion. This resulted in a $6.4 billion trade deficit for agricultural products in 2016 despite trends in previous years when there was a trade surplus (**Figure 1**). Canada and Mexico rank second and third (after China) as leading U.S. export markets. In 2016, Canada and Mexico together accounted for 28% of the total value of U.S. agricultural exports and 39% of its imports.

In 2016, U.S. agricultural exports to Canada were valued at $20.2 billion (**Figure 2**). Leading U.S. agricultural exports to Canada were grains and feed, animal products, fruits and vegetables and related products, nuts and other horticultural products, sweeteners, oilseeds, beverages (excluding fruit juice), and essential oils. The U.S. trade deficit with Canada has averaged about $0.7 billion per year (2012-2016). U.S. agricultural exports to Mexico were valued at $17.8 billion in 2016 (**Figure 3**). Leading U.S. agricultural exports to Mexico were animal products, grains and feed, oilseeds, sweeteners, fruits and vegetables and related products, nuts and other horticultural products, cotton, seeds and nursery products. The U.S. agricultural trade deficit with Mexico averaged $1.1 billion per year (2012-2016). The deficit with Mexico has grown more sharply in recent years as overall U.S. agricultural imports increased more quickly than U.S. exports to Mexico. From 2007 to 2011, U.S. agricultural trade to Mexico consistently showed a trade surplus, averaging $2.4 billion per year.

Figure 1. U.S-NAFTA Agricultural Trade, 1990-2016

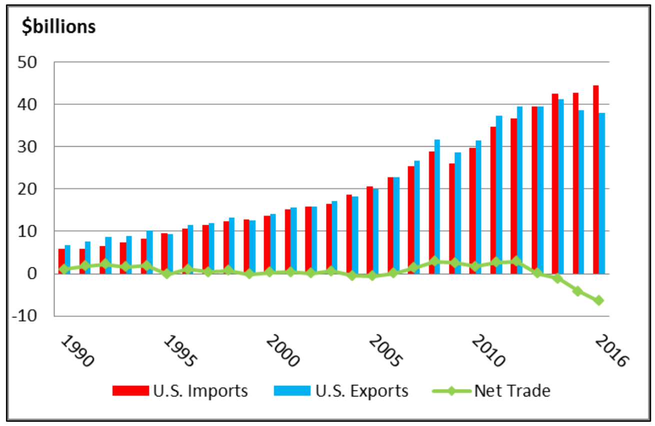


Figure 2. U.S. Exports to Canada, 1990-2016

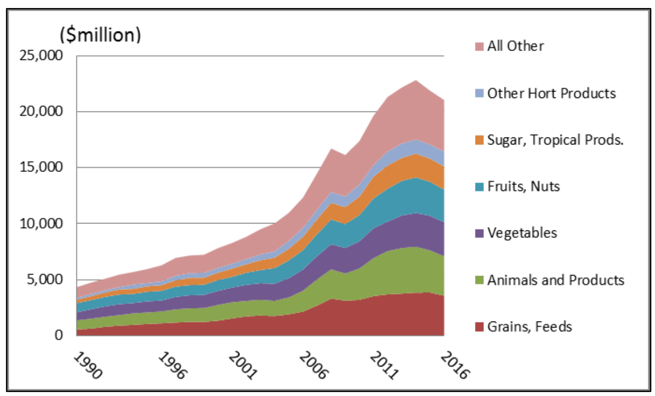
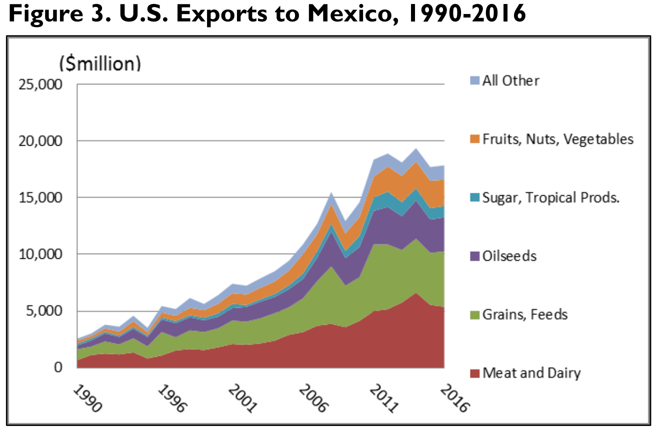


Figure 3. U.S. Exports to Mexico, 1990-2016



Source: CRS using USDA data for "Agricultural Products" as defined by USDA. Data are not adjusted for inflation.

NAFTA Agricultural Trade Liberalization

- **Tariff and quota elimination.** Eliminated some trade restrictions immediately, while others were phased out over time. Redefined import quotas as tariff equivalents or tariff-rate quotas (TRQs). Canada excluded dairy, poultry, and eggs for tariff elimination. The United States excluded dairy, sugar, cotton, tobacco, peanuts, and peanut butter.
- **Sanitary and phytosanitary (SPS) measures.** Imposed disciplines on the development, adoption, and enforcement of SPS measures regarding food safety and public health protection. Established a Committee on SPS Measures.
- **Rules of origin.** Established that products from non-NAFTA countries do not quality for NAFTA tariff reductions even if shipped through a NAFTA country.
- **Treatment of foreign investors.** Established provisions designed to facilitate foreign investment, including equal treatment of foreign and domestic investors and prohibition on minimum domestic content requirements in production.
- **Formal dispute resolution mechanism.** Created a formal mechanism for resolving disputes regarding the agreement's provisions including investment and services and antidumping and countervailing duty determinations.
- **Export subsidies.** Prohibited export subsidies in Canada-U.S. agricultural trade (permitted with regard to Mexico).
- **Domestic policies/subsidies.** Did not address domestic agricultural subsidies.
- **Grade and quality standards.** The United States and Mexico agreed to provide no less favorable treatment for like products imported for processing regarding marketing, grade/standards of a domestic product used in processing.

The U.S. Department of Agriculture (USDA) and many agricultural industry groups claim that NAFTA has benefitted U.S. agricultural sectors economically and the United States strategically in terms of North American relations. As part of its 2015 retrospective analysis of the impacts of NAFTA on U.S. agriculture, USDA concluded that "NAFTA has had a profound effect on many aspects of North American agriculture over the past two decades," contributing to increased market and economic integration and cross-border investment, integrated supply chains and improved logistical and technological communications and interactions. Consumers have also benefitted from generally lower prices—due to the elimination of tariffs and quota restrictions—but also from improved consumer choices and variety (e.g., imports of off-season produce/crops). Many in Congress claim that NAFTA has had a positive impact on food and agricultural production in their states.

Options to Renegotiate NAFTA

Although NAFTA resulted in tariff elimination for most agricultural products and redefined import quotas for some commodities as TRQs, some products—such as U.S. exports to Canada of dairy and poultry products—are still subject to high above-quota tariffs. In addition, although NAFTA addressed SPS measures and other types of non-tariff barriers that may limit agricultural trade in North America, SPS regulations continue to be regarded by agricultural exporters as one of the greatest challenges in trade, often resulting in increased costs and product loss and disrupting integrated supply chains.

Agricultural issues that have emerged that might be part of a NAFTA renegotiation include:

- **Improving agricultural market access.** Liberalize remaining dutiable agricultural products that were exempted from the original agreement (including dairy, poultry, and eggs) and that are still subject to TRQs and high out-of-quota tariff rates;
- **Updating NAFTA's SPS provisions.** Address SPS concerns in agricultural trade by "going beyond" existing World Trade Organization rights and obligations by addressing certain requirements including risk assessment, transparency, and notification, as well as building in additional rapid response mechanism and enforcement; and
- **Addressing other trade concerns.** Address certain outstanding agricultural trade disputes between the United States and its NAFTA partners (e.g., dairy and potatoes) as well as concerns regarding geographical indications (GIs), or place names that identify specific products based on their reputation or origin.

A number of such issues were addressed in recent trade negotiations involving the United States, including the Trans-Pacific Partnership (TPP) agreement. Many farm interest groups claim that a successful renegotiation would incorporate many of the types of changes related to food and agriculture agreed to in the TPP agreement, which they view as a blueprint for any renegotiation of NAFTA's agricultural provisions. For example, the TPP agreement included commitments regarding SPS and other technical standards, provided for public comment on proposed SPS measures, and provided for information exchange related to equivalency and regionalization for livestock disease outbreaks. It included assurances that import programs be risk-based and that import checks be carried out without undue delay. TPP also provided for improved enforcement mechanisms and dispute settlement to more rapidly resolve stoppages of products at the border, and it established certain commitments and obligations regarding GIs.

Next Steps

The Trump Administration's official notice sent to Congress regarding NAFTA renegotiation does not cite specific objectives for U.S. agriculture. USTR has requested public comment on "matters relevant to the modernization" of NAFTA, including general and product-specific negotiating objectives, economic costs and benefits to U.S. producers and consumers of removing any remaining tariffs and non-tariff barriers, treatment of specific goods, customs and trade facilitation issues, trade remedy issues, and any unwarranted SPS and technical barriers to trade, among other issues. USTR's review of submitted public comments and testimony at its upcoming hearing, as well as a forthcoming analysis by the U.S. International Trade Commission, could help inform any renegotiation of NAFTA's agricultural provisions.

See CRS Report R44875, *The North American Free Trade Agreement (NAFTA) and U.S. Agriculture*.

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