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# Seasonal Fruit and Vegetable Competition in U.S.-Mexico Trade

As part of the United States-Mexico-Canada Agreement (USMCA) negotiation, the United States attempted to resolve ongoing trade imbalances with Mexico for seasonal and perishable fruits and vegetables through rule changes to U.S. trade laws. American negotiators had hoped such changes could make it easier to initiate trade remedy cases against (mostly Mexican) exports to the United States and would respond to complaints by some fruit and vegetable producers, mostly in southeastern U.S. states, who claim to be adversely affected by import competition from Mexico. Several Members of Congress from those states have supported such actions; however, USMCA, which came into force in 2020, did not include seasonal produce protections. Congress has continued to consider legislation that would establish protections for seasonal produce.

## U.S. Fruit and Vegetable Trade Situation

The United States has been a net importer of fresh and processed fruits and vegetables since the 1990s (Figure 1). In 2022, the gap between total U.S. imports and exports of fresh and processed fruits and vegetables (excluding nuts) totaled more than \$37.4 billion. For historical background on the market and trade conditions that may be influencing this trade imbalance, see CRS Report RL34468, *The U.S. Trade Situation for Fruit and Vegetable Products*.

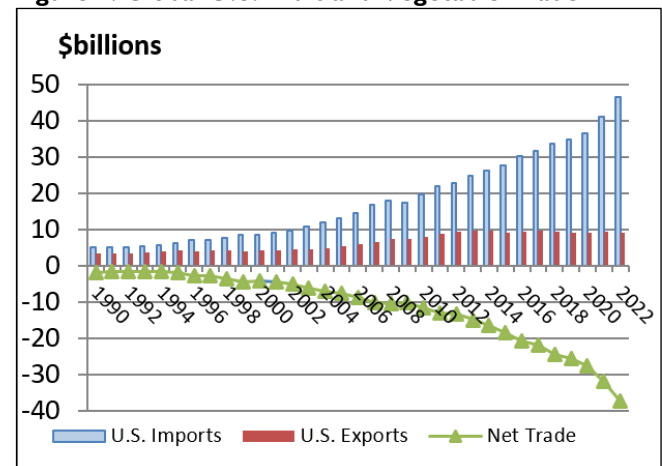
Mexico accounts for nearly half of the value of U.S. fruit and vegetable imports. In 2022, U.S. imports of fresh and processed fruits and vegetables from Mexico amounted to \$20.2 billion, while U.S. exports to Mexico totaled \$1.3 billion, resulting in a trade deficit of \$18.9 billion in these products (excluding nuts) (Figure 2). Several factors have contributed to this trade imbalance, including relatively open and free trade between the United States and Mexico and increased year-round demand for fruits and vegetables and counter-seasonal import supplies, which have benefitted U.S. consumers. Production of some Mexican fruits and vegetables—tomatoes, peppers, berries, cucumbers, and melons—has increased in recent years in part due to Mexico’s investment in large-scale greenhouse facilities and technological innovations, which some claim has been supported by the Mexican government and should be subject to antidumping and countervailing duties (AD/CVD) proceedings on U.S. imports. Trade concerns by growers in Florida and Georgia have primarily centered on imported tomatoes, peppers, and berries (Figure 3). For more historical background, see CRS Report R45038, *Efforts to Address Seasonal Agricultural Import Competition in the NAFTA Renegotiation*.

## Efforts in USMCA Negotiation

The Trump Administration attempted to resolve concerns about this trade imbalance with Mexico through the USMCA negotiation. U.S. agriculture-related objectives in

the USMCA negotiation included a proposal to establish new rules for seasonal and perishable fruits and vegetables. The U.S. proposal would have established a separate domestic industry provision for perishable and seasonal products in AD/CVD proceedings, making it easier for a group of regional producers to initiate an injury case and prove injury, thereby resulting in AD/CVD duties on the imported products responsible for the injury. The approach embodied in the U.S. proposal could have protected some U.S. seasonal produce growers by making it easier to initiate trade remedy cases. The U.S. International Trade Commission (USITC) has previously reviewed trade remedy cases involving perishable produce—such as *Fall-harvested Round White Potatoes from Canada* and *Spring Table Grapes from Chile*—that proved difficult to settle.

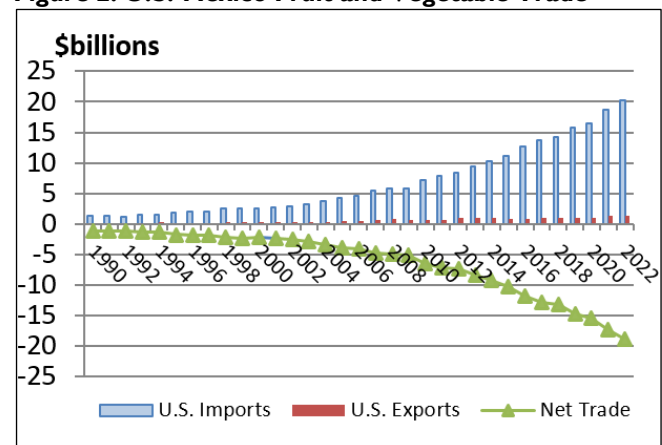
Figure 1. Global U.S. Fruit and Vegetable Trade



Source: CRS from data in the USITC’s Trade DataWeb database.

Note: Fresh and processed products (Harmonized Tariff Schedule [HTS] chapters 07, 08, and 20, excluding nuts [HTS 0801-0802]).

Figure 2. U.S.-Mexico Fruit and Vegetable Trade

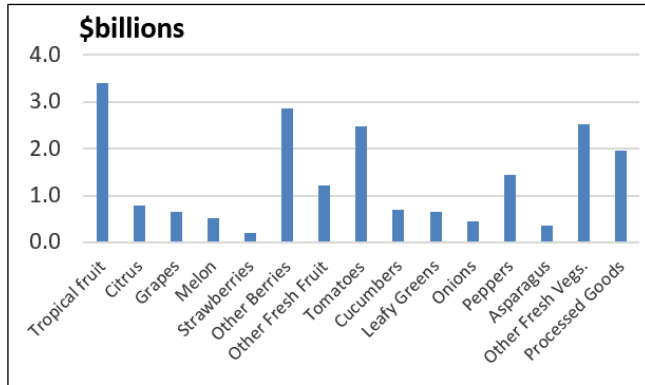


Source: CRS from data in the USITC’s Trade DataWeb database.

**Note:** Fresh and processed products (HTS chapters 07, 08, and 20, excluding nuts [HTS 0801-0802]).

As ratified, USMCA did not include changes to U.S. trade remedy laws to address seasonal produce trade. At a July 2019 congressional hearing, former U.S. Trade Representative (USTR) Robert Lighthizer indicated that attempts to include such provisions were not successful, citing opposition by Mexican negotiators.

**Figure 3. U.S. Imports of Mexican Produce, 2022**



**Source:** CRS from data in the USITC's Trade DataWeb database.

**Note:** Fresh and processed products (HTS chapters 07, 08, and 20, excluding nuts [HTS 0801-0802]).

## Support and Opposition to Proposal

Views regarding seasonal produce protections in trade agreements are mixed. Although most lawmakers from Florida and Georgia called on USTR to include seasonal protections in USMCA, others in Congress opposed such changes, contending that seasonal imports complement rather than compete with U.S. growing seasons. Legislation seeking changes to U.S. trade laws to address seasonal produce concerns was first introduced in 2015 and reintroduced in each subsequent Congress, including in the 118<sup>th</sup> Congress (Defending Domestic Produce Production Act, H.R. 545/S. 104). Others have claimed such protections could open the door to an “uncontrolled proliferation of regional, seasonal, perishable remedies against U.S. exports.” The Fresh Produce Association of the Americas has contended that such efforts would favor a few “politically-connected, wealthy agribusiness firms from Florida” at the expense of both consumers and growers in other fruit and vegetable producing states, such as California. At a 2017 House Agriculture Committee hearing, lawmakers from California and other states highlighted the benefits of imports from Mexico to U.S. consumers and the U.S. produce industry.

Most U.S. food and agricultural sectors, including some fruit and vegetable producer groups, opposed including seasonal protections in USMCA. Some asserted that efforts to push for seasonal protections could have derailed the USMCA negotiation altogether. The Agricultural Technical Advisory Committee for Trade in Fruits and Vegetables (F&V ATAC), which advises USTR on behalf of the industry, did not support adding seasonal provisions to the USMCA negotiation. The F&V ATAC voted to withdraw the seasonal and perishable trade remedy proposal from the U.S. negotiating objectives in 2018.

## Ongoing Efforts

Efforts to enact trade remedies on seasonal and perishable produce continue. Hearings held by USTR in August 2020 highlighted concerns on both sides of the issue. USTR released its plan for seasonal and perishable produce in September 2020, which initiated certain U.S. trade remedy investigations, among other actions. Separately, in 2021, the Department of Commerce implemented regulations intended to improve the administration and enforcement of AD and CVD laws (86 *Federal Register* 52300).

### Section 201 Blueberry Investigation

In 2020, USITC conducted a global safeguard investigation into blueberry imports under Section 201 of the Trade Act of 1974 (19 U.S.C. §§2251-2254), as requested by USTR. A Section 201 investigation refers to trade remedy actions designed to provide temporary relief for a U.S. industry (e.g., additional tariffs or import quotas) to facilitate adjustment of the industry to import competition. USITC voted to terminate its investigation in 2021 after it determined that increased imports of fresh, chilled, or frozen blueberries are not a substantial cause or a threat of serious injury to the U.S. blueberry industry.

### Section 332 General Fact-Finding Investigations

In 2020, USITC launched two general fact-finding investigations of strawberries and bell peppers under Section 332 of the Trade Act of 1930 (19 U.S.C. §1332). USTR requested these investigations “to monitor and investigate imports of strawberries and bell peppers, which could enable an expedited Section 201 global safeguard investigation.” USITC initiated two other investigations of seasonal cucumbers and squash with a focus on the U.S. Southeast, as requested by USTR on behalf of some Members of Congress from Georgia. Under a Section 332 general fact-finding investigation, USITC may investigate a wide variety of trade aspects of any matter involving tariffs or international trade, including conditions of competition between the United States and foreign industries.

### Other Requested Investigations and Actions

In October 2022, USTR announced plans to “establish a private-sector industry advisory panel to recommend measures to promote the competitiveness of producers of seasonal and perishable produce” with a focus on the U.S. Southeast. Accordingly, USTR and USDA will work with an advisory panel “to develop possible administrative actions and legislation that would provide real benefits to this struggling industry.” This action was announced as part of USTR’s rejection of a petition from Florida tomato growers requesting protections under Section 301 of the Trade Act of 1974 (19 U.S.C. §§2411-2420). Section 301 provides authority for USTR to impose trade sanctions on foreign countries that violate U.S. trade agreements or engage in acts that are “unjustifiable” or “unreasonable” and burden U.S. commerce. Some industry groups have also encouraged USTR to launch a 301 investigation of Mexican trade practices and policies involving seasonal and perishable produce. To date, USTR has not initiated such an investigation. While some in Congress support such investigations, others in Congress oppose such efforts.

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