Annex 702.3: Intergovernmental Coffee Agreement

Notwithstanding Article 2101 (General Exceptions), neither Canada nor Mexico may adopt or maintain a measure, pursuant to an intergovernmental coffee agreement, that restricts trade in coffee between them.

Annex 703.2: Market Access

Section A - Mexico and the United States

1. This Section applies only as between Mexico and the United States.

Customs Duties and Quantitative Restrictions

2. With respect to agricultural goods, Article 309(1) and (2) (Import and Export Restrictions) applies only to qualifying goods.

3. Each Party waives its rights under Article XI:2(c) of the GATT, and those rights as incorporated by Article 309, regarding any measure adopted or maintained with respect to the importation of qualifying goods.

4. Except with respect to a good set out in Section B or C of Annex 703.3 or Appendix 703.2.A.4, where a Party applies an over-quota tariff rate to a qualifying good pursuant to a tariff rate quota set out in its Schedule to Annex 302.2, or increases a customs duty for a sugar or syrup good to a rate, in accordance with paragraph 18, that exceeds the rate of customs duty for that good set out in its GATT Schedule of Tariff Concessions as of July 1, 1991, the other Party waives its rights under the GATT with respect to the application of that rate of customs duty.

5. Notwithstanding Article 302(2) (Tariff Elimination), where an agreement resulting from agricultural multilateral trade negotiations under the GATT enters into force with respect to a Party pursuant to which it has agreed to convert a prohibition or restriction on its importation of an agricultural good into a tariff rate quota or a customs duty, that Party may not apply to such good that is a qualifying good an over-quota tariff rate that is higher than the lower of the over-quota tariff rate set out in:

   a) its Schedule to Annex 302.2, and

   b) that agreement, and paragraph 4 shall no longer apply to the other Party with respect to that good.

6. Each Party may count the in-quota quantity under a tariff rate quota applied to a qualifying good in accordance with its Schedule to Annex 302.2 toward the satisfaction of commitments regarding an in-quota quantity of a tariff rate quota or level of access under a restriction on the importation of that good:

   a) that have been agreed under the GATT, including as set out in its GATT Schedule of Tariff Concessions; or

   b) undertaken by the Party as a result of any agreement resulting from agricultural multilateral trade negotiations under the GATT.

7. Neither Party may count toward the satisfaction of a commitment regarding an in-quota quantity of a tariff rate quota in its Schedule to Annex 302.2 an agricultural good admitted or entered into a maquiladora or foreign-trade zone and re-exported, including subsequent to processing.

8. The United States shall not adopt or maintain, with respect to the importation of an agricultural qualifying good, any fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act.

9. Neither Party may seek a voluntary restraint agreement from the other Party with respect to the exportation of meat that is a qualifying good.

10. Notwithstanding Chapter Four (Rules of Origin), for purposes of applying a rate of customs duty to a good, the United States may consider as if it were non-originating a good provided for in:

   a) heading 12.02 that is exported from the territory of Mexico, if the good is not wholly obtained in the territory of Mexico;

   b) subheading 2008.11 that is exported from the territory of Mexico, if any material provided for in heading 12.02 used in the production of that good is not wholly obtained in the territory of Mexico; or

   c) U.S. tariff item 1806.10.42 or 2106.90.12 that is exported from the territory of Mexico, if any material provided for in HS heading 1701.99 used in the production of that good is not a qualifying good.

11. Notwithstanding Chapter Four, for purposes of applying a rate of customs duty to a good, Mexico may consider as if it were non-originating a good provided for in:
a) HS heading 12.02 that is exported from the territory of the United States, if that good is not wholly obtained in the territory of the United States;

b) HS subheading 2008.11 that is exported from the territory of the United States, if any material provided for in heading 12.02 used in the production of that good is not wholly obtained in the territory of the United States; or

c) Mexican tariff item 1806.10.01 (except those with a sugar content less than 90 percent) or 2106.90.05 (except those that contain added flavoring matter) that is exported from the territory of the United States, if any material provided for in HS subheading 1701.99 used in the production of that good is not a qualifying good.

Restriction on Same-Condition Substitution Duty Drawback

12. Beginning on the date of entry into force of this Agreement, neither Mexico nor the United States may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on any agricultural good imported into its territory that is substituted for an identical or similar good that is subsequently exported to the territory of the other Party.

Trade in Sugar and Syrup Goods

13. The Parties shall consult by July 1 of each of the first 14 years beginning with 1994 to determine jointly, in accordance with Appendix 703.2.A.13, whether, and if so, by what quantity either Party:

a) is projected to be a net surplus producer of sugar in the next marketing year; and

b) has been a net surplus producer in any marketing year beginning after the date of entry into force of this Agreement, including the current marketing year.

14. For each of the first 14 marketing years beginning after the date of entry into force of this Agreement, each Party shall accord duty-free treatment to a quantity of sugar and syrup goods that are qualifying goods not less than the greatest of:

a) 7,258 metric tons raw value;

b) 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; and

c) subject to paragraph 15, the other Party's projected net production surplus for that marketing year, as determined under paragraph 13 and adjusted in accordance with Appendix 703.2.A.13.

15. Subject to paragraph 16, the duty-free quantity of sugar and syrup goods under paragraph 14(c); shall not exceed the following ceilings:

a) for each of the first six marketing years, 25,000 metric tons raw value;

b) for the seventh marketing year, 150,000 metric tons raw value; and

c) for each of the eighth through 14th marketing years, 110 percent of the previous marketing year's ceiling.

16. Beginning with the seventh marketing year, paragraph 15 shall not apply where, pursuant to paragraph 13, the Parties have determined the exporting Party to be a net surplus producer:

a) for any two consecutive marketing years beginning after the date of entry into force of this Agreement;

b) for the previous and current marketing years; or

c) in the current marketing year and projected it to be a net surplus producer in the next marketing year, unless subsequently the Parties determine that, contrary to the projection, the exporting Party was not a net surplus producer for that year.

17. Mexico shall, beginning no later than six years after the date of entry into force of this Agreement, apply on a most-favored-nation (MFN) basis a tariff rate quota for sugar and syrup goods consisting of rates of customs duties no less than the lesser of the corresponding:

a) MFN rates of the United States in effect on the date that Mexico commences to apply the tariff rate quota; and

b) prevailing MFN rates of the United States.
18. When Mexico applies a tariff rate quota under paragraph 17, it shall not apply on a sugar or syrup good that is a qualifying good a rate of customs duty higher than the rate of customs duty applied by the United States on such good.

19. Each Party shall determine the quantity of a sugar or syrup good that is a qualifying good based on the actual weight of such good, converted as appropriate to raw value, without regard to the good’s packaging or presentation.

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

   a) the treatment provided for in paragraphs 14 through 16; or

   b) the MFN treatment granted by the United States to non-Parties.

21. Except as provided in paragraph 22, Mexico shall not be required to apply the applicable rate of customs duty provided in this Annex or in its Schedule to Annex 302.2 to a sugar or syrup good, or sugar-containing product, that is a qualifying good where the United States has granted or will grant benefits under any re-export program or any like program in connection with the export of the good. The United States shall notify Mexico in writing within two days, excluding weekends, of any export to Mexico of such a good for which the benefits of any re-export program or any other like program have been or will be claimed by the exporter.

22. Notwithstanding any other provision of this Section:

   a) the United States shall accord duty-free treatment to imports of

      (i) raw sugar that is a qualifying good that will be refined in the territory of the United States and re-exported to the territory of Mexico, and

      (ii) refined sugar that is a qualifying good that has been refined from raw sugar produced in, and exported from, the territory of the United States;

   b) Mexico shall accord duty-free treatment to imports of

      (i) raw sugar that is a qualifying good that will be refined in the territory of Mexico and re-exported to the territory of the United States, and

      (ii) refined sugar that is a qualifying good that has been refined from raw sugar produced in, and exported from, the territory of Mexico;

   c) imports qualifying for duty-free treatment pursuant to subparagraphs (a) and (b) shall not be subject to, or counted under, any tariff rate quota.

Agricultural Grading and Marketing Standards.

23. Where a Party adopts or maintains a measure respecting the classification, grading or marketing of a domestic agricultural good, it shall accord treatment to a like qualifying good destined for processing no less favorable than it accords under the measure to the domestic good destined for processing. The importing Party may adopt or maintain measures to ensure that such imported good is processed.

24. Paragraph 23 shall be without prejudice to the rights of either Party under the GATT or under Chapter Three (National Treatment and Market Access) regarding measures respecting the classification, grading or marketing of an agricultural good, whether or not destined for processing.

25. The Parties hereby establish a Working Group, comprising representatives of Mexico and the United States, which shall meet annually or as otherwise agreed. The Working Group shall review, in coordination with the Committee on Standards-Related Measures established under Article 913 (Committee on Standards-Related Measures), the operation of agricultural grade and quality standards as they affect trade between the Parties, and shall resolve issues that may arise regarding the operation of the standards. This Working Group shall report to the Committee on Agricultural Trade established under Article 706.

Definitions

26. For purposes of this Section:

   marketing year means a 12-month period beginning October 1;

   net production surplus means the quantity by which a Party's domestic production of sugar exceeds its total consumption of sugar during a marketing year, determined in accordance with this Section;

   net surplus producer means a Party that has a net production surplus;
**plantation white sugar** means crystalline sugar that has not been refined and is intended for human consumption without further processing or refining;

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

**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-containing product** means a good containing sugar; and

**wholly obtained in the territory of** means harvested in the territory of.