

USDA Foreign Agricultural Service

GAIN Report

Global Agricultural Information Network

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POLICY

Voluntary - Public

Date: 8/18/2010

GAIN Report Number: MX0054

Mexico

Post: Mexico

Mexico Increases Trucking Retaliation Against Ag Products

Report Categories:

Trade Policy Incident Report

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FAIRS Subject Report

Agriculture in the Economy

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Report Highlights:

On August 18, 2010, the Secretariat of Economy (SE) published in the *Diario Oficial* (Federal Register) an announcement modifying the import tariffs of 99 U.S. agricultural and industrial products. This tariff modification is retaliation by the Government of Mexico (GOM) over the dissolution of the U.S.-Mexico Cross-Border Trucking Demonstration Project and supersedes the prior retaliation list published on March 18, 2009. The list includes 54 agricultural products worth an estimated trade annual value of \$1.7 billion.

General Information:

Introduction: This report summarizes an announcement that modifies the General Import and Export Tax Law from the Secretariat of Economy published in Mexico's *Diario Oficial* (Federal Register) on August 18, 2010.

Disclaimer: This summary is based on a *cursory* review of the subject announcement and therefore should not, under any circumstances, be viewed as a definitive reading of the regulation in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulation or announcement as published in Spanish, the latter shall prevail.

The Secretariat of Economy (SE) published on August 18, 2010, in the *Diario Oficial* (Federal Register) an [announcement](#) modifying the import tariffs on 99 U.S. agricultural and industrial products and superseding the prior *Diario Oficial* announcement of March 18, 2009 (see [MX9010](#)). The original modification to the General Import and Export Tax Law published in March 2009 was triggered by the dissolution of the U.S.-Mexico Cross-Border Trucking Demonstration Project, while the current announcement was spurred by the perceived inability or disinterest of the United States Congress to respond to the initial retaliation and resolve the issue 17 months later. The new list further targets U.S. agricultural exports, increasing the total number of agricultural products targeted to 54, which are valued at approximately \$1.7 billion. The original March 2009 retaliation list included 36 agricultural products, valued at approximately \$864 million (see [MX9010](#)). Table 1 includes the 19 new products added to the retaliation list and includes their trade value based on 2009 trade data. Table 2 includes the list of agricultural products subject to retaliation based on the March 18, 2009, *Diario Oficial* announcement and also includes any changes to this list based on the August 18, 2010, notification. Table 2 also includes the value of these imports (based on Mexico's official data) from 2008.

**Table 1. 2010 Mexico: Trucking Retaliation List
Imports From The United States
U.S. Dollars**

HS Code	Description	2009,	New 2010 Tariff
0203.12.01	Swine meat, fresh, chilled or frozen. Hams, shoulders and cuts thereof, with bone in	424,000,000	5%
0203.22.01	Swine meat, fresh, chilled or frozen. Hams, shoulders and cuts thereof, with bone in	12,600,000	5%
0406.10.01	Fresh (Unripened or Uncured) Cheese, Including Whey and Curd	46,000,000	25%
0406.30.99	Processed cheese not grated or powdered. Other	1,270,000	25%
0406.90.04	Cheese and curd. Other cheese. Hard or semi-hard, containing by weight of fat exceeding 40%.	1,526,900	20%

	only Parmegiano-Reggiano or Grana, containing by weight of water in non-fatty matter exceeding 47%; only Danbo Edam, Fontal, Fontina, Fynbo, Gouda, Havarti, Maribo, Samsøe, Esrom, Italic, Kernhem, Saint-Nectaire, Saint-Paulin and Taleggio, with a weight of water content in non-fatty matter exceeding 47 % but not exceeding 72%		
0406.90.99	Cheese and curd. Other cheese	77,310,000	25%
0710.40.01	Sweet Corn. Vegetables, whether cooked by steaming or frozen	7,695,000	15%
0802.50.01	Fresh Pistachios	13,124,000	20%
0802.50.99	Pistachios-Other	364,000	20%
0805.10.01	Oranges	3,400,000	20%
0805.40.01	Grapefruit	1,220,200	20%
0808.10.01	Apples Fresh	190,800,000	20%
0813.30.01	Apples Dried	1,279,500	20%
1104.12.01	Rolled or flaked grains of Oats	6,511,000	10%
1602.49.01	Swine Skin cooked in pellets	15,000,000	20%
1704.10.01	Chewing Gum whether or not sugar-coated	1,400,000	20%
1806.31.01	Chocolate and other containing cocoa and filled	10,700,000	20%
1806.32.01	Chocolate and other containing cocoa and without fill	14,077,000	20%
2103.20.01	Tomato Ketchup	11,000,000	20%
	TOTAL	\$839,277,600	

② Source: World Trade Atlas January – December 2009.

Table 2. 2009 Mexico: Trucking Retaliation List Imports From The United States U.S. Dollars

HS Code	Description	2008 •	Tariff	2010 Tariff Change
0604.91.02	Christmas Trees	17,382,112	20%	
0703.10.01	Onions	36,696,133	10%	
0705.11.01	Cabbage Lettuce	21,850,669	10%	
0802.12.01	Almonds, shelled	26,305,864	20%	
0804.10.01	Fresh Dates	313,069	20%	
0804.10.99	Dates, Other	208,941	20%	
0806.10.01	Grapes, fresh	62,136,444	45%	20%
0808.20.01	Pears	70,685,943	20%	
0809.10.01	Apricots, fresh	3,641,643	20%	
0809.20.01	Cherries, fresh	3,740,854	20%	
0810.10.01	Strawberries, fresh	29,964,695	20%	
0813.50.01	Mixtures of Nuts or Dried Fruits of this chapter	5,885,526	20%	
1902.19.99	Pasta, Uncooked, Not Stuffed Etc., Nesoi, Other	1,980,313	10%	
2004.10.01	Potatoes, prepared etc., no vinegar etc. frozen	78,006,278	20%	5%
2005.40.01	Peas, prepr or presvd, other than by vinegar, acetic acid or sugar, not frozen	369,213	20%	
2008.11.01	Peanuts, prepared or preserved, shelled (peanut butter)	4,895,320	20%	0%
2008.11.99	Peanuts, prepared or preserved, other	1,616,201	20%	
2008.19.01	Prepared nuts, almonds	2,457,814	20%	
2008.19.99	Other prepared nuts	58,345,561	20%	
2008.60.01	Cherries, prepared or preserved	5,809,262	20%	
2009.80.01	Juice of single veg/fruit, unfermented, only vegetable juices, not containing added alcohol	7,444,741	20%	
2009.90.01	Juice, mixture, unfermented, only veg	184,032	20%	
2009.90.99	Juice, mixture, unfermented, fruit and veg	18,389,858	20%	
2103.10.01	Soy sauce	5,397,413	20%	
2103.90.99	Condiments and seasonings, mixed only	101,995,617	20%	

2104.10.01	Soups and broths	178,029,129	10%
2106.90.06	Juice concentrate from single fruit, legumes, or vegetable	193,786	15%
2106.90.07	Mixed juice concentrates from fruit, legumes, or vegetable	1,770,986	15%
2106.90.08	Prepared food, containing milk solids exceeding 10% by weight	14,618,189	15%
2201.10.01	Mineral water	3,410,944	20%
2204.10.99	Sparkling wine of fresh grapes, other	1,308,834	20%
2204.21.02	Wine, red, pink, claret, or white	6,232,017	20%
2206.00.99	Other fermented beverages	12,064,901	20%
2306.30.01	Oilcake from sunflower seeds	777,627	15%
2306.49.99	Rape/Colza seed oilcake, solid residue, other	185,689	15%
2309.10.01	Pet food, dog or cat	79,315,836	10%
TOTAL		\$863,611,454	

① Source: SAGARPA/SIAP, Secretariat of Agriculture, Rural Development, Fisheries and Food. Agro-Food and Fisheries Information Service

Furthermore, this announcement provides legal statements justifying an increase in the import tariffs on U.S. products. Among these statements are the following:

- That the North America Free Trade Agreement (NAFTA) was approved by the Mexican Senate on November 22, 1993, according to the decree published in the *Diario Oficial* on December 8, 2003. This decree of promulgation was published on December 20, 2003, in Mexico's Federal Register and came into force on January 1, 1994;
- That NAFTA sections 1108 and 1206 and Annex I, "Reservations About Existing Measures and Liberalization Commitments" provide the opening of freight services in the border states between Mexico and the United States since December 18, 1995, and throughout the two countries since January 1, 2000;
- That in accordance with NAFTA Chapter XX, which establishes procedures for resolving disputes, a panel was requested by Mexico on February 2, 2000, to determine the failure of the United States to meet its obligations under Annex I, as well as in the areas of national treatment and the most favored nation treatment under articles 1102, 1103, 1202 and 1203 of the Agreement on Cross-Border Transport Services;
- On February 6, 2001, the arbitration panel issued its final report and found that the United States failed to fulfill its obligations, and the panel recommended that the United States conduct the actions necessary to comply with its NAFTA commitments;
- That from the date indicated in the above considerations, the GOM and the United States made several efforts to ensure the opening of cross-border transport services under NAFTA, without obtaining the desired results;
- As part of the efforts mentioned above, on April 27, 2007, the GOM and the United States agreed to implement a demonstration project for trucking access (Trucking Demonstration Project) for a period of one year, extended by agreement of both countries until 2010, which

would allow a limited number of companies from both countries to provide cross-border transport services;

- That during the approval of the Omnibus Appropriations Act for FY 2009, the U.S. Congress banned Department of Transportation (DOT) funds that were used to establish or maintain the Demonstration Program. As a result, the DOT has ceased to operate this Program;
- That the cancellation of the Demonstration Program is evidence that the United States and Mexico have failed to reach a mutually-satisfactory settlement of trans-boundary movements in accordance with NAFTA articles 2018 and 2019, and that the United States continues to not honor its international obligations under NAFTA and the recommendations of the arbitration panel referred to above;
- That paragraph 1 of NAFTA Article 2019 states that if a panel has determined that a measure is inconsistent with the obligations of this Agreement, and if the defendant has not reached agreement with the complainant on a mutually-satisfactory resolution, the complainant may suspend the application of equivalent benefits for the defendant until such time as they have reached agreement on a resolution of the dispute;
- That based on these findings, Mexico deems it appropriate to suspend equivalent benefits to the United States via the March 18, 2010, announcement in the *Diario Oficial*, which eliminates certain preferential tariffs to imports of certain goods originating from the United States granted by NAFTA;
- That since the United States continues to neglect its obligations in the area of cross-border transportation as well as the arbitration panel's decision, it is necessary for Mexico to reinforce the temporary suspension of benefits to the United States to adjust the composition of the list of U.S. products slated for retaliation, and;
- That pursuant to the Foreign Trade Law, this Decree has a favorable opinion of the Foreign Trade Commission.

Title: Decree amending Article 1 that establishes the Applicable Rate during 2003 of the General Import Tax, for goods originating in North America, with respect to goods originating from the United States of America, published on December 31, 2002.

Important Dates

1. Publication Date: August 18, 2010

2. Effective Date: August 19, 2010

Background: The Trucking Pilot Program (Mexico Cross-Border Trucking Demonstration Project)

was an accommodation reached with Mexico after years of dispute regarding the delay to implement the NAFTA trucking obligations. It was set up in 2007 as a step towards implementation of the NAFTA trucking provision. It allowed up to 100 trucking firms from Mexico to transport international cargo beyond the commercial zones along the U.S.-Mexico border and up to 100 U.S. trucking firms to transport international cargo into Mexico. Bus companies and hazardous material carriers were excluded. The Trucking Pilot Program began on September 6, 2007, and was originally designed to run for one year. By an exchange of letters between the U.S. and Mexican Transportation Secretaries on August 4, 2008, the Trucking Pilot Program was extended up to an additional two years to ensure that it could produce sufficient data to evaluate its safety impact. In 2007, Mexico-domiciled motor carriers crossed into the United States approximately 4.8 million times, transporting an estimated \$215 billion of freight.

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FAS Mexico Web Site:

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Useful Mexican Web Sites:

Mexico's equivalent of the Department of Agriculture (SAGARPA) can be found at www.sagarpa.gob.mx and Mexico's equivalent of the Department of Commerce (SE) can be found at www.se.gob.mx.