

December 11, 2020

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

As part of the United States-Mexico-Canada Agreement (USMCA) negotiation, the United States attempted to resolve ongoing trade imbalances with Mexico for seasonal and perishable fruits and vegetables through rule changes to U.S. trade laws. The Trump Administration had hoped such changes could make it easier to initiate trade remedy cases against (mostly Mexican) exports to the United States and would respond to complaints by some fruit and vegetable producers, mostly in southeastern U.S. states, who claim to be adversely affected by import competition from Mexico. Several Members of Congress from these states have supported such actions. However, USMCA, which came into force in 2020, did not include seasonal produce protections. Instead, the Trump Administration initiated a series of trade remedy and fact-finding investigations.

U.S. Fruit and Vegetable Trade Situation

The United States has gone from being a net exporter of fresh and processed fruits and vegetables in the early 1990s to being a net importer of fruits and vegetables today (see **Figure 1**). In 2019, the gap between total U.S. imports and exports of fresh and processed fruits and vegetables (excluding nuts and bananas) totaled nearly \$20 billion.

Mexico accounts for nearly half of the value of U.S. fruit and vegetable trade with the United States. In 2019, U.S. imports of fresh and processed fruits and vegetables from Mexico amounted to \$15.6 billion, while U.S. exports to Mexico totaled \$1.4 billion, resulting in a trade deficit of \$14.1 billion in these products (excluding nuts and bananas) (see **Figure 2**). Several factors have contributed to this trade imbalance, including relatively open and free trade between the United States and Mexico and increased year-round demand for fruits and vegetables and counter-seasonal import supplies, which have benefitted U.S. consumers. Production of some Mexican fruits and vegetables—tomatoes, peppers, berries, cucumbers, and melons—has increased in recent years in part due to Mexico's investment in large-scale greenhouse facilities and technological innovations, which some claim has been supported by the Mexican government and should be subject to antidumping and countervailing duties (AD/CVD) proceedings on U.S. imports. Trade concerns by growers in Florida and Georgia have primarily centered on imported tomatoes, peppers, and berries (see **Figure 3**).

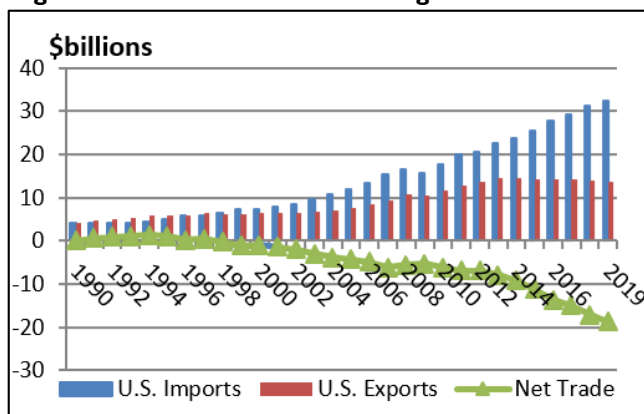
Efforts in USMCA Negotiation

The Trump Administration attempted to resolve concerns about this trade imbalance with Mexico through the USMCA negotiation. U.S. agriculture-related objectives in the USMCA negotiation included a proposal to establish new rules for seasonal and perishable fruits and vegetables. The U.S. proposal would have established a separate domestic industry provision for perishable and seasonal

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

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

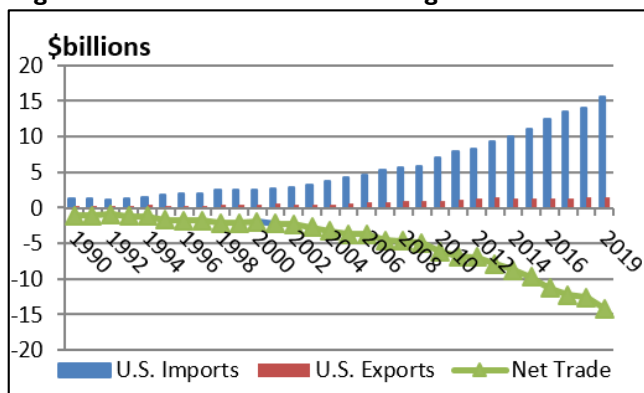
Figure 1. Global U.S. Fruit and Vegetable Trade



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

Note: Fresh and processed products (Harmonized Tariff Schedule [HTS] chapters 07, 08, and 20, excl. nuts, bananas [HTS 0801-0803]).

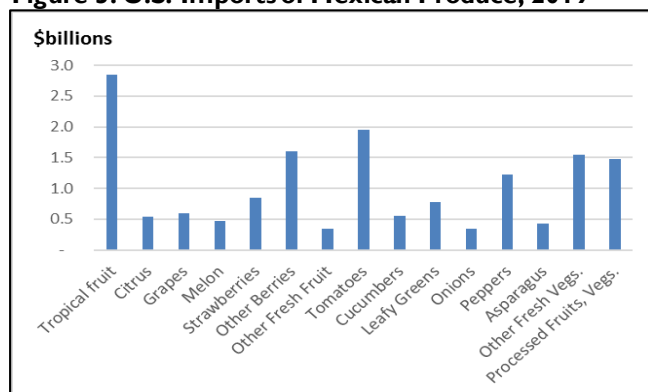
Figure 2. U.S.-Mexico Fruit and Vegetable Trade



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

Note: Fresh and processed products (HTS chapters 07, 08, and 20, excl. nuts, bananas [HTS 0801-0803]).

Figure 3. U.S. Imports of Mexican Produce, 2019



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

Note: Fresh and processed products (HTS chapters 07, 08, and 20, excl. nuts, bananas [HTS 0801-0803]).

Support and Opposition to Proposal

Views regarding seasonal produce protections in trade agreements are mixed. Although most lawmakers from Florida and Georgia called on USTR to include seasonal protections in USMCA, others in Congress opposed such changes, contending that seasonal imports complement rather than compete with U.S. growing seasons. Legislation seeking changes to U.S. trade laws to address seasonal produce protections were part the Defending Domestic Produce Production Act of 2019 (S. 16; H.R. 101), as reintroduced in the 116th Congress from the 115th Congress. Others worried it could open the door to an “uncontrolled proliferation of regional, seasonal, perishable remedies against U.S. exports.” Still others, such as the Fresh Produce Association of the Americas, claimed that such efforts would favor a few “politically-connected, wealthy agribusiness firms from Florida” at the expense of others in the U.S. produce industry and at the expense of both consumers and growers in other fruit and vegetable producing states, such as California. At a 2017 House Agriculture Committee hearing, lawmakers from California and other states highlighted the benefits of produce imports from Mexico to both U.S. consumers and the U.S. fruit and vegetable industry.

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

Ongoing Efforts

Efforts to enact trade remedies on seasonal and perishable produce continue. Hearings held by USTR in August 2020 highlighted concerns on both sides of this issue. USTR released its plan for seasonal and perishable produce in September 2020, which initiated certain U.S. trade remedy

investigations, among other actions. Separately the Department of Commerce is developing regulations to improve the administration and enforcement of AD and CVD laws (85 *Federal Register* 49472).

Section 201 Blueberry Investigation

USTR has requested that USITC open a global safeguard investigation into blueberry imports under Section 201 of the Trade Act of 1974 (19 U.S.C. §§ 2251-2254). A Section 201 investigation (or Global Safeguard Investigation) refers to trade remedy actions designed to provide temporary relief for a U.S. industry (e.g., additional tariffs or import quotas) to facilitate adjustment of the industry to import competition. Some Members of Congress have further requested that the Section 201 blueberry investigation include both cultivated and wild frozen blueberry imports. USITC initiated its Section 201 blueberry investigation in late September and has since determined that such an investigation is “extraordinarily complicated.”

Section 332 General Fact-Finding Investigations

USTR also has requested an investigation by USITC “to monitor and investigate imports of strawberries and bell peppers, which could enable an expedited Section 201 global safeguard investigation.”

In December, USITC launched two general fact-finding investigations of strawberries and bell peppers under Section 332 of the Trade Act of 1930 (19 U.S.C. § 1332), as requested by USTR. Under a Section 332 general fact-finding investigation, USITC may investigate a wide variety of trade aspects of any matter involving tariffs or international trade, including conditions of competition between the United States and foreign industries. In November, some Members of Congress from Georgia asked that USTR further request that USITC also conduct a Section 332 investigation of cucumbers and squash.

Other Requested Investigations

At the August 2020 hearings, other industry stakeholders recommended trade remedy investigations involving other types of crops, including tomatoes and pecans. Mexican restrictions on U.S. potato exports also remain a concern. Also at the hearings, some Members of Congress and industry groups who testified asked that USTR launch an investigation of Mexican trade practices and policies involving seasonal and perishable produce under Section 301 of the Trade Act of 1974 (19 U.S.C. §§ 2411-2420). To date, USTR has not initiated such an investigation.

CRS Products

CRS Report RL34468, *The U.S. Trade Situation for Fruit and Vegetable Products*

CRS Report R45038, *Efforts to Address Seasonal Agricultural Import Competition in the NAFTA Renegotiation*

CRS Report R46242, *Major Agricultural Trade Issues in 2020*

CRS In Focus IFI0786, *Safeguards: Section 201 of the Trade Act of 1974*

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