

## Chapter Seven

### Agriculture

#### Article 701: Scope

1. This Chapter applies to trade in agricultural goods and to sanitary and phytosanitary measures.

#### Subchapter A - Market access

#### Article 702: Scope

1. Further to Article 102 (Objectives), the provisions of this Subchapter address import barriers, domestic support, export subsidies, and grading and marketing standards and measures that affect trade of agricultural goods between the Parties.

2. To the extent of any inconsistency in this Agreement with the provisions of this Subchapter, this Subchapter shall prevail.

#### Article 703: International obligations

1. Each Party shall comply with Annex 703.1 with respect to its agricultural trade under other international agreements, to the extent set out in that Annex.

2. When a Party desires to adopt a measure pursuant to any international commodity agreement with respect to an agricultural good, it shall consult with the other Parties in order to avoid nullification or impairment of a concession granted by such Party in its Schedule set out in Annex 302.2.

3. Each Party shall comply with Annex 703.3 with respect to actions taken pursuant to any international coffee agreement.

#### Article 704: Market Access

##### General Provisions

1. In order to facilitate trade in agricultural goods, the Parties shall work together to improve access to their respective markets through the reduction or elimination of import barriers.

##### Tariffs and Quantitative Restrictions

2. Each Party shall comply with Annex 704.2 with respect to tariffs and quantitative restrictions, including GATT market access requirements and trade in sugar.

##### Agricultural Grading and Marketing Standards

3. Each Party shall comply with Annex 704.3 with respect to agricultural grading and marketing standards.

##### Special Safeguard Provisions

4. Each Party may, during the applicable period of transition, adopt or maintain special safeguards in the form of tariff quotas on specific agricultural goods, as specified in its Schedule set out in Annex 302.2, and further described in Annex 704.4.

5. A Party may not apply, at the same time, measures under paragraph 4 and Chapter 8 (Emergency Action) with respect to the same agricultural good.

#### Article 705: Domestic Support

The Parties recognize that domestic support measures can be of crucial importance to their agricultural sectors but may also have trade distorting effects and effects on production. The Parties further recognize that domestic support commitments may result from the agriculture negotiations in the Uruguay Round of multilateral trade negotiations under the GATT. Accordingly, to the extent a Party decides to support its agricultural producers, such Party should endeavor to move toward domestic support policies that:

- (a) have minimal or no trade distortion effects or effects on production; or
- (b) are exempt from domestic support reduction commitments under the GATT.

The Parties further recognize that the domestic support mechanisms of each Party, including those that are subject to reduction commitments, may be changed at the Party's discretion so long as such change is in compliance with its GATT rights and obligations.

#### Article 706: Export Subsidies

1. The Parties recognize that export subsidies may have serious prejudicial effects on importing and exporting Parties, and the Parties share the objective of achieving the multilateral elimination of export subsidies for agricultural goods. The Parties shall cooperate in an effort to achieve an agreement in the General Agreement on Tariffs and Trade which eliminates export subsidies on agricultural goods.

2. The Parties also recognize that export subsidies may cause disruption in the market of an importing Party. Accordingly, the Parties affirm that it is inappropriate for a Party to provide export subsidies for the export of an agricultural good to the territory of another Party when there are no other subsidized imports of that good into that other Party.

3. Except as provided in Annex 703.1, where an exporting Party considers that a non-Party is exporting an agricultural good into the territory of another Party with the benefit of export subsidies, the exporting Party may request consultations with the importing Party with a view toward agreeing on measures that the importing Party could adopt to counter the effect of such subsidized imports. If the importing Party adopts the agreed-upon measures, the exporting Party shall refrain from applying, or immediately cease to apply, any export subsidy to exports of such good into the territory of the importing Party.

4. Except as provided in Annex 703.1, a Party proposing to introduce an export subsidy on exports of an agricultural good to the territory of another Party shall notify such Party at least three days in advance, and shall upon request consult with such Party, within 72 hours of receipt of the request, with a view to eliminating the subsidy or minimizing any adverse impact on the importing Party's market for that good. Another Party may request to join such consultations.

5. Each Party shall take into account the interests of the other Parties in the use of any export subsidy on an agricultural good exported to a Party or non-Party, recognizing that such subsidies may have prejudicial effects on the interests of the other Parties.

6. The Parties shall establish a Working Group on Agricultural Subsidies which shall meet at least semi-annually, or at such other times as the Parties may agree, to work toward elimination of all export subsidies in connection with trade in agricultural goods between the Parties. The functions of the Working Group on Agricultural Subsidies shall include:

- (a) monitoring the volume and price of imports of agricultural goods that have benefitted from export subsidies into the territory of any Party;
- (b) providing a forum for the Parties to develop mutually acceptable criteria and procedures for reaching agreement on the limitation or elimination of the provision of export subsidies in connection with importation of agricultural goods into the territories of the Parties; and
- (c) reporting annually to the Committee on Agricultural Trade, established under Article 708, with respect to implementation of this Article.

7. Notwithstanding any other provision of this Article:

- (a) if the Parties agree to a particular export subsidy measure on an agricultural good for export to the territory of a Party, the exporting Party may adopt or maintain such measure; and
- (b) each Party shall retain its rights to apply countervailing duties to subsidized imports from any source.

#### Article 707: Resolution of Private Commercial Disputes Regarding Transactions in Agricultural Goods

The advisory committee established pursuant to Article 2022(4) shall work toward a system for resolving private commercial disputes that arise in connection with transactions in agricultural goods. The system of each Party shall be designed to achieve prompt and effective resolution of such disputes with attention to special circumstances, including the perishability of the goods involved.

#### Article 708: Committee on Agricultural Trade

1. The Parties hereby establish a Committee on Agricultural Trade, comprising representatives of each Party.

2. The Committee's functions shall include:

(a) monitoring and promoting cooperation on the implementation and administration of this Subchapter;

(b) providing a forum for the Parties to consult at least semi-annually and at such other times as the Parties may agree on issues related to this Subchapter; and

(c) reporting annually to the Commission on the implementation of this Subchapter.

#### Article 709: Definitions

For purposes of this Subchapter:

agricultural goods means:

(i) HS Chapters 1 to 24 less fish and fish products, plus

(ii) HS Code 29.05.43 (manitol)

HS Code 29.05.44 (sorbitol)

HS Heading 33.01 (essential oils)

HS Headings 35.01 to 35.05 (albuminoidal substances, modified starches, glues)

HS Code 38.09.10 (finishing agents)

HS Code 38.23.60 (sorbitol n.e.p.)

HS Headings 41.01 to 41.03 (hides and skins)

HS Heading 43.01 (raw furskins)

HS Headings 50.01 to 50.03 (raw silk and silk waste)

HS Headings 51.01 to 51.03 (wool and animal hair)

HS Headings 52.01 to 52.03 (raw cotton, waste and cotton carded or

combed)

HS Heading 53.01 (raw flax)

HS Heading 53.02 (raw hemp);

fish and fish products for purposes of the definition of agricultural goods means fish or crustaceans, molluscs or other aquatic invertebrates, marine mammals, and their products within the following headings of the Harmonized System:

HS Heading 05.07 (tortoise-shell, whalebone and whalebone hair and those fish or crustaceans, molluscs or other aquatic invertebrates, marine mammals, and their products within this heading)

HS Heading 05.08 (all goods (coral and similar materials))

HS Heading 05.09 (all goods (natural sponges of animal origin)

)

HS Heading 05.11 (products of fish or crustaceans, molluscs or other

aquatic invertebrates; dead animals of Chapter 3)

HS Heading 15.04 (all goods (fats and oils and their fractions, of

fish or marine mammals))  
HS Heading 16.03 ("non-meat" extracts and juices)  
HS Heading 16.04 (all goods (prepared or preserved fish))  
HS Heading 16.05 (all goods (prepared preserved crustaceans,  
molluscs and other aquatic invertebrates));

net production surplus means the quantity by which a Party's  
domestic production of sugar exceeds its total consumption of  
sugar for a marketing year;

net surplus producer means that a Party has been determined to  
have a net production surplus in accordance with Schedule  
704.2(I)(B)(3);

plantation white sugar means crystalline sugar which has not been  
refined and is intended for human consumption without further  
processing or refining;

raw value means the equivalent of a quantity of sugar in terms of  
raw sugar testing 96 degrees by the polariscope, determined as  
follows:

- (a) the raw value of plantation white sugar equals the  
number of kilograms thereof multiplied by 1.03;
- (b) the raw value of liquid sugar and invert sugar equals  
the number of kilograms of the total sugars thereof  
multiplied by 1.07; and
- (c) the raw value of other imported sugar and syrup goods  
equals the number of kilograms thereof multiplied by  
the greater of 0.93, or 1.07 less 0.0175 for each  
degree of polarization under 100 degrees (and fractions  
of a degree in proportion);

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

sugar and syrup goods means "sugar and syrup goods" as defined in  
Annex 709.

Incorporation of Trade Provisions

1. Articles 701.1, 701.2, 701.3, 701.5, 702, 704, 705, 706, 707, 708.1, 708.4 710 and 711 [subject to review] of the Canada

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U.S. Free Trade Agreement shall apply to trade in "agricultural goods", as that term is defined in Article 711 of that Agreement, between Canada and the United States, which Articles are hereby incorporated into and made a part of this Agreement for such purpose.

2. For purposes of this incorporation, any reference to Chapter 18 of the Canada - U.S. Free Trade Agreement shall be deemed to be a reference to Chapter 20 of this Agreement.

International Coffee Agreement

Neither Canada nor Mexico shall take actions pursuant to any international coffee agreement and measures authorized thereunder to restrict trade in coffee between them.

Market Access

Each Party shall comply with Sections I and II.

Section I

Mexico and the United States

1. This Section shall apply only between the United States and Mexico.
2. Each Party shall comply with Appendices A and B.

Appendix A

Tariffs, Quantitative Restrictions and GATT Market Access

1. The Parties recognize that, upon the date of entry into force of the Agreement, each Party, in accordance with the rights and obligations set forth in Chapter 3, will not adopt or maintain measures regarding quantitative restrictions on the importation of agricultural goods originating in each other's territory, but may apply tariff quotas as set forth in its Schedule set out in Annex 302.2. The Parties further recognize that the over-quota tariff rate applied by a Party in connection with such tariff quotas will be progressively eliminated in the manner set forth in its Schedule set out in Annex 302.2.
2. Each Party agrees to waive its rights under Article XI.2(c) of the General Agreement on Tariffs and Trade with respect to any measure taken in connection with the importation of agricultural goods originating in the territory of the other.
3. Except as provided in paragraph 4, to the extent a tariff applied by a Party in accordance with a tariff quota as set forth in its Schedule set out in Annex 302.2 at any time exceeds the applicable bound rate of duty for that agricultural good as set forth in its GATT Schedule of Tariff Concessions as of June 12, 1991, the other Party hereby waives its rights with respect to the applicable bound rate of duty under GATT Article II, notwithstanding the provisions of Article 103 of this Agreement.
4. If the GATT Uruguay Round Agreement on Agriculture enters into force with respect to a Party, pursuant to which that Party has agreed to convert its quantitative restrictions into tariff quotas, that Party shall ensure that the over-quota tariff rates it applies to agricultural goods of the other Party are not greater than the lower of (a) the applicable over-quota tariff rates set out in its Schedule set out in Annex 302.2 or (b) the applicable over-quota tariff rates set out in its GATT Schedule of Tariff Concessions.
5. Market access afforded by a Party in accordance with its Schedule set out in Annex 302.2 and applied to imports of agricultural goods of another Party shall count, as between the Parties, toward the satisfaction of market access commitments which have been agreed upon under its GATT Schedule of Tariff Concessions or which may be undertaken by the importing Party as a result of any GATT agreement entering into force as to that



Party during the applicable transition period under this Agreement.

6. Neither Party shall seek a voluntary restraint agreement from the other Party with respect to the exportation of meat originating in the territory of that other Party.

7. Notwithstanding the provisions of Chapter 3 (Market Access), goods of subheading 2008.11 of the Harmonized System (HS) that originate in the territory of Mexico shall be subject upon importation into the territory of the United States to the rate of duty provided in the Schedule set out in Annex 302.2 for the United States only if all agricultural goods within heading 12.02 of the HS used in the production of such goods originate in the territory of one or more of the Parties.

8. A good provided for in item 1806.10.a1 or 2106.90.a1 that is:

(a) imported into the territory of the United States from the territory of Mexico; or

(b) imported into the territory of Mexico from the territory of the United States,

shall be eligible for the rate of duty provided in Annex 302.2 only if all agricultural materials provided for in subheading 1701.99 used in the production of such good are originating materials.

9. The United States shall not adopt or maintain, with respect to imports into its territory of agricultural goods originating in the territory of Mexico, any fee applied pursuant to Section 22 of the Agricultural Adjustment Act of 1933, or any successor statute.

10. Agricultural goods entered into maquiladoras or foreign-trade zones and re-exported, including subsequent to processing, shall not count toward the fulfillment of market access commitments under a Party's Schedule set out in Annex 302.2.

## Appendix B

### Trade in Sugar

1. The United States and Mexico recognize the importance of liberalizing trade in sugar and syrup goods while avoiding conditions of entry that may result in displacement of the consumption of such goods originating in the territories of the United States and Mexico by imports from non-Parties. Accordingly, the United States and Mexico have agreed to the following provisions to govern trade between them in sugar and syrup goods.

2. The over quota customs duty for imports into the territory of the United States of sugar and syrup goods originating in the territory of Mexico shall be reduced to zero during a period of 15 years after the date of entry into force of this Agreement as

follows:

- (a) from the first to the sixth year after the date of entry into force of this Agreement, the customs duty shall be reduced by a total of 15 percent in equal annual stages;
- (b) from the seventh to the fifteenth year after the date of entry into force of this Agreement, the customs duty shall be removed entirely in equal annual stages; and
- (c) after the end of the sugar transition period, the duty on all imports of sugar and syrup goods from Mexico shall be zero.

3. In addition to the customs duty reductions provided for under paragraph 2, imports into the territory of the United States of sugar and syrup goods originating in the territory of Mexico shall be duty free for a quantity, on a marketing year (October 1 - September 30) basis, to be determined as follows:

(a) for each upcoming marketing year in which Mexico is not projected to be a net surplus producer, the quantity shall be the greater of 7,258 metric tons raw value or the quota allocated by the United States for a non-Party within the category designated "other specified countries and areas" under paragraph (b)(i) of additional U.S. note 3 to chapter 17 of the Harmonized Tariff Schedule of the United States;

(b) for each upcoming marketing year in which Mexico is projected to be a net surplus producer of sugar, in accordance with sub-paragraph (d), the quantity shall be the greater of (i) the amount specified in subsection (a), or (ii) Mexico's projected net production surplus, but not greater than a maximum quantity as follows

(i) for each of the first through sixth marketing years after the date of entry into force of this Agreement, 25,000 metric tons raw value,

(ii) for the seventh marketing year after the date of entry into force of this Agreement, 150,000 metric tons raw value, and

(iii) for each of the eighth through fifteenth marketing years after the date of entry into force of this Agreement, 110 percent of the previous marketing year's maximum quantity;

(c) in any year after the sixth year after the date of entry into force of this Agreement, the quantity of imports of sugar and syrup goods originating in the territory of Mexico shall not be subject to the limitations set out in subparagraph (b) if

(i) Mexico has been a net surplus producer for any two consecutive marketing years, or

(ii) Mexico has been a net surplus producer during the previous marketing year, and Mexico is projected to be a net surplus producer of sugar, in

accordance with subparagraph (d), in the upcoming marketing year, unless Mexico ultimately is not a net surplus producer in that marketing year; and

(d) prior to the beginning of each marketing year, Mexico shall make projections of its domestic production and total consumption of sugar. Mexico and the United States shall consult by July 1 of each year to jointly determine whether Mexico is projected to be a net surplus producer in the upcoming marketing year, in accordance with the methodology and sources of information set out in Schedule 704.2(I)(B)(3).

4. Mexico shall implement a tariff quota to be applied on a Most Favored Nation basis for sugar and syrup goods with customs duties equal to those of the United States no later than six years after the date of entry into force of this Agreement. Mexico shall thereafter progressively eliminate its over quota customs duty for imports of sugar and syrup goods originating in the territory of the United States, in identical fashion as the reductions provided for United States customs duties in paragraph 2. Mexico shall establish the quantities of imports of sugar and syrup goods originating in the territory of the United States that shall be duty-free pursuant to the same procedure by which the United States shall establish such quantities with respect to imports of such goods originating in the territory of Mexico in accordance with sub-paragraph 3(b). The United States shall make projections of its domestic production and consumption, and the United States and Mexico shall consult and make the determination whether the United States is projected to be a net surplus producer, on the same terms as provided for in subparagraph 3(d).

5. If the United States eliminates its tariff quota for sugar and syrup goods imported from non-Parties, at such time the United States shall grant to Mexico the better of the treatment, as determined by Mexico, of:

- (a) the treatment provided for in paragraph 3; or
- (b) the Most-Favored-Nation treatment granted by the United States to non-Parties.

6. The measurement of the quantity imported shall be based on the actual weight of the imported sugar and syrup goods, converted as appropriate to raw value, without regard to the packaging in which the goods are imported or their presentation.

7. With respect to imports into the territory of Mexico of sugar and syrup goods, and products containing sugar or syrup, from the territory of the United States,

- (a) Mexico shall accord preferential treatment in accordance with this Agreement when the following conditions apply
  - (i) with respect to sugar and syrup goods no benefits under any re-export program or any like program have been or will be granted in connection with the export of those goods, and
  - (ii) with respect to products containing sugar and syrup goods, no benefits under any re-export

- program or any like program have been or will be granted in connection with the export of those products;
- (b) the United States shall provide notification to Mexico of any export to Mexico, within two days of such export, for which the benefits of any re-export program or any other like program have been or will be claimed by the exporter; and
- (c) except as provided for in paragraph 8, Mexico shall accord Most Favored Nation treatment to all imports from the territory of the United States of sugar and syrup goods with respect to which benefits under any re-export program or any like program shall have been claimed.

8. Notwithstanding any other provision of this Article:

- (a) the United States shall grant duty-free treatment to imports of
- (i) raw sugar originating in the territory of Mexico that will be refined within the territory of the United States and re-exported to the territory of Mexico, and
- (ii) refined sugar originating in the territory of Mexico that has been refined from raw sugar previously produced within, and exported from, the territory of the United States;
- (b) Mexico shall grant duty-free treatment to imports of
- (i) raw sugar originating in the territory of the United States that will be refined within the territory of Mexico and re-exported to the territory of the United States, and
- (ii) refined sugar originating in the territory of the United States that has been refined from raw sugar previously produced within, and exported from, the territory of Mexico; and
- (c) imports qualifying for duty-free treatment pursuant to subparagraphs (a) and (b) of this paragraph shall not be subject to, or counted under, any quota of the importing Party.

Schedule 704.2(I)(B)(3)

Net Production Surplus Determination

1. Methodology

- (a) The size of a Party's net production surplus, shall be determined in accordance with the following formula:
- (i) If a net production surplus has not been projected for any previous year, the formula shall be:

$$NPS = (PPy - CPy)$$

(ii) If a Party is projected to be a net surplus producer and has been projected to be a net surplus producer in a previous year, the Party's projected net production surplus shall be adjusted, to account for an underestimate or overestimate, as follows:

$$NPS = (PPy - CPy) - ((PPys - CPys) - (PAys - CAys))$$

where:

NPS = Net production surplus

PP = Projected Domestic Production of sugar

CP = Projected Total Consumption of sugar

y = upcoming marketing year

ys = most recent previous marketing year in which a net production surplus was projected

PA = Actual Domestic Production of sugar

CA = Actual Total Consumption of sugar

(b) The net production surplus shall be determined in metric tons raw value.

(c) For purpose of determining whether a Party is a net surplus producer, imported sugar shall not be treated as part of domestic production.

(d) The domestic production of a Party shall not include sugar, that has been either processed or refined from sugar beets or sugar cane grown, or sugar processed or refined, outside of the territory of such Party.

(e) When making projections of its net production surplus, each Party shall consider adjustments, in appropriate circumstances, to such projections to take into account a change in stocks for the current marketing year exceeding an upper bound calculated in accordance with the following formula:

where:

B = upper bound, expressed as a percentage

F = the absolute value of the change in stocks from the beginning of the marketing year to the end of the marketing year, expressed as a percentage of beginning stocks and calculated in accordance with the following formula:

$$F = \frac{S_b - S_e}{S_b} \times 100$$

Sb = beginning stocks

Se = ending stocks

N = previous marketing year, ranging from 1 (first preceding year) to 5 (fifth preceding year)

## 2. Sources of Information

(a) For Mexico, statistics on production, consumption and stocks shall be provided by the Secretaria de Agricultura y Recursos Hidraulicos, the Secretaria de Comercio y Fomento Industrial, and the Secretaria de Hacienda y Credito Publico.

(b) For the United States, statistics on production, consumption and stocks shall be provided by the United States Department of Agriculture (USDA).

(c) Each Party shall permit representatives from the other Party to observe and comment on the methodology it uses to prepare its data.

## Section II

### Mexico and Canada

1. This Section shall apply only between Canada and Mexico.

2. Each Party shall comply with Appendices A and B.

## Appendix A

### Tariffs, Quantitative Restrictions and GATT Market Access

1. Subject to the provisions of this Section, the Parties recognize that, upon the date of entry into force of this Agreement, each Party, in accordance with the rights and obligations set forth in Chapter 3, will not adopt or maintain measures regarding quantitative restrictions on the importation of agricultural goods originating in each other's territory, but may apply tariff quotas as set forth in its Schedule set out in Annex 302.2. The Parties further recognize that the over-quota tariff rate applied by a Party in connection with such tariff quotas will be progressively eliminated in the manner set forth in its Schedule set out in Annex 302.2.

2. Except as provided in paragraph 3, to the extent a tariff applied by a Party in accordance with a tariff quota as set forth in its Schedule set out in Annex 302.2 at any time exceeds the applicable bound rate of duty for that agricultural good as set forth in its GATT Schedule of Tariff Concessions as of June 12, 1991, the other Party hereby waives its rights with respect to the applicable bound rate of duty under GATT Article II, notwithstanding the provisions of Article 103.

3. If the GATT Uruguay Round Agreement on Agriculture enters into force with respect to a Party, pursuant to which that Party has agreed to convert its quantitative restrictions into tariff quotas, that Party shall ensure that the over-quota tariff rates it applies to agricultural goods of the other Party are not greater than the lower of (a) the applicable over-quota tariff

rates set out in its Schedule set out in Annex 302.2 or (b) the applicable over-quota tariff rates set out in its GATT Schedule of Tariff Concessions.

4. Market access afforded by a Party in accordance with its Schedule set out in Annex 302.2 and applied to imports of agricultural goods of another Party shall count, as between the Parties, toward the satisfaction of market access commitments which have been agreed upon under its GATT Schedule of Tariff Concessions or which may be undertaken by the importing Party as a result of any GATT agreement entering into force as to that Party during the applicable transition period under this Agreement.

5. In respect of the dairy, poultry and egg goods designated in Schedule 704.2(II)(A)(5), either Party may adopt or maintain quantitative restrictions or tariffs consistent with its rights and obligations under the GATT, with respect to such goods originating in the territory of the other Party.

6. Without prejudice to the provisions of Chapter 8 of this Agreement and paragraph 5, neither Party shall introduce, maintain or seek any quantitative restriction or any other measure having equivalent effect on any agricultural goods covered under this Subchapter originating in the territory of the other Party.

7. Subject to this Section, Canada and Mexico incorporate their respective rights and obligations with respect to agricultural goods under the General Agreement on Tariffs and Trade (GATT) and agreements negotiated under the GATT, including the rights and obligations under GATT Article XI.

8. Notwithstanding paragraph 7 and Annex 301.3(A)(1)(j), the rights and obligations contained in Article XI:2(c)(i) of the GATT shall apply only to dairy, poultry and egg goods of Canada and Mexico designated in Schedule 704.2(II)(A)(5).

9. A good provided for in item 1806.10.a1 or 2106.90.a1 that is:

(a) imported into the territory of Canada from the territory of Mexico; or

(b) imported into the territory of Mexico from the territory of Canada,

shall be eligible for the rate of duty provided in Annex 302.2 only if all materials provided in subheading 1701.99 used in the production of such good are originating materials.

Schedule 704.2(II)(A)(5)

Dairy, Poultry and Egg Goods

For Canada: a dairy, poultry or egg good under one of the following subheadings:

Note: "X" indicates that a new tariff subheading will be established for this item

0105.11.90X Broiler chicks for domestic

production, <185G	
0105.91.00	Poultry, >185g
0105.99.00	Ducks, geese, turkeys, etc, >185g
0207.10.00	Poultry not cut in pieces, fresh or chilled
0207.21.00	Poultry, not in pieces, frozen
0207.22.00	Turkey, not in pieces, frozen
0207.39.00	Poultry cuts & offal, fresh
0207.41.00	Poultry cuts & offal, frozen
0207.42.00	Turkey cuts & offal, frozen
0209.00.20	Poultry fat
0210.90.10	Poultry meat, salted, dried, etc.
0401.10.00	Milk & cream, fat <1%
0401.20.00	Milk & cream, fat > 1% < 6%
0401.30.00	Milk & cream, fat > 6%
0402.10.00	Skim milk powder
0402.21.10	Whole milk powder
0402.21.20	Whole cream powder
0402.29.10	Milk powder fat > 1.5%
0402.29.20	Cream powder fat < 1.5%
0402.91.00	Milk & cream, conc., n.s.
0402.99.00	Milk & cream, not solid, added sweetener
0403.10.00	Yogurt
0403.90.10	Powdered buttermilk
0403.90.90	Curdled milk & cream, etc.
0404.10.10	Whey powder
0404.10.90	Whey, not powdered
0404.90.00	Other
0405.00.10	Butter
0405.00.90	Fats & oils derived from milk
0406.10.00	Fresh cheese
0406.20.10	Cheddar cheese
0406.20.90	Cheeses, not cheddar



0406.30.00 Processed cheese

0406.40.00 Blue-veined cheese

0406.90.10 Cheddar cheese, not processed

0406.90.90 Cheese, not cheddar, not processed

0407.00.00 Bird's eggs, in shell

0408.11.00 Dried egg yolks

0408.19.00 Egg yolks, not dried

0408.91.00 Bird's eggs, not in shell, dried

0408.99.00 Bird's eggs, not in shell, not dried

1601.00.10X Sausages or similar products of poultry meat,  
poultry  
meat offal or blood, in air tight containers

1602.31.10 Prep. meals, of meat or meat offal of turkeys

1602.31.91 Prep. or preserved meat, meat offal or blood, of  
turkeys,  
other than sausages or prep. meals, in air-  
tight  
containers

1602.31.99 Prep. or preserved meat, meat offal or blood, of  
turkeys,  
other than sausages or prep. meals, other than in  
air-tight containers

1602.39.10 Prep. meals containing meat or meat offal of fowls  
of the  
species (Gallus domesticus) ducks, geese or guinea fowls,  
incl. mixtures

1602.39.91 Prep. or preserved meat, meat offal or blood, of  
fowls of  
the species (Gallus domesticus), ducks, geese or  
guinea fowls, other than sausages, liver or prep.  
meals, in air-tight containers

1602.39.99 Prep. or preserved meat, meat offal or blood, of  
ducks,  
geese, etc., other than sausages, liver or prep.  
meals, in other than air-tight containers

2105.00.00 Ice cream & other edible ice, containing cocoa or  
not

2106.90.70 Food preps. not elsewhere specified or incl. Egg  
preps.

2106.90.90X Ice cream or ice milk mixes

2309.90.91X Complete feeds & feed supplements, incl.  
concentrates,  
containing more than 50% by weight of dairy products

3501.10.00	Casein
3501.90.00	Caseinates & other casein derivatives; casein glues
3502.10.10	Egg albumin, dried, evaporated, desiccated or powdered
3502.10.90	Egg albumin, nes

For Mexico: a dairy, poultry or egg good under one of the following subheadings:

Note: "X" indicates that a new tariff subheading item will be established for this item

MEXICO HTS NUMBER	DESCRIPTION
0105.11.01	Day old chickens without being fed during its transportation
0105.91.01	Game cocks
0105.91.99	Other
0105.99.99	Other poultry
0207.10.01	Poultry, not cut into pieces, fresh or chilled
0207.21.01	Chickens
0207.22.01	Turkey
0207.39.01	Chicken offals except liver
0207.39.99	Other, poultry cut and offals
0207.41.0X	Chicken cuts, frozen
0207.41.0Y	Chicken offals, frozen
0207.41.0Z	Chicken meat mechanically deboned, frozen
0207.41.ZZ	Chicken meat mechanically deboned, fresh or chilled
0207.42.0X	Turkey cuts, frozen
0207.42.0Y	Turkey offals
0207.42.0Z	Turkey meat, mechanically deboned, frozen
0207.42.ZY	Turkey meat, mechanically deboned, fresh or chilled
0207.50.01	Poultry livers, frozen
0209.00.0Z	Chicken or turkey bacon and

lean parts	
0210.90.99	Other
0401.10.01	In hermetic containers milk not concentrated
0401.10.99	Other
0401.20.01	In hermetic containers;
0401.20.99	Other
0401.30.01	In hermetic containers;
0401.30.99	Other
0402.10.01	Milk powder
0402.10.99	Other
0402.21.01	Milk powder
0402.21.99	Other
0402.29.99	Other
0402.91.01	Evaporated milk
0402.91.99	Other
0402.99.01	Condensed milk
0402.99.99	Other
0403.10.01	Yogurt
0403.90.01	Powdered milk whey with a protein content less than or equal to 12 percent
0403.90.99	Other butter whey
0404.10.01	Whey, concentrated, sweetened
0404.90.99	Other
0405.00.01	Butter, including the immediate container, with a weight less than or equal to 1kg
0405.00.02	Butter, including the immediate container, with a weight over 1 kg
0405.00.03	Butiric fat, dehydrated
0405.00.99	Other
0406.10.01	Fresh cheese, including whey cheese
0406.20.01	Cheese, grated or powdered

0406.30.01	Melted cheese, not grated or powdered
0406.30.99	Other, melted cheese
0406.40.01	Blue veined cheese
0406.90.01	Hard paste cheese called sardo
0406.90.02	Hard paste reggi cheese
0406.90.03	Soft paste cologne cheese
0406.90.04	Hard or semi-hard cheeses with a fat content by weight less than or equal to 40 percent, and with a water content by weight in non-fat matter less than or equal to 47 percent (called "grana", "parmigiana" or "reggiano,") or with a non-fat matter content by weight over 47 percent without exceeding 72 percent (called "danloo, edam, fontan, fontina, fynbo, gouda, Avarti, maribo, samsoe, esron, italico, kernhem, saint-nactarie, saint paulin, or talegi"1)
0406.90.05	Petit suisse cheese
0406.90.06	Egmont cheese
0406.90.99	Other hard and semihard cheese
0407.00.01	Fresh birds eggs, fertile
0407.00.02	Frozen eggs
0407.00.99	Other poultry eggs
0408.11.01	Dried yolks
0408.19.99	Other
0408.91.01	Frozen or powdered
0408.91.99	Other
0408.99.01	Frozen or powdered
0408.99.99	Other
1601.00.9X	Chicken and turkey sausages
1602.20.0X	Homogenized preparations of chickens or turkey livers
1602.31.01	Prepared or preserved turkey meat

2105.00.01	Ice cream and similar products
2106.90.9X	Egg preparations
2309.90.9X	Preparations containing over 50 percent of milk products
3501.10.01	Casein
3501.90.01	Casein glues
3501.90.02	Caseinates
3501.90.99	Other
3502.10.01	Egg albumin

## Appendix B

### Trade in Sugar

1. Mexico's customs duty for imports of sugar and syrup goods originating in the territory of Canada shall be equal to its Most-Favored-Nation over-quota customs duty.
2. Canada may apply a customs duty on sugar and syrup goods originating in the territory of Mexico equal to the customs duty applied by Mexico on such goods originating in the territory of Canada.

## Agricultural Grading and Marketing Standards

Each Party shall comply with Sections I and II.

### Section I

#### United States and Mexico

1. When either the United States or Mexico adopts or maintains a measure regarding the classification, grading or marketing of a domestic agricultural good, it shall, with respect to the like agricultural good imported from the territory of the other destined for processing, accord treatment no less favorable than the treatment it accords under the measure to the domestic agricultural good destined for processing. The importing Party may also adopt or maintain measures to ensure that such imported good is processed.

2. Paragraph 1 shall be without prejudice to the rights of either the United States or Mexico under the GATT or under Article 301 of this Agreement with respect to measures concerning the classification, grading or marketing of an agricultural good (whether or not destined for processing).

3. Mexico and the United States agree to form a Working Group to review, in coordination with the Committee on Standards-Related Measures established under Chapter 9, the operation of grade and quality standards regarding agricultural goods as they affect the other Parties to this Agreement, and to resolve issues which may arise. This Working Group shall report to the Committee on Agriculture established under Article 708, and shall meet at least once a year or as otherwise agreed by the two Parties.

### Section II

#### Canada and Mexico

Mexico and Canada agree to form a Working Group to review, in coordination with the Committee on Standards-Related Measures established under Chapter Nine (Standards-Related Measures), the operation of grade and quality standards regarding agricultural goods as they affect the other Parties to this Agreement, and to resolve issues which may arise. This Working Group shall report to the Committee on Agriculture established under Article 708, and shall meet at least once a year or as otherwise agreed by the two Parties.

ANNEX 704.4

Special Safeguards

Section I

Mexican Special Safeguard Goods

MEXICO HTS NUMBER	DESCRIPTION
0103.91.99	Live swine, weighing less than 50 kilograms each, except purebred breeding animals and those with pedigree or selected breed certificate
0103.92.99	Live swine, weighing 50 kilograms or more each, except purebred breeding animals and those with pedigree or selected breed certificate
0203.11.01	Meat of swine, carcasses and half-carcasses, fresh or chilled
0203.12.01	Hams, shoulders or cuts thereof, with bone in, fresh or chilled
0203.19.99	Other swine meat, fresh or chilled
0203.21.01	Meat of swine, carcasses and half-carcasses, frozen
0203.22.01	Hams, shoulders and cuts thereof, with bone in, frozen
0203.29.99	Other swine meat, frozen
0210.11.01	Hams, shoulders and cuts thereof with bone in, salted, in brine, dried or smoked
0210.12.01	Bellies (streaky) and cuts thereof, salted, in brine, dried or smoked
0210.19.99	Other swine meat, salted, in brine, dried or smoked
0710.10.01	Potatoes, uncooked or cooked by steaming or boiling in water, frozen
0712.10.01	Dried potatoes, whole cut, sliced, broken or in powder, but not further prepared
0808.10.01	Apples, fresh
2004.10.01	Potatoes prepared or preserved

otherwise than by vinegar or  
acetic acid, frozen

2005.20.01 Potatoes prepared or preserved  
otherwise than by vinegar or  
acetic acid, not frozen

2101.10.01 Extracts, essences or  
concentrates, of coffee, and  
preparations with a basis of  
these extracts, essences or  
concentrates or with a basis  
of coffee

## Section II

### U.S. Special Safeguard Goods

U.S. HTS NUMBER	DESCRIPTION
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Note: A new U.S. HTS number will be established for each item

0702.00.XX	Tomatoes (except cherry tomatoes), fresh or chilled; if entered during the period from November 15 to the last day of the following February, inclusive
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0702.00.XX	Tomatoes (except cherry tomatoes), fresh or chilled; if entered during the period from March 1 to July 14, inclusive
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0703.10.XX	Onions and shallots, fresh or chilled (not including onion sets and not including pearl onions not over 16 mm in diameter) if entered January 1 to April 30, inclusive
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0709.30.XX	Eggplants (aubergines), fresh or chilled, if entered during the period from April 1 to June 30, inclusive
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0709.60.XX	"Chili" peppers; if entered during the period from October 1 to July 31, inclusive (current 0709.60.00.20)
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0709.90.XX	Squash, fresh or chilled; if entered during the period from October 1 to the following June 30, inclusive
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0807.10.XX	Watermelons, fresh; if entered during the period from May 1 to September 30, inclusive
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### Section III

#### Canadian Special Safeguard Goods

Canadian HTS NUMBER	DESCRIPTION
0603.10.90	Fresh cut flowers
0702.00.91	Tomatoes n.e.s., fresh or chilled (dutiabable period)
0703.10.31	Onions or shallots, green (dutiabable period), fresh
0707.00.91	Cucumber, fresh or chilled, n.e.s. (dutiabable period)
0710.80.20	Broccoli and cauliflowers, blanched or not, frozen
0811.10.10	Strawberries, for processing, frozen
0811.10.90	Strawberries, frozen, other than for processing
2002.90.00	Tomatoes, other than whole (tomato paste)

Country-Specific Definitions

For purposes of this Subchapter, sugar and syrup goods means:

- (a) for imports into Mexico, goods classifiable under current subheadings 1701.11.01, 1701.11.99, 1701.12.01, 1701.12.99, 1701.91 (except those that contain added flavoring matter), 1701.99.01, 1701.99.99, 1702.90.01, 1806.10.01 (except those with a sugar content less than 90 per cent) and 2106.90.05 (except those that contain flavoring matter) of the Mexican Tariff Schedules;
- (b) for imports into the United States, goods classifiable under current subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12 of the U.S. Harmonized Tariff Schedule, without regard to the quantity imported; and
- (c) for imports into Canada, goods classifiable under current subheadings 1701.11.10, 1701.11.20, 1701.11.30, 1701.11.40, 1701.11.50, 1701.12.00, 1701.91.00, 1701.99.00, 1702.90.31, 1702.90.32, 1702.90.33, 1702.90.34, 1702.90.35, 1702.90.36, 1702.90.37, 1702.90.38, 1702.90.40, 1806.10.00 (except those with a sugar content less than 90 per cent) and 2106.90.20 (except those that contain flavoring matter) of the Canadian Tariff Schedule.

## Subchapter B - Sanitary and Phytosanitary Measures

### Article 751: Scope

In order to establish a framework of rules and disciplines to guide the development, adoption and enforcement of sanitary and phytosanitary measures, this Subchapter applies to any such measure of a Party that may, directly or indirectly, affect trade between the Parties.

### Article 752: Relation to Other Chapters

Articles 301 (National Treatment), 309 (Import and Export Restrictions) and 310 (Non-Discriminatory Administration of Restrictions), and the provisions of Article XX(b) of the GATT as incorporated into Article 2101(1), do not apply to any sanitary or phytosanitary measure.

### Article 753: Reliance on Non-Governmental Entities

Each Party shall ensure that any non-governmental entity on which it relies in applying a sanitary or phytosanitary measure acts in a manner consistent with this Subchapter.

### Article 754: Basic Rights and Obligations

#### Right to Take Sanitary and Phytosanitary Measures

1. Each Party may, in accordance with this Subchapter, adopt, maintain or apply any sanitary or phytosanitary measure necessary for the protection of human, animal or plant life or health in its territory, including a measure more stringent than an international standard, guideline or recommendation.

#### Right to Establish Level of Protection

2. Notwithstanding any other provision of this Subchapter, each Party may, in protecting human, animal or plant life or health, establish its appropriate level of protection in accordance with Article 757.

#### Scientific Principles

3. Each Party shall ensure that any sanitary or phytosanitary measure that it adopts, maintains or applies is:

(a) based on scientific principles, taking into account relevant factors including, where appropriate, different geographic conditions;

(b) not maintained where there is no longer a scientific basis for it; and

(c) based on a risk assessment, as appropriate to the circumstances.

#### Non-Discriminatory Treatment

4. Each Party shall ensure that a sanitary or phytosanitary measure that it adopts, maintains or applies does not arbitrarily or unjustifiably discriminate between its goods and like goods of another Party, or between goods of another Party and like goods of any other country, where identical or similar conditions prevail.

#### Unnecessary Obstacles

5. Each Party shall ensure that any sanitary or phytosanitary measure that it adopts, maintains or applies is applied only to the extent necessary to achieve its appropriate level of protection, taking into account technical and economic feasibility.

#### Disguised Restrictions

6. No Party may adopt, maintain or apply any sanitary or phytosanitary measure with a view to, or with the effect of, creating a disguised restriction to trade between the Parties.

#### Article 755: International Standards and Standardizing Organizations

1. Without reducing the level of protection of human, animal, or plant life or health, each Party shall use, as a basis for its sanitary and phytosanitary measures, relevant international standards, guidelines or recommendations with the objective, among others, of making its sanitary and phytosanitary measures equivalent or, where appropriate, identical to those of the other Parties.

2. A Party's sanitary or phytosanitary measure that conforms to a relevant international standard, guideline or recommendation shall be presumed to be consistent with Article 754. A measure that results in a level of sanitary or phytosanitary protection different from that which would be achieved by a measure based on a relevant international standard, guideline or recommendation shall not for that reason alone be presumed to be inconsistent with this Subchapter.

3. Notwithstanding paragraph 1 and in accordance with the other provisions of this Subchapter, a Party may adopt, maintain or apply a sanitary or phytosanitary measure that is more stringent than the relevant international standard, guideline or recommendation.

4. Where a Party has reason to believe that a sanitary or phytosanitary measure of another Party is adversely affecting or may adversely affect its exports and the measure is not based on a relevant international standard, guideline or recommendation, it may request, and the other Party shall provide in writing, the reasons for such measure.

5. Each Party shall, to the greatest extent practicable, participate in relevant international and North American standardizing organizations, including the Codex Alimentarius Commission, the International Office of Epizootics, the International Plant Protection Convention, and the North American Plant Protection Organization, with a view to promoting the development and periodic review of international standards, guidelines and recommendations.

## Article 756: Equivalence

1. Without reducing the level of protection of human, animal, or plant life or health, the Parties shall, to the greatest extent practicable and in accordance with this Subchapter, pursue equivalence of their respective sanitary or phytosanitary measures.

2. Each importing Party:

(a) shall treat a sanitary or phytosanitary measure adopted or maintained by an exporting Party as equivalent to its own where the exporting Party, in cooperation with the importing Party, provides to the importing Party scientific evidence or other information, in accordance with risk assessment methodologies agreed upon by those Parties, to demonstrate objectively, subject to subparagraph (b), that the exporting Party's measure achieves the importing Party's appropriate level of protection;

(b) may, where it has a scientific basis, determine that the exporting Party's measure does not achieve the importing Party's appropriate level of protection; and

(c) shall, upon the request of the exporting Party, provide its reasons in writing for a determination under subparagraph (b).

3. For purposes of establishing equivalency, each exporting Party shall, upon the request of an importing Party, take such reasonable measures as may be available to it to facilitate access in its territory for inspection, testing, and other relevant procedures.

4. Each Party should, in the development of a sanitary or phytosanitary measure, consider relevant actual or proposed sanitary or phytosanitary measures of the other Parties.

## Article 757: Risk Assessment and Appropriate Level of Protection

1. In conducting a risk assessment, each Party shall take into account:

(a) relevant risk assessment techniques and methodologies developed by international or North American standardizing organizations;

(b) relevant scientific evidence;

(c) relevant processes and production methods;

(d) relevant inspection, sampling, and testing methods;

(e) the prevalence of relevant diseases or pests, including the existence of pest-free or disease-free areas or areas of low pest or disease prevalence;

(f) relevant ecological and other environmental conditions;

and

(g) relevant treatments, such as quarantines.

2. Further to paragraph 1, each Party shall, in establishing its appropriate level of protection regarding the risk associated with the introduction, establishment or spread of an animal or plant pest or disease, and in assessing such risk, also take into account the following economic factors, where relevant:

(a) loss of production or sales that may result from such pest or disease;

(b) costs of control or eradication of the pest or disease in its territory; and

(c) the relative cost-effectiveness of alternative approaches to limiting risks.

3. Each Party, in establishing its appropriate level of protection:

(a) should take into account the objective of minimizing negative trade effects; and

(b) shall, with the objective of achieving consistency in such levels, avoid arbitrary or unjustifiable distinctions in such levels in different circumstances, where such distinctions result in arbitrary or unjustifiable discrimination against a good of another Party or constitute a disguised restriction on trade between the Parties.

4. Notwithstanding paragraphs (1) through (3) and Article 754(3)(c), where a Party conducting a risk assessment determines that available relevant scientific evidence or other information is insufficient to complete the assessment, it may adopt a provisional sanitary or phytosanitary measure on the basis of available relevant information, including from international or North American standardizing organizations and from sanitary or phytosanitary measures of other Parties. Such Party shall, within a reasonable period after information sufficient to complete the assessment is presented to it, complete its assessment, review and where appropriate revise the provisional measure in light of such assessment.

5. Where a Party is able to achieve its appropriate level of protection through the phased application of a sanitary or phytosanitary measure, it may, upon the request of another Party and in accordance with this Subchapter, allow for such a phased application, or grant specified exceptions for limited periods from such measure, taking into account the requesting Party's export interests.

#### Article 758: Adaptation to Regional Conditions

1. Each Party shall adapt any of its sanitary or phytosanitary measures relating to the introduction, establishment, or spread of an animal or plant pest or disease, to the sanitary or phytosanitary characteristics of the area where a good subject to such measure is produced and the area in its territory to which such good is destined, taking into account any relevant

conditions, including those relating to transportation and handling, between such areas. In assessing such characteristics of an area, including whether an area is, and is likely to remain, a pest-free or disease-free area or an area of low pest or disease prevalence, each Party shall take into account, among other factors:

- (a) the prevalence of relevant pests or diseases in that area;
- (b) the existence of eradication or control programs in that area; and
- (c) any relevant international standard, guideline or recommendation.

2. Further to paragraph 1, each Party shall, in determining whether an area is a pest-free or disease-free area or an area of low pest or disease prevalence, base such determination on factors such as geography, ecosystems, epidemiological surveillance, and the effectiveness of sanitary or phytosanitary controls in that area.

3. Each importing Party shall recognize that an area in the territory of the exporting Party is, and is likely to remain, a pest-free or disease-free area or an area of low pest or disease prevalence, where the exporting Party provides to the importing Party scientific evidence or other information sufficient to so demonstrate to the satisfaction of the importing Party. For this purpose, each exporting Party shall provide reasonable access in its territory to the importing Party for inspection, testing and other relevant procedures.

4. Each Party may, in accordance with this Subchapter:

- (a) adopt, maintain or apply a different risk assessment procedure for a pest-free or disease-free area than for an area of low pest or disease prevalence; or
- (b) make a different final determination for the disposition of a good produced in a pest-free or disease-free area than for a good produced in an area of low pest or disease prevalence,

taking into account any relevant conditions, including those relating to transportation and handling.

5. Each Party shall, in adopting, maintaining or applying a sanitary or phytosanitary measure relating to the introduction, establishment, or spread of an animal or plant pest or disease, accord a good produced in a pest-free or disease-free area in the territory of another Party no less favorable treatment than it accords a good produced in a pest-free or disease-free area, in another country, that poses the same level of risk. Such Party shall use equivalent risk assessment techniques to evaluate relevant conditions and controls in the pest-free or disease-free area and in the area surrounding that area and take into account any relevant conditions, including those relating to transportation and handling.

6. Each importing Party shall pursue an agreement with an exporting Party, upon request, on specific requirements the

fulfillment of which allows a good produced in an area of low pest or disease prevalence in the territory of an exporting Party to be imported into the territory of the importing Party and achieves the importing Party's appropriate level of protection.

#### Article 759: Control, Inspection and Approval Procedures

1. Each Party, with respect to any control or inspection procedure that it conducts:

- (a) shall initiate and complete such procedure as expeditiously as possible and in no less favorable manner for a good of another Party than for a good of such Party or a like good of any other country;
- (b) shall publish the normal processing period for each such procedure or communicate the anticipated processing period to the applicant upon request;
- (c) shall ensure that the competent body
  - (i) upon receipt of an application, promptly examines the completeness of the documentation and informs the applicant in a precise and complete manner of any deficiency,
  - (ii) transmits to the applicant as soon as possible the results of the procedure in a form that is precise and complete so that such applicant may take any necessary corrective action,
  - (iii) where the application is deficient, proceeds as far as practicable with such procedure if the applicant so requests, and
  - (iv) informs the applicant, upon request, of the status of the application and the reasons for any delay;
- (d) shall limit the information the applicant is required to supply to that necessary for conducting such procedure;
- (e) shall accord confidential or proprietary information arising from, or supplied in connection with, such procedure conducted for a good of another Party
  - (i) treatment no less favorable than for a good of such Party, and
  - (ii) in any event, treatment that protects the applicant's legitimate commercial interests, to the extent provided under the Party's law;
- (f) shall limit any requirement regarding individual specimens or samples of a good to that which is reasonable and necessary;
- (g) should not impose a fee for conducting such procedure that is higher for a good of another Party than is equitable in relation to any such fee it imposes for its like goods or for like goods of any other country,



taking into account communication, transportation and other related costs;

(h) should use criteria for selecting the location of facilities at which a procedure is conducted that do not cause unnecessary inconvenience to an applicant or its agent;

(i) shall provide a mechanism to review complaints concerning the operation of such procedure and to take corrective action when a complaint is justified;

(j) should use criteria for selecting samples of goods that do not cause unnecessary inconvenience to an applicant or its agent; and

(k) shall limit such procedure, for a good modified subsequent to a determination that such good fulfills the requirements of the applicable sanitary or phytosanitary measure, to that necessary to determine that such good continues to fulfill the requirements of such measure.

2. Each Party shall apply, with such modifications as may be necessary, paragraphs 1(a) through (i) to its approval procedures.

3. Where an importing Party's sanitary or phytosanitary measure requires the conduct of a control or inspection procedure at the level of production, an exporting Party shall, upon the request of the importing Party, take such reasonable measures as may be available to it to facilitate access in its territory and to provide assistance necessary to facilitate the conduct of the importing Party's control or inspection procedure.

4. A Party maintaining an approval procedure may require its approval for the use of an additive, or its establishment of a tolerance for a contaminant, in a food, beverage or feedstuff, under such procedure, prior to granting access to its domestic market for a food, beverage or feedstuff containing such additive or contaminant. Where such Party so requires, it shall consider using a relevant international standard, guideline or recommendation as the basis for granting access until it completes such procedure.

#### Article 760: Notification, Publication and Provision of Information

1. Further to Articles 1802 and 1803, each Party proposing to adopt or modify a sanitary or phytosanitary measure of general application at the federal level shall:

(a) at least 60 days prior to the adoption or modification of such measure, other than a law, publish a notice and notify in writing the other Parties of the proposed measure and provide to the other Parties and publish the full text of the proposed measure, in such a manner as to enable interested persons to become acquainted with the proposed measure;

(b) identify in such notice and notification the good to which the proposed measure would apply, and provide a

brief description of the objective and reasons for such measure;

(c) provide a copy of such proposed measure to any Party or interested person that so requests and, wherever possible, identify any provision that deviates in substance from relevant international standards, guidelines or recommendations; and

(d) without discrimination, allow other Parties and interested persons to make comments in writing and shall, upon request, discuss such comments and take the comments and the results of such discussions into account.

2. Each Party shall seek, through appropriate measures, to ensure, with respect to a sanitary or phytosanitary measure of a state or provincial government:

(a) that, at an early appropriate stage, a notice and notification of the type referred to in paragraphs 1(a) and (b) are made prior to their adoption; and

(b) observance of paragraphs 1(c) and (d).

3. Where a Party considers it necessary to address an urgent problem relating to sanitary and phytosanitary protection, it may omit any step set out in paragraph 1 or 2, provided that, upon adoption of a sanitary or phytosanitary measure, it shall:

(a) immediately provide to the other Parties a notification of the type referred to in paragraph 1(b), including a brief description of the urgent problem;

(b) provide a copy of such measure to any Party or interested person that so requests; and

(c) without discrimination, allow other Parties and interested persons to make comments in writing and shall, upon request, discuss such comments and take such comments and the results of such discussions into account.

4. Except where necessary to address an urgent problem referred to in paragraph 3, each Party shall allow a reasonable period between the publication of a sanitary or phytosanitary measure of general application and the date that it becomes effective to allow time for interested persons to adapt to such measure.

5. Each Party shall designate a government authority responsible for the implementation at the federal level of the notification provisions of this Article, and shall notify the other Parties thereof. Where a Party designates two or more government authorities for such purpose, it shall provide to the other Parties complete and unambiguous information on the scope of responsibility of each such authority.

6. Where an importing Party denies entry into its territory of a good of another Party because it does not comply with a sanitary or phytosanitary measure, the importing Party shall provide a written explanation to the exporting Party, upon request, that identifies the applicable measure and the reasons that the good is not in compliance.

## Article 761: Inquiry Points

1. Each Party shall ensure that there is one inquiry point that is able to answer all reasonable enquiries from other Parties and interested persons, and to provide relevant documents, regarding:

- (a) any sanitary or phytosanitary measure of general application, including any control or inspection procedure or approval procedure, proposed, adopted or maintained in its territory at the federal, provincial, or state government level;
- (b) such Party's risk assessment procedures and factors it considers in conducting such assessment and in establishing its appropriate levels of protection;
- (c) the membership and participation of such Party, or its relevant federal, provincial or state government authorities in international and regional sanitary and phytosanitary organizations and systems, and in bilateral and multilateral arrangements within the scope of this Subchapter, and the provisions of such systems and arrangements; and
- (d) the location of notices published pursuant to this Subchapter or where such information can be obtained.

2. Each Party shall ensure that where copies of documents are requested by another Party or by interested persons in accordance with this Subchapter, they are supplied at the same price, apart from the actual cost of delivery, as the price for domestic purchase.

## Article 762: Technical Cooperation

1. Each Party shall, upon the request of another Party, facilitate the provision of technical advice, information and assistance, on mutually agreed terms and conditions, to enhance that Party's sanitary and phytosanitary measures and related activities, including research, processing technologies, infrastructure and the establishment of national regulatory bodies. Such assistance may include credits, donations and grants, for the purpose of acquiring technical expertise, training and equipment to allow the Party to adjust to and comply with a Party's sanitary or phytosanitary measure.

2. Each Party shall, on the request of another Party:

- (a) provide to that Party information on its technical cooperation programs regarding sanitary or phytosanitary measures relating to specific areas of interest; and
- (b) consult with the other Party during the development of, or prior to the adoption or change in the application of, any sanitary or phytosanitary measure.

## Article 763: Limitations on the Provision of Information

Nothing in this Subchapter shall be construed as requiring a Party to:

- (a) communicate, publish texts or provide particulars or copies of documents other than in an official language of such Party; or
- (b) furnish any information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises.

#### Article 764: Committee on Sanitary and Phytosanitary Measures

1. The Parties hereby establish a Committee on Sanitary and Phytosanitary Measures, comprising representatives of each Party who have responsibility for sanitary and phytosanitary matters.

2. The Committee should facilitate:

- (a) the enhancement of food safety and improvement of sanitary and phytosanitary conditions in the territories of the Parties;
- (b) activities of the Parties pursuant to Articles 755 and 756;
- (c) technical cooperation between the Parties, including cooperation in the development, application and enforcement of sanitary or phytosanitary measures; and
- (d) consultations on specific matters relating to sanitary or phytosanitary measures.

3. The Committee:

- (a) shall, to the extent possible, in carrying out its functions, seek the assistance of relevant international and North American standardizing organizations to obtain available scientific and technical advice and minimize duplication of effort;
- (b) may draw upon such experts and expert bodies as it considers appropriate;
- (c) shall report annually to the Commission on the implementation of this Subchapter;
- (d) shall meet upon the request of any Party and, unless the Parties otherwise agree, at least once each year; and
- (e) may, as it considers appropriate, establish and determine the scope and mandate of working groups.

#### Article 765: Technical Consultations

1. A Party may request consultations with another Party on any matter covered by this Subchapter.

2. Each Party should use the good offices of relevant

international and North American standardizing organizations, including those referred to in Article 755(5), for advice and assistance on sanitary and phytosanitary matters within their respective mandates.

3. Where a Party requests consultations regarding the application of this Subchapter to a Party's sanitary or phytosanitary measure, and so notifies the Committee, the Committee may facilitate such consultations, if it does not consider the matter itself, by referring the matter for non-binding technical advice or recommendations to a working group, including an ad hoc working group, or to another forum.

4. The Committee should consider any matter referred to it under paragraph 3 as expeditiously as possible, particularly regarding perishable goods, and promptly forward to the Parties any technical advice or recommendations that it develops or receives concerning the matter. The Parties involved shall provide a written response to the Committee concerning the technical advice or recommendations within such time as the Committee may request.

5. Where the involved Parties have had recourse to consultations facilitated by the Committee under paragraph 3, such consultations shall, upon the agreement of the Parties involved, constitute consultations conducted for purposes of Article 2006 (Consultations).

6. The Parties confirm that a Party asserting that a sanitary or phytosanitary measure of another Party is inconsistent with the provisions of this Subchapter shall have the burden of establishing such inconsistency.

#### Article 766: Definitions

For purposes of this Subchapter:

animal includes fish and wild fauna;

appropriate level of protection means the level of protection of human, animal or plant life or health in the territory of a Party that the Party considers appropriate;

approval procedure means any registration, notification or other mandatory administrative procedure for:

(a) approving the use of an additive for a stated purpose or under stated conditions; or

(b) establishing a tolerance for a stated purpose or under stated conditions for a contaminant,

in a food, beverage or feedstuff prior to permitting the use of such additive or the marketing of a food, beverage or feedstuff containing such additive or contaminant;

area means a country, part of a country or all or parts of several countries;

area of low pest or disease prevalence means an area in which a specific pest or disease occurs at low levels;

contaminant includes pesticide and veterinary drug residues and extraneous matter;

control or inspection procedure means any procedure used, directly or indirectly, to determine that a sanitary or phytosanitary measure is fulfilled, including sampling, testing, inspection, evaluation, verification, monitoring, auditing, assurance of conformity, accreditation, registration, certification, or other procedure involving the physical examination of a good, of the packaging of a good, or of the equipment or facilities directly related to production, marketing or use of a good, but does not mean an approval procedure;

international standard, guideline or recommendation means a standard, guideline or recommendation:

- (a) regarding food safety, adopted by the Codex Alimentarius Commission, including one regarding decomposition elaborated by the Codex Committee on Fish and Fishery Products, food additives, contaminants, hygienic practice, and methods of analysis and sampling;
- (b) regarding animal health and zoonoses, developed under the auspices of the International Office of Epizootics;
- (c) regarding plant health, developed under the auspices of the Secretariat of the International Plant Protection Convention in co-operation with the North American Plant Protection Organization; or
- (d) established by or developed under any other international organization agreed upon by the Parties;

pest includes a weed;

pest-free or disease-free area means an area in which a specific pest or disease does not occur;

plant includes wild flora;

risk assessment means an evaluation of:

- (a) the potential for the introduction, establishment or spread of a pest or disease and associated biological and economic consequences; or
- (b) the potential for adverse effects on human or animal life or health arising from the presence of an additive, contaminant, toxin or disease-causing organism in a food, beverage or feedstuff;

sanitary or phytosanitary measure means a measure that a Party adopts, maintains or applies to:

- (a) protect animal or plant life or health in its territory from risks arising from the introduction, establishment or spread of a pest or disease,
- (b) protect human or animal life or health in its territory from risks arising from the presence of an additive, contaminant, toxin or disease-causing organism in a food, beverage or feedstuff,

(c) to protect human life or health in its territory from risks arising from a disease-causing organism or pest carried by an animal or plant, or a product thereof,

(d) prevent or limit other damage in its territory arising from the introduction, establishment or spread of a pest,

including end product criteria; a product-related processing or production method; a testing, inspection, certification or approval procedure; a relevant statistical method; a sampling procedure; a method of risk assessment; a packaging and labelling requirement directly related to food safety; and a quarantine treatment, such as a relevant requirement associated with the transportation of animals or plants or with material necessary for their survival during transportation; and

scientific basis means a reason based on data or information derived using scientific methods.