

CHAPTER 2

NATIONAL TREATMENT AND MARKET ACCESS FOR GOODS

Article 2.1: Definitions

For the purposes of this Chapter:

advertising films and recordings means recorded visual media or audio materials that exhibit for prospective customers the nature or operation of goods or services offered for sale or lease by a person established or resident in the territory of a Party, provided that the films and recordings are not for broadcast to the general public;

commercial samples of negligible value means commercial samples having a value, individually or in the aggregate as shipped, of not more than one U.S. dollar, or the equivalent amount in the currency of another Party, or so marked, torn, perforated, or otherwise treated that they are unsuitable for sale or use except as commercial samples;

consular transactions means requirements that goods of a Party intended for export to the territory of another Party must first be submitted to the supervision of the consul of the importing Party in the territory of the exporting Party, or in the territory of a non-Party, for the purpose of obtaining a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shipper's export declaration, or any other customs documentation in connection with the importation of the good;

consumed means:

- (a) actually consumed; or
- (b) further processed or manufactured so as to result in a substantial change in the value, form, or use of the good or in the production of another good;

distributor means a person of a Party who is responsible for the commercial distribution, agency, concession, or representation in the territory of the Party of goods of another Party;

duty-free means free of customs duty;

goods admitted for sports purposes means sports requisites admitted into the territory of the importing Party for use in sports contests, demonstrations, or training in the territory of the Party;

import licensing means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the

AG19011056, AG19011066, AG19012015, AG19012050, AG19019062, AG19019065, AG21050040, AG21069009, AG21069066, and AG21069087.

14. TRQ – US 9: Sugar

- (a) This paragraph sets out a country-specific TRQ for the originating goods of Canada described in subparagraph (e). The TRQ set out in this paragraph is designated in Appendix 1 of the Schedule of the United States to Annex 2-B (Tariff Commitments) with the designation “US 9”.
- (b) The aggregate quantity of originating goods of Canada described in subparagraph (e) that shall be permitted to enter free of duty in each quota year under this TRQ is 9,600 MT. However, no quantity shall be permitted to enter free of duty unless wholly obtained from sugar beets produced in Canada.
- (c) In any year in which the United States Secretary of Agriculture (the Secretary) makes a determination to permit the importation into the United States at in-quota tariff rates of additional quantities of refined sugar, other than specialty sugar, above the quantities made available at those rates pursuant to its commitments under the WTO Agreement and other trade agreements, including this Agreement, that is to say, additional in-quota rate imports of refined sugar, the quantity set out for that year in subparagraph (b) shall increase by an amount equal to 20 percent of the quantity of additional in-quota rate imports of refined sugar that the Secretary determines to permit to enter into the United States in that year. Any increase pursuant to this subparagraph of a quantity set out in subparagraph (b) shall not take effect until the date on which the additional in-quota rate imports of refined sugar are permitted entry into the United States. Refined sugar imported pursuant to this subparagraph may be made from non-originating raw sugar. Nothing in this paragraph shall alter Canada’s rights under the WTO Agreement with respect to any increase by the United States of the quantities of refined sugar permitted to be imported above the quantities made available at in-quota tariff rates pursuant to its commitments under the WTO Agreement and other trade agreements, including this Agreement.
- (d) Goods entered in quantities in excess of the quantities provided under subparagraph (b) and, goods not wholly obtained from sugar beets produced in Canada, shall continue to receive most favored nation tariff treatment.
- (e) This paragraph applies to the following Table 1 provisions: AG17011250, AG17011350, AG17011450, AG17019130, AG17019950, and AG17029020.

15. TRQ – US 10: Sugar Containing Products

- (a) This paragraph sets out a country-specific TRQ for the originating goods of Canada described in subparagraph (g). The TRQ set out in this paragraph is designated in Appendix 1 of the Schedule of the United States to Annex 2-B (Tariff Commitments) with the designation “US 7”.
- (b) The aggregate quantity of originating goods of Canada described in subparagraph (g) that shall be permitted to enter free of duty in each quota year under this TRQ is 9,600 MT.
- (c) In any year for which Canada has provided the United States with a written notification in accordance with the terms of subparagraph (d) of Canada’s intent to require export certificates for the exportation of goods for import under this TRQ, the above quantity shall only be eligible for duty-free treatment if the U.S. importer makes a declaration to U.S. Customs and Border Protection (Customs), in the form and manner determined by Customs, that a valid export certificate issued by the Government of Canada is in effect for the goods.
- (d) Canada shall provide the United States with the notification referred to in subparagraph (c) at least 150 days prior to the start of each year in which Canada requires an export certificate for the exportation of goods for import under this TRQ. Canada shall provide the notification in writing to the U.S. Contact Point designated pursuant to Article 30.5 (Agreement Coordinator and Contact Points).
- (e) Goods entered within the quantity listed in subparagraph (b) that are provided for in Table 1 provisions AG17019148, AG17019158, AG17022028, AG17023028, AG17024028, AG17026028, AG17029058, AG17029068, AG18061015, AG18061028, and AG18061038 may be made from sugar refined in Canada. For the purposes of this subparagraph, **refined** means a change to a good of HS subheading 1701.91 or 1701.99 from any other subheading.
- (f) Goods entered in quantities in excess of the quantity listed in subparagraph (b) shall continue to receive MFN tariff treatment.
- (g) This paragraph applies to the following Table 1 provisions: AG17019148, AG17019158, AG17022028, AG17023028, AG17024028, AG17026028, AG17029058, AG17029068, AG17049068, AG17049078, AG18061015, AG18061028, AG18061038, AG18061055, AG18061075, AG18062073, AG18062077, AG18062094, AG18062098, AG18069039, AG18069049, AG18069059, AG19011076, AG19012025, AG19012035, AG19012060, AG19012070, AG19019068, AG19019071, AG21011238, AG21011248, AG21011258, AG21012038, AG21012048, AG21012058, AG21039078,

AG21069046, AG21069072, AG21069076, AG21069080, AG21069091, AG21069094, and AG21069097.

- (h) Originating goods which last underwent production in Canada shall be considered eligible for this TRQ regardless of whether they qualify to be marked as a good of Canada pursuant to U.S. law.

CHAPTER 3

AGRICULTURE

Section A: General Provisions

Article 3.1: Definitions

For the purposes of this Chapter:

agricultural good means agricultural products referred to in Article 2 of the Agreement on Agriculture;

export subsidy has the same meaning as assigned to “export subsidies” in Article 1(e) of the Agreement on Agriculture; and

Agreement on Agriculture means the *Agreement on Agriculture*, set out in Annex 1A to the WTO Agreement.

Article 3.2: Scope

1. This Chapter applies to measures adopted or maintained by a Party relating to trade in agricultural goods.

2. In the event of any inconsistency between this Chapter and another provision of this Agreement, this Chapter shall prevail to the extent of the inconsistency.

Article 3.3: International Cooperation

The Parties shall work together at the WTO to promote increased transparency and to improve and further develop multilateral disciplines on market access, domestic support, and export competition with the objective of substantial progressive reductions in support and protection resulting in fundamental reform.

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.

ANNEX 3-A

AGRICULTURAL TRADE BETWEEN CANADA AND THE UNITED STATES

Article 3.A.1: Tariff Classifications

1. Canada shall notify the United States of any change to Canada's Schedule to the *Customs Tariff* that increases the rate of a customs duty applied to a dairy, poultry, or egg product when imported into Canada from the United States⁴ prior to finalization of such change. To the maximum extent possible, Canada shall provide such notification immediately after publication of the proposal for the change, so as to provide a sufficient opportunity for the United States to review the proposal prior to its implementation. If the United States requests, Canada shall promptly provide information to the United States, and respond to questions from the United States, pertaining to any change to Canada's Schedule to the *Customs Tariff* that increases the rate of a customs duty applied to a dairy, poultry, or egg product when imported into Canada from the United States, whether or not the United States has been previously notified of the change.
2. The United States shall notify Canada of any change to the *Harmonized Tariff Schedule of the United States* that increases the tariff rate applied to a sugar, sugar containing product (SCP), or dairy product when imported into the United States from Canada⁵ prior to finalization of such change. To the maximum extent possible, the United States shall provide such notification immediately after publication of the proposal for the change, so as to provide sufficient opportunity for Canada to review the proposal prior to its implementation. If Canada requests, the United States shall promptly provide information to Canada, and respond to questions from Canada, pertaining to any change to the *Harmonized Tariff Schedule of the United States* that increases the tariff rate applied to a sugar, SCP, or dairy product when imported into the United States from Canada, whether or not Canada has been previously notified of the change.
3. On the request of the other Party, a Party shall meet to discuss any measures or policies that may affect trade between the Parties of a sugar, SCP, dairy, poultry, or egg product within 30 days of the request.

⁴ For purposes of this paragraph, a "change to Canada's Schedule to the *Customs Tariff* that increases the rate of a customs duty applied to a dairy, poultry, or egg product when imported into Canada from the United States" means a change to Canada's Schedule to the *Customs Tariff* that changes the classification of any good not previously classified under a tariff item listed in Appendix A that results in the good being classified under a tariff item listed in Appendix A.

⁵ For purposes of this paragraph, a "change to the *Harmonized Tariff Schedule of the United States* that increases the tariff rate applied to a sugar, SCP, or dairy product when imported into the United States from Canada" means a change to the *Harmonized Tariff Schedule of the United States* that changes the classification of any good not classified before the change under a tariff item listed in Appendix B to this Annex that results in the good being classified under a tariff item listed in Appendix B.

14. Within 30 days of a request from the other Party, the Parties shall meet in a jointly agreed location, or by electronic means, to discuss any matter associated with the application of this Section.

15. Recognizing that new products and new consumer preferences may impact the demand for and exports of skim milk powder, milk protein concentrates, and infant formula, if the trade monitoring mechanism established in paragraphs 7 through 9 is unsatisfactory to either Party, the Parties shall, within 30 days of a written request of a Party, enter consultations to consider and, if appropriate, seek to amend the provisions of paragraphs 7 through 9 pursuant to Article 34.3 (Amendments).

16. Five years after entry into force of this Agreement and every two years thereafter, Canada and the United States shall meet to consider whether conditions have changed such that this Article should be terminated or modified. Modifications, including termination, may be made at that time or at any other time by mutual consent of Canada and the United States.

Article 3.A.4: Grain

1. Each Party shall accord to originating wheat imported from the territory of the other Party treatment no less favorable than that it accords to like wheat of domestic origin with respect to the assignment of quality grades, including by ensuring that any measure it adopts or maintains regarding the grading of wheat for quality, whether on a mandatory or voluntary basis, is applied to imported wheat on the basis of the same requirements as domestic wheat.

2. No Party shall require that a country of origin statement be issued on a quality grade certificate for originating wheat imported from the territory of the other Party, recognizing that phytosanitary or customs requirements may require such a statement.

3. At the request of the other Party, the Parties shall discuss issues related to the operation of a domestic grain grading or grain class system, including issues related to the seed regulatory system associated with the operation of any such system, through existing mechanisms. The Parties shall endeavor to share best practices with respect these issues, as appropriate.

4. Canada shall exclude from the application of the Maximum Grain Revenue Entitlement, established under the *Canada Transportation Act*, or any modification, replacement, or amendment thereof, movements of agricultural goods originating in Canada and shipped via west coast ports for consumption in the United States.

Article 3.A.5: Sugar and Sugar Containing Products

1. For the purposes of paragraphs 2 through 5:

“product of Canada” means a good that qualifies to be marked as a good of Canada pursuant to U.S. law¹⁰ without regard to whether the good is marked.

2. Consistent with Article XIII of the GATT 1994, the United States shall allocate to Canada:

- (a) a share of the in-quota quantity of its refined sugar TRQ¹¹ of not less than 10,300 metric tons, raw value, for sugar that is a product of Canada; and
- (b) a share of the in-quota quantity of its SCP TRQ¹² of not less than 59,250 metric tons for SCPs that are the product of Canada.

3. Further to paragraph 2, the United States shall permit access for sugar that is the product of Canada to any in-quota quantity of the refined sugar TRQ that is not allocated among supplying countries. The United States shall permit access to the unallocated amounts in a TRQ period without regard to whether the share allocated to Canada for that period has been filled.

4. Further to paragraph 2, if the United States allocates the refined sugar TRQ reserved for specialty sugar, then the United States shall do so consistent with its WTO obligations and in consultation with Canada.

5. Further to paragraph 2, if for any TRQ period Canada informs the United States that Canada will not supply the full amount of the share of SCP TRQ allocated to Canada pursuant to paragraph 2, then the United States shall transfer the quantity of the share that Canada will not supply to the quantity of SCP TRQ that is not allocated among supplying countries. The United States shall provide Canada reasonable advance notice of the date on which such a transfer will take effect. Any transfer under this paragraph will not affect the amount of the share of the SCP TRQ allocated to Canada pursuant to paragraph 2 in subsequent TRQ periods.

Article 3.A.6: Other

1. Canada shall ensure that imports of dairy, poultry, or egg products eligible for Canada’s Duties Relief Program (DRP) and Import for Re-export Program (IREP) as of September 1, 2018,

¹⁰ Any change to U.S. regulations regarding the marking of refined sugar and sugar containing products shall be undertaken consistent with U.S. law, meaning that any proposed amendments or revisions will be published in the Federal Register normally allowing at least 60 days for public comment, including comments from Canada, and the United States shall take all public comments timely submitted into account before finalizing any new regulation.

¹¹ The refined sugar TRQ of the United States is as provided for in Additional U.S. Note 2 to chapter 17 of the Schedule of the United States annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994*.

¹² The SCP TRQ of the United States is as provided for in Additional U.S. Note 6 to chapter 17 of the Schedule of the United States annexed to the *Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994*.

ANNEX 3-B

AGRICULTURAL TRADE BETWEEN MEXICO AND THE UNITED STATES

1. For the purposes of this Annex:

qualifying good means an originating good that is an agricultural good, except that in determining whether the good is an originating good, operations performed in or materials obtained from Canada shall be considered as if they were performed in or obtained from a non-Party;

sugar means raw or refined sugar derived directly or indirectly from sugar cane or sugar beets, including liquid refined sugar;

sugar-containing product means a good containing sugar;

sugar or syrup good means:

- (a) for imports into Mexico, a good provided for in any of the current HS subheading 1701.91 (except those that contain added flavoring matter) and the current tariff items 1701.12.01, 1701.12.04, 1701.13.01, 1701.14.01, 1701.14.04, 1701.99.01, 1701.99.02, 1701.99.99, 1702.90.01, 1806.10.01, and 2106.90.05 of the General Import and Export Duty Act ("*Ley de los Impuestos Generales de Importación y de Exportación*"); and
- (b) for imports into the United States, a good provided for in any of the current tariff items 1701.12.05, 1701.12.10, 1701.12.50, 1701.13.05, 1701.13.10, 1701.13.20, 1701.13.50, 1701.14.05, 1701.14.10, 1701.14.20, 1701.14.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.10, 1701.99.50, 1702.90.05, 1702.90.10, 1702.90.20, 1702.90.35, 1702.90.40, 1702.90.52, 1702.90.54, 1702.90.58, 1702.90.64, 1702.90.68, 1702.90.90, 1806.10.43, 1806.10.45, 1806.10.55, 1806.10.65, 1806.10.75, and 2106.90.42, 2106.90.44, and 2106.90.46 of the U.S. Harmonized Tariff Schedule, without regard to the quantity imported; and

Tariff rate quota (TRQ) means a mechanism that provides for the application of a customs duty at a certain rate to imports of a particular good up to a specific quantity (in-quota quantity), and at a different rate to imports of that good that exceed that quantity.

2. This Annex applies only as between Mexico and the United States.
3. With the exception of TRQs set out in its schedule to the WTO Agreement, Mexico shall ensure that the customs duty for any TRQ it maintains for sugar or syrup goods on a most-favored-

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qualifying good means an originating good that is an agricultural good, except that in determining whether the good is an originating good, operations performed in or materials obtained from Canada shall be considered as if they were performed in or obtained from a non-Party;

sugar means raw or refined sugar derived directly or indirectly from sugar cane or sugar beets, including liquid refined sugar;

sugar-containing product means a good containing sugar;

sugar or syrup good means:

- (a) for imports into Mexico, a good provided for in any of the current HS subheading 1701.91 (except those that contain added flavoring matter) and the current tariff items 1701.12.01, 1701.12.04, 1701.13.01, 1701.14.01, 1701.14.04, 1701.99.01, 1701.99.02, 1701.99.99, 1702.90.01, 1806.10.01, and 2106.90.05 of the General Import and Export Duty Act ("*Ley de los Impuestos Generales de Importación y de Exportación*"); and
- (b) for imports into the United States, a good provided for in any of the current tariff items 1701.12.05, 1701.12.10, 1701.12.50, 1701.13.05, 1701.13.10, 1701.13.20, 1701.13.50, 1701.14.05, 1701.14.10, 1701.14.20, 1701.14.50, 1701.91.05, 1701.91.10, 1701.91.30, 1701.99.05, 1701.99.10, 1701.99.50, 1702.90.05, 1702.90.10, 1702.90.20, 1702.90.35, 1702.90.40, 1702.90.52, 1702.90.54, 1702.90.58, 1702.90.64, 1702.90.68, 1702.90.90, 1806.10.43, 1806.10.45, 1806.10.55, 1806.10.65, 1806.10.75, and 2106.90.42, 2106.90.44, and 2106.90.46 of the U.S. Harmonized Tariff Schedule, without regard to the quantity imported; and

Tariff rate quota (TRQ) means a mechanism that provides for the application of a customs duty at a certain rate to imports of a particular good up to a specific quantity (in-quota quantity), and at a different rate to imports of that good that exceed that quantity.

2. This Annex applies only as between Mexico and the United States.
3. With the exception of TRQs set out in its schedule to the WTO Agreement, Mexico shall ensure that the customs duty for any TRQ it maintains for sugar or syrup goods on a most-favored-

- (b) a consideration in the assignment of quality grades or classes to imported grain and oilseed.

10. Mexico and the United States shall establish a technical working group, which will be comprised of, and co-chaired by, representatives of the governments of Mexico and the United States. The technical working group shall meet on an annual basis, unless otherwise decided. The technical working group shall review matters related to agricultural grade and quality standards, technical specifications, and other standards in each Party and their application and implementation insofar as they affect trade between the Parties. The technical working group shall work to resolve issues that may arise regarding the application and implementation of the standards, including when feasible and appropriate, considering joint mechanisms, such as training programs, or work plans for quality inspections at the point of origin to facilitate trade between the Parties.

11. Beginning on the date of entry into force of this Agreement, no Party may refund the amount of customs paid, or waive or reduce the amount of customs duties owed, on any agricultural good imported into its territory that is substituted for an identical or similar good that is subsequently exported to the territory of the other Party.