Other Field Crops

Dry Beans

Policy Changes Resulting from NAFTA

United States. Prior to 1989, the United States maintained import tariffs on dry beans ranging from 1.7 to 3.3 cents per kilogram. Under CFTA, U.S. duties on Canadian dry beans were to have been phased out over a 9-year period, but this process was accelerated and completed ahead of schedule. Under NAFTA, the United States immediately eliminated its tariffs on Mexican dry beans on January 1, 1994.

Mexico. Prior to 1994, Mexico restricted dry bean imports through import licenses. Under NAFTA, Mexico eliminated its licensing requirement and granted the United States a duty-free TRQ for common dry beans of 50,000 metric tons. Canada received a TRQ of 1,500 metric tons. The over-quota tariff for both countries was set initially at $480 per metric ton, but not less than 139 percent ad valorem. From 1994 to 1999, this tariff was reduced by a total of 24 percent. Over the period 2000-08, it is being phased out in equal increments. Concurrently, the quotas expand 3 percent each year during the 14-year transition period. For 2001, the over-quota tariff equals $283.73 per metric ton, but not less than 82.16 percent ad valorem.

Canada. Prior to 1989, Canada maintained duties ranging from 2.21 to 3.31 Canadian cents per kilogram on imported dry beans, depending on the type of bean. As part of CFTA, Canada agreed to phase out its tariffs on U.S. dry beans over a 9-year period. However, this process was accelerated and completed ahead of schedule.

Dry Bean Trade under CFTA and NAFTA

The United States is a leading exporter of dry beans. In 2000, exports of such beans (excluding garbanzo beans, which are sometimes grouped with dry peas) totaled $168 million, while imports (excluding garbanzo beans and guar seeds) equaled $27 million. Traditionally, Canada has been a relatively minor market for U.S. dry beans, accounting for 2-3 percent of U.S. export value. However, Canada has experienced strong export demand (largely from the European Union) since 1998. This boost in export demand created a supply gap in Canada in 1999, leading Canada to import a substantial quantity of low-priced U.S. beans. These purchases boosted Canada's share of U.S. dry bean exports to nearly 14 percent of volume in 1999. The following year, this share dropped back to 7 percent. Although the Canadian dry bean crop is much smaller than that of the United States, Canada is a strong competitor in the world market, traditionally exporting three-fourths of its annual production.

In contrast to Canada, Mexico historically has been a much more active, although highly variable, market for dry beans from the United States. During 1990-99, Mexico accounted for 21 percent of the value of U.S. dry bean exports, with the share ranging from just 5 percent in 1995 to 39 percent in 1998. Mexico accounted for 19 percent of U.S. dry bean export value in 2000. U.S. exports fell short of the TRQ in 1994 and 1995, but they exceeded it each year thereafter until 2000 due to a series of weather reversals (freezes and droughts) that limited Mexican production. In 2000, export volume to Mexico was just below the TRQ of 59,703 metric tons.

Dry beans are an important part of the Mexican diet, with per capita consumption averaging nearly 34 pounds - among the highest in the world. In contrast, per capita dry bean use is about 8 pounds in the United States, less than 2 pounds in Canada, and an estimated 8 pounds for the entire world. Because dry beans are a staple food in Mexico, imports rise in years of short domestic output.

Mexico is the world's sixth largest producer of dry beans, including both broad and round varieties. The United States is fifth. Most dry bean area in Mexico is not irrigated and thus susceptible to drought. In fact, drought-related shortfalls in production have occurred in each of the past 3 years. In 1998, the Mexican government authorized auctions of duty-free import permits over and above the NAFTA quota amount to cover a drought-related shortfall.

Excluding guar seeds, which are used largely for industrial purposes, imports accounted for about 4 percent of U.S. dry bean consumption during the 1990's - virtually unchanged from the 1980's. (Imports were 5 percent of use in 2000.) In 2000, about 34 percent of the value of U.S. dry bean imports came from Canada. These imports primarily serve border areas of the United States. Reflecting the relative strength of the U.S. dollar, imports from Canada have been rising, averaging $7 million during 1995-2000 - up 114 percent from 1990-94. Mexico accounted for about 13 percent of U.S. dry bean imports in 2000, with much of these imports serving niche markets. Imports from Mexico averaged $3 million during 1995-2000, 4 times higher than in 1990-94.

Trade Issues

The timing of Mexican auctions for NAFTA dry bean import permits has become a sore point to the U.S. industry over the past several years. During the first 7 months of 1999, Mexico failed to auction the permits for calendar year 1999, largely due to internal political reasons. This act of omission brought U.S. dry bean exports to Mexico to a virtual standstill. Moreover, it created a tremendous drag on the market, especially for growers and dealers of pinto and black beans, since these commodities were already in serious oversupply in the United States. Ultimately, an auction was held at the end of August to allocate 1999 import certificates for 48,000 metric tons of dry beans. The remaining permits for 9,963 metric tons of duty-free dry beans were assigned to a Mexican government agency that purchases food for social feeding programs.

In January 2000, the Mexican government announced that it would split the auctioning of NAFTA import permits into three separate occasions, each for one-third of the 59,703-metric-ton TRQ. The first auction was held in mid-February in which 19,901 metric tons of duty-free certificates for 2000 issued. Despite the original intention to hold three auctions, the final two auctions were combined into a single auction, originally scheduled for mid-August. However, this event was postponed until August 29, when the last 39,802 metric tons of permits were finally auctioned. The average bid was 1.15 pesos per kilogram (about $5.60 per hundred-weight). This is about half the current grower price in the United States for several bean classes - including pinto and black beans, the most significant classes exported to Mexico. The first auction for 2001 import permits was held March 19, 2001, with permits for 15,374 metric tons of U.S. duty-free beans bringing a record-high average bid of 2.9 pesos per kilogram ($13.75 per hundred-weight).

The continued escalation of bid prices on NAFTA auction certificates is causing concern in the U.S. dry bean industry. Depending on supply and demand, Mexican importers may be able to pass along some part of their permit costs to U.S. shippers, Mexican consumers, or both. Thus, high permit bids may translate into even more depressed market prices for U.S. shippers, and these prices already were hovering at or below break-even levels for most bean classes into 2001. In January 2001, the U.S. and Mexican governments conducted informal consultations on this topic.

NAFTA's Impact on Dry Bean Trade

NAFTA has had little direct effect on dry bean trade, although the irregular timing of Mexico's auctions of import permits probably has had some influence on prices. When production shortfalls made it necessary to import dry beans during the past several years, the Mexican government issued import permits well in excess of the TRQ. This type of action is consistent with Mexico's historical import patterns. Although increased exports of dry beans to Mexico have occasionally helped to support dry bean prices in the United States, these exports were not the direct result of NAFTA.

NAFTA has facilitated and encouraged communications between member nations, which has helped to resolve disputes and to address industry concerns. Because Mexico is an important market for U.S. dry beans, any uncertainties caused by poor communication could have an adverse effect on the planting and marketing decisions of U.S. producers and the prices that they receive.

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Cotton

Policy Changes Resulting from NAFTA

United States. Under CFTA and NAFTA, Canada and the United States gradually eliminated their duties for each other on yarn and thread that qualify under the agreements' rules of origin, as well as for all fabric and apparel. This transition occurred over the 9-year period that ended on January 1, 1998.

Under NAFTA, the United States established a duty-free quota for Mexican cotton of 46,000 bales, two-and-one-half times Mexico's previous quota under Section 22 of the Agricultural Adjustment Act (7

U.S.C. 624). Prior to NAFTA, U.S. tariffs on cotton imports ranged from zero to 4.4 cents per kilogram. The NAFTA quota grows by 3 percent per year, and the tariff for over-quota shipments is being phased out over the 9-year period that ends on January 1, 2003. For 2001, the over-quota tariff is about 7 cents per kilogram, or 5 percent.

In addition, the United States reduced tariffs and expanded quota-free access for yarn, fabric, and apparel derived from yarn and fiber produced by a NAFTA country. The United States gradually eliminated its duties on 83-99 percent of Mexico's textile goods that satisfy NAFTA's rules of origin. This transition occurred over the 4-year period that ended on January 1, 1998. The United States also eliminated its import quotas for Mexican yarn and for fabric and apparel produced from yarn and thread from any NAFTA country.

Mexico. Prior to 1994, Mexico levied a 10-percent tariff on U.S. cotton. Under NAFTA, Mexico is phasing out this tariff over the 9-year period that ends on January 1, 2003. For 2001, the duty equals 3 percent.

On January 1, 1994, Mexico immediately eliminated its duties for key products of export interest to U.S. textile producers. Moreover, Mexico gradually eliminated its duties on 60-97 percent of U.S. textiles that meet NAFTA's rules of origin. This transition occurred over the 4-year period that ended on January 1, 1998.

Canada. Under CFTA and NAFTA, Canada and the United States gradually eliminated their duties for each other on qualifying yarn and thread and on all fabric and apparel over the 9-year period that ended on January 1, 1998. Quotas under the Multi Fiber Arrangement (MFA)[1] did not affect U.S.-Canada textile trade, so Canada made no policy changes in this area. Similarly, Canada did not levy an import tariff on cotton prior to CFTA and does not do so today.

Cotton Trade under CFTA and NAFTA

Mexico has become the world's largest importer of raw cotton, and almost all of these imports come from the United States. There is also significant two-way trade in textile products, with the United States largely exporting fabric and other intermediate products and importing finished goods. Between 1993 and 2000, U.S. cotton exports to Mexico increased 155 percent, U.S. exports to Mexico of cotton textiles and apparel increased 479 percent, and U.S. imports of Mexican cotton textiles and apparel increased 756 percent. In 2000, the volume of U.S. cotton exports to Mexico reached 1.7 million bales, while exports and imports of cotton textiles and apparel equaled roughly 2 and 3 million bales, respectively.

Traditionally, Mexico has been an important producer and exporter of cotton, but Mexico's role as an exporter has diminished since the beginning of the 1990's. Since 1992, the United States has supplied at least half of Mexican cotton consumption. Mexico's textile industry possesses many new and modernized spinning units, which operate more efficiently with U.S. cotton than domestic Mexican cotton due to the characteristics of U.S. cotton, the location of the mills, and the nature of the new equipment in the mills. As a result, imports in the 2000/01 marketing year (August 1, 2000 to July 31, 2001) are expected to be more than 6 times the size of production, even though Mexican cotton production and, to a lesser extent, Mexican cotton exports have rebounded since the mid-1990's. Consumption is estimated to be about 1.9 million bales higher than production, with the United States virtually the sole import supplier.

U.S.-Mexico trade in cotton textiles also grew significantly during the 1990's, with a large deficit for the United States. During the late 1980's, Mexico began to liberalize its cotton and textile industries, and Mexico - along with the Caribbean Basin Initiative (CBI) countries - gained quota-free access to the United States for apparel and other products produced from U.S. fabric. Under NAFTA, Mexico's access to the U.S. market has surpassed that of the CBI countries, but CBI exports to the United States have continued to grow during the NAFTA era. The U.S. cotton textile trade deficit with Central America and the Caribbean now exceeds 1 million bales, compared with the pre-NAFTA average of 260,000, and trade in each direction is comparable to corresponding levels of U.S.-Mexico trade.

Cotton textile trade between Mexico and the United States was already large in both directions prior to NAFTA, but this trade has soared since the agreement's implementation, becoming perhaps the largest

[1] The MFA is a complex multilateral agreement that establishes quantitative restrictions for international textile and apparel trade. Under the World Trade Organization's Agreement on Textile and Clothing (ATC), these restrictions are now being dismantled.

cotton textile trading relationship in the world. U.S.-Mexico trade accounts for about 8 percent of world trade in cotton textiles, as NAFTA has permitted an increased division of labor between the two countries while the geographic proximity of the two countries allows producers to respond quickly to changing fashions. In 1998, Mexico became the largest net supplier of cotton clothing and textiles to the United States, and in 2000, the U.S. textile and apparel deficit with Mexico totaled about 1 million bales, compared with virtually no deficit in 1993. Note that U.S. raw cotton exports to Mexico also climbed more than 1 million bales between 1993 and 2000, essentially mirroring the changes in textile trade.

Canada's cotton consumption and imports have risen sharply since the advent of NAFTA. U.S. cotton exports to Canada, as well as U.S. textile trade with Canada, have grown steadily since NAFTA's passage, with large surpluses for the United States in both raw and processed products. Canada's cotton consumption and imports were essentially unchanged between 1987 and 1993, but since then cotton consumption has nearly doubled, and raw cotton imports from the United States have risen 80 percent. The United States is Canada's principal export market for textiles, and one of its largest sources of imports. The United States enjoyed a surplus in cotton textile trade with Canada of about 200,000 bales during the 1990's, and U.S. raw cotton exports to Canada rose from about 170,000 bales to 300,000 bales between 1993 and 2000.

Trade Issues

There have been no significant trade disputes concerning cotton among the NAFTA countries. In 1998, Mexican cotton producers were concerned about an influx of imports from the United States under Step 2 of the U.S. Cotton Marketing Loan Program. The temporary surge ended in December 1998 when the Step 2 funds were exhausted for the year, and some of the U.S. cotton imported under this program was transshipped to other countries. Revisions to the operation of Step 2 mean that the 1998 surge is unlikely to be repeated.

Mexico is one of the few countries that provides domestic support to its cotton producers, but these payments are small, suggesting that any related trade distortions are also small. During the 2000/01 marketing year, the combined value of payments under PROCAMPO (*Programa de Apoyos Directos al Campo*—Program of Direct Support to the Countryside), technical assistance, and a program of emergency payments in its second year was about $16 million.

NAFTA's Impact on Cotton Trade

NAFTA has led to a significant increase in U.S. cotton exports to Mexico, as Mexico's textile industry has grown through access to the U.S. market. Preferential trade rules and technological advances favoring quick responses by apparel producers to consumer trends have allowed Mexico to capture much of the increase in U.S. apparel imports that might have otherwise gone to Asian exporters. Since Mexico's textile industry uses U.S. cotton to a far greater extent than Asian firms, U.S. export opportunities have grown. Furthermore, some U.S. textile capacity has transferred to Mexico, shifting domestic U.S. cotton consumption into exports. The result has been an increase in the U.S. share of world cotton trade, the elevation of Mexico to the world's largest importer, and a relatively constant level of U.S. cotton production despite a large increase in apparel imports.

While NAFTA has substantially improved Mexico's access to the U.S. market, CBI countries - with the same access as pre-NAFTA Mexico - have continued to increase their textile exports to the United States. Furthermore, the timing of changes in U.S.-Mexico textile trade has been strongly correlated with changes in exchange rates.

While the Uruguay Round Agreement on Textiles and Clothing (ATC) still would have increased Mexico's access to U.S. textile markets had NAFTA not been implemented, the effect would have been much smaller. Although the ATC eliminates Multi-Fiber Arrangement quotas, it permits countries to retain the most critical import restrictions until 2005. Under NAFTA, the United States eliminated its duties on the vast majority of Mexican textiles as of January 1, 1998. It is also likely that the commitment to trade liberalization represented by NAFTA provided greater assurance for investment in textile capacity, increasing the volume of cotton textile trade among the three NAFTA countries.

NAFTA did little to affect U.S. imports of raw cotton. While Mexico's quota under NAFTA is larger than its earlier Section 22 quota, it is substantially smaller than other U.S. cotton import quotas. During marketing years 1995-99, the NAFTA TRQ allowed Mexico to export an average of 51,000 bales per year duty-free, and Mexico's average fill rate for this TRQ was 15 percent. U.S. quotas for the rest of the world under URAA averaged 245,000 bales, with a fill rate of 12 percent. However, the Food, Agriculture, Conservation, and Trade Act of 1990 created a mechanism that opened even larger quotas for any country during the infrequent periods that price differentials favor importing into the United States. During marketing years 1995-99, these quotas averaged 2.4 million bales, with a fill rate of 10 percent.

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Sugar and Sweeteners

Policy Changes Resulting from NAFTA

United States. Prior to CFTA and NAFTA, Mexico and Canada each had a share of the U.S. sugar import quota, which began in 1982. Under this quota, Canada paid the "low" duty of 0.66 cents a pound on refined beet sugar, and a similar duty was waived for Mexico under the Generalized System of Preferences. Under CFTA, the quantity provisions of the U.S. quota system continued to apply to Canadian sugar, although duties on within-quota sugar were gradually reduced, reaching zero on January 1, 1998.

In 1990, the United States unilaterally converted its absolute sugar import quota to a TRQ system, after a GATT panel ruled against the absolute quota in a case brought by Australia. A second-tier tariff of 16 cents a pound was established to apply to quantities above the TRQ's first level. The United States interpreted CFTA to mean that the second-tier tariff could not be applied against Canada. Thus, from January 1990 through December 1994, Canadian sugar entered the United States freely, paying only the low CFTA duty. These imports from Canada were small relative to the size of the U.S. market and did not seriously disrupt the U.S. sugar program.

When the Uruguay Round Agreement on Agriculture (URAA) was implemented in 1995, Canada became subject to the most-favored-nation (MFN) over-quota tariff of approximately 16 cents a pound. The CFTA tariff applies to shipments within the quota. As a result of an agreement reached with Canada, 10,300 metric tons of the refined sugar TRQ and 59,250 metric tons of the TRQ for certain sugar-containing products maintained under "Additional U.S. Note 8 and Chapter 17 to the Harmonized Tariff Schedule of the United States" is allocated to Canada. Because Canada does not produce raw cane sugar, it is not given a share of the larger TRQ for raw cane sugar.

Mexico. The following description of Mexican access to the U.S. market also applies to U.S. access to the Mexican market.

Mexico's access to the U.S. sugar market depends on Mexico's "projected net surplus production," which is defined as projected production minus projected domestic consumption. Projected net surplus production is calculated using a formula that stipulates that high fructose corn syrup (HFCS) should be included only in the portion of the calculation pertaining to consumption. Thus, projected Mexican sugar production has to exceed projected Mexican consumption of both sugar and HFCS for Mexico to be considered a net surplus producer.

From Fiscal Year (FY) 1994 to FY 2000, Mexico was entitled to duty-free access for sugar exports to the United States in the amount of its projected net surplus production, up to a maximum of 25,000 metric tons, raw value. If Mexico was not a net surplus producer, it still enjoyed duty-free access for 7,258 metric tons, raw value—the "minimum boatload" amount authorized under the U.S. TRQ.

In September 1996, the United States determined that Mexico was projected to be a net surplus producer of sugar in FY 1997. Thus, the United States gave Mexico a duty-free quota of 25,000 metric tons, raw value, that could be shipped as either raw or refined sugar. Mexico's duty-free access for FY 1998 through FY 2000 also was 25,000 metric tons, raw value.

From FY 2001 through FY 2007, Mexico has duty-free access to the U.S. market for the amount of its projected net surplus production, up to a maximum of 250,000 metric tons (raw value), with minimum duty-free access equal to the "minimum boatload." For FY 2001, Mexico's duty-free access is 116,000 metric tons, including 7,258 metric tons (raw value) under the TRQ, 2,954 metric tons (raw value) of refined sugar and an additional 105,788 metric tons (raw value) (the quantity which the United States committed to provide Mexico under NAFTA). Of this total, 113,046 metric tons (raw value) may be shipped as either raw or refined sugar. NAFTA envisioned Mexico and the United States as one sweetener market by FY 2008, with sugar and corn sweetener free to be sold in the other market without restriction.

In 1999, Mexico installed a TRQ system, with a second-tier tariff for other countries that is equal to the U.S. second-tier tariff. Sugar tariffs between the United States and Mexico declined 15 percent over the first 6 years of NAFTA, and are scheduled to go to zero by FY 2008. For FY 2001, the second-tier raw cane sugar tariff is 10.58 cents a pound, and the refined sugar tariff is 11.21 cents a pound.

Mexico's barriers to sugar-containing products have been converted to TRQ's, and the associated second-tier tariffs will decline to zero over 10 years. U.S. refiners that ship sugar to Mexico under the U.S. Refined Sugar Re-Export Program receive MFN treatment; NAFTA provides no special benefit for re-export sugar because it is not considered to be of U.S. origin. However, NAFTA does allow for reciprocal duty-free access between the United States and Mexico for refined sugar made from raw sugar produced in the other country.

Canada. As a result of CFTA, the Canadian tariff on U.S. sugar was 0.11 cents a pound, refined basis, in 1997, and became zero in 1998. Canada made no changes in its sugar trade policies as a result of NAFTA.

Sugar Trade under CFTA and NAFTA

U.S. sugar imports from Mexico and Canada continue to be restricted by the U.S. TRQ for sugar, but Mexico's access under the TRQ has expanded significantly, from a historical “minimum boatload” of 7,258 metric tons (raw value) prior to NAFTA to 116,000 metric tons (raw value) in FY 2001. In FY 1999, Mexico exported 27,954 metric tons of raw and refined sugar to the United States within the raw and refined sugar TRQ's. In addition, Mexico exported a small amount of raw cane sugar (about 5,000 short tons, raw value) to the United States at the higher, over-quota tariff level.

U.S. sugar imports from Canada were under quota from FY 1982 to FY 1990, ranging from 10,000 to 30,000 tons per year. From FY 1991 to FY 1994, U.S. sugar imports from Canada averaged about 40,000 tons a year, as Canadian sugar was relatively unrestricted and paid only a low duty. In FY 1996, the United States allocated 10,300 metric tons of the refined sugar TRQ to Canada, and Canada continues to export refined sugar to the United States under the portions of the refined sugar TRQ that are open to all countries. In FY 2000, Canada exported close to 11,000 metric tons of refined sugar to the United States. Additional shipments to the United States are subject to the second-tier (prohibitive) MFN duty.

U.S. sugar exports to Canada and Mexico have largely taken place under the U.S. Refined Sugar Re-Export Program. This program covers raw sugar that has been imported from another country, refined in the United States, and re-exported in an equivalent amount. Prior to FY 1995, U.S. sugar exports to Canada averaged about 100,000 tons a year. These exports have declined to almost zero since the Canadian government imposed antidumping duties in late 1995.

Mexico was a net importer of sugar in the early 1990's. The United States exported 219,000 metric tons of sugar to Mexico in FY 1991 and 97,000 metric tons in FY 1992. Since FY 1993, Mexico has become largely self-sufficient in sugar, and U.S. exports to Mexico fell to 27,347 metric tons in FY 1996 and 10,960 tons in FY 2000.

Trade Issues

Canadian Antidumping Investigation of Sugar Imports. On November 6, 1995, the Canadian International Trade Tribunal (CITT) ruled that sugar imports from the United States, certain countries in the European Union, and Korea were being dumped in Canada. Antidumping duties ranging from 69-85 percent ad valorem were imposed on U.S. companies, effectively eliminating most U.S. sugar exports to Canada. On November 3, 2000, Canada renewed these duties for imports of refined sugar from the United States and certain European countries. Canada's antidumping margins, which range from 41-46 percent, will remain in place. Antidumping margin is the difference between the price sought in the importing country and the normal value of the product in the exporting country.

Sugar Re-Export Negotiations. In November 1996, the United States and Canada held consultations regarding a Canadian claim that continued use of the U.S. Sugar-Containing Products Re-Export Program by U.S. exporters to Canada was a violation of Article 303 of NAFTA. Under this program, U.S. producers may obtain sugar at the (lower) world price if they can demonstrate the re-export of a like amount of sugar in products within 2 years. Canada claims that this program amounts to a duty drawback or deferral and is prohibited under NAFTA.

The United States and Canada reached an agreement on September 8, 1997, in which Canada would not challenge the use of the program. The United States agreed to allocate to Canada its historical share of refined sugar and sugar-containing products in two TRQ's, but overall Canadian access to U.S. TRQ's remains unchanged.

Under the agreement, the United States allocates 10,300 metric tons of the in-quota quantity of the U.S. TRQ for refined sugar (raw value) that is a product of Canada, beginning in FY 1998. In addition, the United States allocates 59,250 metric tons of the in-quota quantity of its TRQ for sugar-containing products that are the product of Canada. This allocation is measured in the commercial weight of the products. Typically, these products are dry crystal mixes, cake decorations, and confections. The total TRQ for this category is 64,709 metric tons.

In addition, Canada is permitted to compete for any quantity of the refined sugar TRQ that is not allocated among supplying countries and is not reserved for specialty sugar. This competition occurs regardless of whether Canada's allocated share for the year in question has been filled. The settlement also allows the United States to transfer any unused quantity of Canada's allocation for sugar-containing products to the portion of that TRQ that is not allocated among supplying countries, if Canada informs the United States that it cannot fill its share.

Mexican Retaliation for Broomcorn TRQ Affects HFCS. On December 12, 1996, the Mexican government announced increases on import duties on various U.S. products to compensate for the damage caused to Mexico when the United States raised its tariffs on Mexican broomcorn brooms. Included in the list were certain corn sweeteners: HFCS-42 (tariff line items 1702.40.01 and 1702.40.99), HFCS-55 (1702.60.01), and crystalline fructose (1792.50.01). Mexican duties on these items were increased from 10.5 percent to 12.5 percent, effective December 13, 1996. Under NAFTA, the tariff on these items was scheduled to drop from 10.5 percent in 1996 to 9 percent in 1997.

In December 1998, the United States removed a safeguard measure meant to protect the U.S. broomcorn broom industry from Mexican imports. As a result, Mexico dropped its retaliatory duties on U.S. HFCS and other U.S. agricultural products and the 12.5-percent ad valorem duty was reduced to the NAFTA-specified rate of 6 percent.

Mexican Antidumping Investigation of U.S. HFCS. In January 1997, Mexico's National Chamber of Sugar and Alcohol Industries, the association of Mexico's sugar producers, filed a petition in which it claimed that U.S. corn wet millers were exporting HFCS to Mexico at less than fair value. Mexico's Secretariat of Commerce and Industrial Promotion (Secretaría de Comercio y Fomento Industrial - SECOFI)[2] initiated an antidumping investigation in the following month. In June 1997, SECOFI responded by imposing temporary tariffs on two grades of U.S. HFCS. The temporary tariffs, ranging from $66.57 to $175.50 per metric ton, applied to shipments from Cargill Inc., A. E. Staley Manufacturing Co., CPC International Inc., and Archer Daniels Midland Co. After further investigation, SECOFI made the duties permanent in January 1998 at a level between $63.75 and $100.60 a ton for HFCS-42 and between $55.37 and $175.50 a ton for HFCS-55.

During 1998, SECOFI investigated a charge made by the Mexican sugar industry that HFCS-90 was being imported to avoid the antidumping duties on HFCS-55. After a 7-month investigation, SECOFI determined that this was the case and imposed compensatory duties, effective September 8, 1998, on certain HFCS imports from the United States (tariff lines 1702.50.01, 1702.60.01, 1702.60.02, and 1702.60.99). Imports from A.E. Staley Manufacturing Co. are charged $90.26 a metric ton, and imports from Archer Daniels Midland Co. are charged $55.37 a metric ton.

In February 1998, the U.S. Corn Refiners' Association (CRA) asked for review proceedings of Mexico's antidumping actions under Chapter 19 of NAFTA. By late 1998, all five members had been named to the NAFTA panel. After the fifth panelist named by Mexico is accepted by the United States, the panel will review the legal briefs filed by CRA and SECOFI.

Parallel to actions undertaken under NAFTA, the Office of the U.S. Trade Representative (USTR) announced its intention on May 8, 1998, to invoke a WTO dispute proceeding in order to challenge

[23] Mexico’s new presidential administration, which took office on December 1, 2000, has since reorganized SECOFI and renamed it the Secretariat of Economy (Secretaria de Economia).

Mexico's actions. USTR has made two formal requests for the formation of a WTO panel. Mexico blocked the first request. The second was made on November 25, 1998, and could not be blocked by Mexico. USTR argued that Mexico's antidumping measure on U.S. exports of HFCS is not consistent with the WTO Antidumping Agreement. This agreement requires that injury to an entire industry be examined and not just to part of it. USTR argued that the Mexican government did not properly establish injury to its entire domestic sweetener industry as a result of the alleged dumping.

The WTO dispute settlement panel made public its final report on January 27, 2000. The panel agreed with the U.S. position that Mexico did not properly establish injury. The panel further found that Mexico had not properly determined that there was a likelihood that HFCS imports from the United States were likely to increase, as would be required to establish the threat of injury when there is not current injury. The WTO adopted the ruling of the dispute settlement panel on February 25, 2000. The panel found Mexico in violation of the WTO Antidumping Agreement and required that Mexico correct its antidumping order by September 22, 2000. Mexico decided not to appeal the adverse ruling.

On September 20, 2000, the Mexican government published a final resolution in which it concluded that it was correct in imposing final antidumping duties and justified their continuation. Mexico argued that its domestic sugar industry was harmed by HFCS imports from the United States. On October 12, the United States presented a written request for review of Mexico's compliance with the WTO ruling of February 25, 2000. The WTO's Dispute Settlement Body approved the U.S. request on October 23, 2000. The WTO dispute settlement panel has 90 days to report whether the measures taken by Mexico comply with WTO rules, but the panel has the option of requesting more time to make a determination, if necessary.

In May 1998, USTR initiated an investigation under Section 302 of the Trade Act of 1974, as amended (the Trade Act), in response to a petition by the CRA, alleging that the Mexican government had denied fair and equitable market opportunities to U.S. HFCS exporters. The CRA argued that the Mexican government had encouraged and supported an agreement between representatives of the Mexican sugar and soft drink bottling industries to limit purchases of HFCS by the soft drink bottling industry. On May 15, 1999, USTR concluded its formal investigation phase without determining legally that the Mexican government's alleged practices were actionable under Section 301 of the Trade Act. However, USTR noted that its investigation had raised enough questions about the actions of the Mexican government to warrant further examination and continued consultation on issues related to HFCS trade.

Mexican Challenge to the Validity of the Side Agreement. The Mexican government disputes the validity of an Exchange of Letters in November 1993 between the U.S. Trade Representative (USTR) and SECOFI. This Exchange of Letters, which is sometimes referred to as a “Side Agreement” or a “Side Letter,” modified NAFTA's original provisions pertaining to sugar and HFCS. The U.S. Government maintains that the Side Agreement is part of NAFTA, while Mexican officials claim that there are several versions of the Side Agreement, none of which have been approved as part of NAFTA by the Mexican Legislature. Moreover, Mexico maintains that its version of the Side Letter does not count HFCS consumption in the formula that defines net surplus exporter status and does not limit exports to 250,000 metric tons per annum during FY's 2001-07. Under its interpretation, Mexico has been entitled to export its total net surplus production to the United States on a duty-free basis since October 2000.

On March 12, 1998, SECOFI asked for NAFTA consultations on the validity of the Side Agreement. Because no agreement was forthcoming, Mexico formally requested on November 15, 1998, that a NAFTA Commission meet to resolve the issue. Under NAFTA, the Commission has several options to resolve the issue, none of which are binding unless agreed to by both parties. If the Commission cannot resolve the dispute within 30 days after it has convened (or another time period agreed to by both parties), either party may request the establishment of an arbitration panel to adjudicate the issue.

SECOFI broke off almost two years of negotiations with the United States on August 17, 2000, and asked for the formation of a NAFTA panel to arbitrate disputes over the amount of sugar Mexico can export to the United States beginning October 1, 2000.

NAFTA's Impact on Sugar Trade

U.S. sugar trade is largely governed by a TRQ system whose origins predate NAFTA. However, one key

NAFTA provision governing U.S-Mexico sugar trade has had a marked effect on U.S. imports under the TRQ's. During FY's 1994-99, if Mexico was projected to be a net surplus producer, it received duty-free access to the U.S. market for the amount of its surplus, up to a maximum of 25,000 tons. In the first 2 years of NAFTA, Mexico filled its original allocation of 7,258 tons, which would have been allocated regardless of NAFTA. Having been projected to be a net surplus producer for FY 1997, Mexico was permitted to ship 25,000 tons of sugar duty-free to the United States, 17,742 tons more than its original allocation. Beginning in FY 2001, Mexico has duty-free access to the U.S. market for the amount of its surplus sugar production, as calculated using the Side Agreement's formula, up to a maximum of 250,000 tons. Thus, Mexico's access to the U.S. market for sugar has expanded from 7,258 metric tons prior to NAFTA to 116,000 metric tons in FY 2001.

With regard to U.S.-Canada sugar trade, the United States interpreted CFTA as meaning that Canadian sugar in excess of the TRQ's first-tier quantity could enter under the low CFTA tariff rather than the TRQ's prohibitive second-tier tariff. As a result, Canadian sugar exports to the United States rose to about 40,000 tons a year during 1990-94. Almost all of this sugar came from a single beet sugar factory in Manitoba, one of two such facilities in Canada. During this period, the price of refined sugar in the United States was 25-50 percent higher than in Canada.

NAFTA granted no further concessions to Canada on sugar. Instead, U.S.-Canadian sugar trade has been strongly affected by URAA and by antidumping duties. Each country's actions have limited the ability of the other to ship increasing quantities of sugar. U.S. companies are forced to pay antidumping duties ranging from 69-85 percent. Canadian sugar exporters must pay higher duty rates on over-quota shipments to the United States. The Manitoba beet sugar factory mentioned above was closed in early 1997, with the loss of the U.S. market cited as the cause of the closure.

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