

# Part I

## NAFTA's Impact on U.S. Agriculture: A Broad Overview

### Developments in Trade Policies, Domestic Agricultural Programs, and Dispute Resolution

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#### Introduction

Important changes in trade policies and domestic agricultural programs have accompanied the implementation of the North American Free Trade Agreement (NAFTA). Some of these changes are explicitly required by the agreement. NAFTA contains a detailed schedule for the progressive dismantling of most barriers to trade and investment between Canada, Mexico, and the United States. In addition, the agreement creates a set of formal mechanisms for the resolution of trade disputes within the NAFTA region.

Other changes reflect efforts to adapt to the new economic conditions associated with freer trade, even though these actions are not explicitly required by NAFTA. The NAFTA countries have modified their domestic agricultural policies in order to bring their agricultural sectors into conformance with their NAFTA commitments. This has not been an easy task, since the close link between domestic agricultural policies and trade barriers makes it difficult to disentangle the two. Moreover, low market prices over the last several years have motivated Canada and the United States to increase their government support to agricultural producers.

Also, the NAFTA countries have strengthened their institutional capacity to address trade frictions through a variety of cooperative measures. In many instances, this has enabled them to resolve trade disputes without a formal dispute proceeding. Overall, this combination of trade liberalization and institutional development is enabling regional flows of trade and investment to grow at an accelerated pace, bringing the NAFTA countries closer to their common goal of a unified market.

#### The Canada-U.S. Free Trade Agreement

NAFTA is structured as three bilateral agreements, one between Canada and the United States, a second between Mexico and the United States, and a third between Canada and Mexico. The first accord is the Canada-U.S. Free Trade Agreement (CFTA), which took effect on January 1, 1989, and is subsumed by NAFTA. The provisions of the second and third agreements took effect on January 1, 1994, the date of NAFTA's implementation.

In many respects, CFTA served as a blueprint for NAFTA. First, CFTA gradually eliminated most tariffs and non-tariff barriers to U.S.-Canada trade in goods over the 9-year period that ended on January 1, 1998. Second, CFTA committed Canada and the United States to work toward the harmonization of technical regulations and standards. Third, CFTA established bilateral dispute settlement panels to rule on cases involving countervailing and anti-dumping duties. Similar provisions are all found in NAFTA.

Only a few exceptions were made to CFTA's process of trade liberalization: U.S. imports of Canadian dairy products, peanuts and peanut butter, cotton, and sugar and sugar-containing products; and Canadian imports of U.S. dairy products, poultry, eggs and margarine. These restrictions, originally specified as quotas, were later redefined as tariff-rate quotas (TRQ's) to comply with the Uruguay Round Agreement on Agriculture (URAA). A TRQ is simply a quota for a volume of imports at a favorable tariff. After the quantitative limit is reached, a higher tariff is applied on additional imports.

As a safeguard measure, CFTA offers special temporary protection to U.S.-Canada trade in fruits and

vegetables in the form of a price-based tariff snapback system. This system, which expires on January 1, 2008, guards against imports from either country depressing domestic prices. Each country may use the snapback provision to re-impose temporary tariffs under certain conditions. So far, these safeguards have rarely been used.

## The North American Free Trade Agreement

As part of NAFTA, most tariffs and non-tariff barriers governing U.S.-Mexico agricultural trade are being progressively dismantled. Numerous tariffs and other restrictions were eliminated immediately upon NAFTA's implementation. The remainder are to be phased out during periods of 4, 9, or 14 years, depending on the commodity and the importing country (table B-1).

U.S. pear exports to Mexico provide an example of a 4-year transition. Prior to NAFTA, Mexico levied a tariff of 20 percent on U.S. pears. On January 1, 1994, the day of NAFTA's implementation, Mexico immediately cut the tariff to 15 percent. On January 1, 1995, Mexico made a second reduction, dropping the tariff to 11.25 percent. The third and fourth reductions occurred on January 1, 1996, and January 1, 1997, when Mexico lowered the tariff to 7.5 percent and 3.75 percent, respectively. Mexico made its fifth and final reduction on January 1, 1998, eliminating the tariff in its entirety. Because this process featured five annual reductions, some analysts describe this transition as having occurred over a 5-year period, even though it lasted only 4 years, from January 1, 1994, to January 1, 1998.

Prior to NAFTA, about 25 percent of the value of U.S. agricultural exports to Mexico were subject to licensing requirements. These restrictions were immediately converted to either tariffs or TRQ's. Wheat, tobacco, cheese, evaporated milk and grapes (shipped during certain periods of the year) are examples of products where licensing requirements were converted to tariffs, which are being phased out over the 9-year period that ends on January 1, 2003. Other products subject to licensing - including corn, dry beans, poultry, barley/malt, animal fats, potatoes, and eggs - were converted to TRQ's. Similarly, the United States converted its import quotas for dairy products, peanuts, cotton, sugar, and sugar-containing products to TRQ's. Under the TRQ arrangement, each country is required to gradually expand each quota, while

phasing out the associated over-quota tariff during the transition period.

Most products subject to these TRQ's are duty-free up to the level of the quota. Exempt from this requirement are those products to which the importing country applies special safeguards. These provisions offer added protection against import surges by allowing specified quantities to be imported at preferential NAFTA rates. Excess quantities are assessed tariffs equal to the lower of either the existing tariff rate when NAFTA took effect or the current most-favored-nation (MFN) rate. The tariff assessed on in-quota volumes for special safeguard products is being phased out over a 9-year period. The over-quota tariff will not be phased out until January 1, 2003, when both the in-quota and over-quota tariffs are to be eliminated. Mexico applies the special safeguard to imports of live swine, pork, potato products, fresh apples, and coffee extract on a calendar-year basis. The United States applies special safeguards on a seasonal basis to selected horticultural crops. Similar arrangements govern certain products traded between Canada and Mexico.

According to NAFTA's rules of origin, products from countries that are not parties to the agreement do not qualify for NAFTA tariff reductions, even if the goods are shipped through a NAFTA country. Moreover, each NAFTA country is allowed to maintain its own tariff schedule toward third parties. In fact, both Canada and Mexico have established additional free-trade agreements with countries other than the United States since the implementation of NAFTA.

Export subsidies between Canada and the United States are strictly prohibited, as originally negotiated under CFTA. Otherwise, NAFTA permits export subsidies if the importing country agrees to them or if the importer receives subsidies from other countries. This provision has enabled the United States to continue using the Dairy Export Incentive Program (DEIP) to promote dairy product exports to Mexico. In addition, both Canada and the United States have used government credit guarantees, not considered an export subsidy under NAFTA, to foster the sale of grains and oilseeds to Mexico.

NAFTA requires that sanitary and phytosanitary (SPS) measures be scientifically based, nondiscriminatory, and transparent, and that these measures restrict trade in a minimal fashion. The agreement also establishes the NAFTA Committee on Sanitary and Phytosanitary Measures to facilitate technical cooperation between

**Table B-1—Chronology of CFTA and NAFTA**

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January 1, 1989	Implementation of CFTA
January 1, 1994	Implementation of NAFTA  Mexico eliminates tariffs for United States on sorghum, certain citrus fruit, and fresh strawberries, as well as a seasonal tariff (December 1 to May 30) for oranges  United States eliminates tariffs for Mexico on corn, sorghum, barley, soymeal, apples, pears, peaches, fresh strawberries, beef, pork, and poultry, as well as a seasonal tariff (June 1 to November 30) for oranges
January 1, 1998	Canada and United States complete 9-year transition period associated with CFTA  Remaining Canada-U.S. tariffs are eliminated  Mexico and United States complete 4-year transition period under NAFTA  Mexico eliminates tariffs for United States on pears, plums, and apricots  United States eliminates tariffs for Mexico on non-durum wheat, soyoil, and cotton, as well as a seasonal tariff (December 1 to May 30) on oranges
January 1, 2003	Mexico and United States to complete 9-year transition period under NAFTA  Mexico to eliminate tariffs for United States on wheat, barley, rice, dairy, soybean meal and soyoil, poultry, peaches, apples, frozen strawberries, hogs, pork, cotton, and tobacco, as well as a seasonal tariff (June 1 to November 30) on oranges  United States to eliminate tariffs for Mexico on durum wheat, rice, limes, winter vegetables, dairy products, and frozen strawberries
October 1, 2007	Mexico and U.S. to eliminate tariffs on U.S.-Mexico sugar trade
January 1, 2008	Mexico and United States to complete 14-year transition period under NAFTA  Mexico to eliminate tariffs for United States on corn, dried beans, and milk powder  United States to eliminate tariffs for Mexico on frozen concentrated orange juice (FCOJ), winter vegetables, and peanuts.

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the NAFTA countries in the development, application, and enforcement of such measures. Since the agreement's implementation, producers in each NAFTA country have strived to meet higher quality standards and to participate actively in the formulation of new standards.

These efforts hold the promise of further increasing agricultural trade within North America. Efforts to inspect and approve produce at the regional level, and in some instances at the level of individual producers, have opened the door to new markets across international borders. Examples of this approach include:

- ✿ U.S. avocado imports from certain approved growers in the Mexican state of Michoacán;

- ✿ U.S. certification of the Mexican state of Sonora as a low-risk region for hog cholera;
- ✿ Mexico's lifting of its ban on citrus from Arizona and producing areas in Texas that are not regulated for fruit fly; and
- ✿ continuing efforts to design and implement a satisfactory inspection process for U.S. apple exports to Mexico.

## **NAFTA and Domestic Agricultural Policies**

Beyond the removal of tariffs and non-tariff barriers, the objectives of CFTA and NAFTA are relatively modest, certainly when compared to the European model of economic integration. While members of the

European Community have adopted a common agricultural policy, the NAFTA members merely agreed to liberalize the trade of most agricultural products, while leaving domestic agricultural programs in each country intact. It was left for each government to adjust its policies in order to make them compatible with trade liberalization.

Now in its eighth year, NAFTA has witnessed significant changes in the domestic agricultural policies of its signatory countries. While these changes generally were in response to factors other than NAFTA, most notably domestic budget pressures and the URAA, NAFTA certainly has had an effect as well. Through the liberalization of North American trade, each country has constrained the set of policy instruments available to policymakers. In particular, both domestic and trade policy instruments designed to raise producer prices are now difficult to maintain, as greater access to markets tends to unify prices within the free-trade area.

### **Early Policy Changes Reduced Government Intervention**

**United States.** In April 1996, 28 months after NAFTA's implementation, the United States adopted the Federal Agriculture Improvement and Reform (FAIR) Act of 1996, which fundamentally changed the nature of farm support in this country. During the debate leading to this act, there was some concern about how U.S. acreage controls and government policies regarding stockpiles of commodities would perform in the face of Canada's open access to the U.S. market, particularly with respect to wheat.

The FAIR Act removed the link between income support payments and farm prices by providing for predetermined production flexibility contract payments. These decoupled government payments,<sup>1</sup> also referred to as AMTA payments,<sup>2</sup> were meant to provide income support to eligible producers of wheat, feed grains, upland cotton, and rice over a 7-year period (1996-2002). The FAIR Act also eliminated Acreage Reduction Programs (ARP's) and allowed producers to repay marketing loans at levels below the

<sup>1</sup> Policies are generally perceived to be decoupled when transfer payments are unrelated to the current or future price or quantity of a commodity produced or marketed, and from the quantity of inputs used in production.

<sup>2</sup> AMTA refers to the Agricultural Market Transition Act, which is title I of the FAIR Act.

original loan rate in order to reduce the likelihood that commodities pledged as collateral would be forfeited to the government.

In addition, the FAIR Act set expenditure levels for the Export Enhancement Program (EEP), although it did not eliminate the program. The EEP is a classic example of a program that is incompatible with a free-trade area since import controls are necessary for the program to be effective. Otherwise, products from NAFTA partners would flow into the United States seeking the higher domestic price induced by the program. While the EEP has been used to subsidize the export of several commodities, 80 percent of its aid prior to 1995 was focused on wheat. Since mid-1995, the United States had stopped using the EEP to subsidize wheat exports, partly because of the program's incompatibility with a free-trade area. Just as important, the United States surrendered its GATT Section 22 waiver (which allowed for the imposition of quotas if imports were deemed to interfere with domestic support programs) under the terms of the URAA. Without the threat of quantity restrictions provided by Section 22, it would be difficult to limit wheat imports from Canada.

**Canada.** Canada's domestic agricultural programs also have undergone considerable reform during the CFTA-NAFTA period, although the free-trade area probably has had less of an influence on these changes than in the United States. The Two-Price Wheat Program is a good example of how CFTA affected Canada's domestic agricultural policies. Recognizing that this program would be unsustainable if Canadian millers and bakers could import U.S. wheat or flour duty-free, the Canadian government abandoned the program before the 1988/89 crop year and offered producers limited compensation under the Two-Price Wheat Compensation Act (Klein and Storey, 1998).

In 1995, producer subsidies for grains and oilseeds, provided through freight subsidies under the Western Grain Transportation Act (WGTA), were replaced by two transitional programs, implemented over a 3-year period to cushion the impact of eliminating the WGTA. The next year, the Gross Revenue Insurance Plan (GRIP), a voluntary revenue insurance plan introduced in 1991, was also terminated. GRIP guaranteed a minimum target revenue for insured crops to producers who chose to pay the premiums. This left the Net Income Stabilization Account (NISA) as the main income safety net for Canadian farmers.

Under NISA, which applies to grains, oilseeds, cattle, hogs, and horticulture, producers can deposit money annually into an interest bearing account and receive a matching contribution from the government. Federal contributions are fixed at 3 percent, while contributions from provincial governments vary by province. Producer deposits earn a 3-percent interest bonus over prevailing competitive rates. NISA is a voluntary program designed to help producers stabilize their farming income. In years of low income, producers are permitted to make withdrawals from their individual accounts. NISA is designed to protect revenue rather than support prices. As a result of these changes, direct payments for crops fell by more than 60 percent between 1996 and 1997.

**Mexico.** In anticipation of NAFTA and in order to reduce the fiscal burden associated with its domestic agricultural programs, Mexico launched the Program of Direct Support for the Countryside (*Programa de Apoyos Directos para el Campo*—PROCAMPO) in 1994. PROCAMPO is a 15-year program of direct payments that compensates producers for the loss of input subsidies, price supports, and import protection. It is designed to provide transitional income support to farmers, while allowing Mexican agriculture to undergo structural changes in response to market conditions and the phasing-out of trade barriers under NAFTA. Farmers who continue to produce receive annual PROCAMPO payments based on historical area planted in nine specified crops.

In 1996, Mexico announced the *Alianza para el Campo* (Alliance for the Countryside), a major initiative to improve agricultural productivity that includes PROCAMPO and other programs. The Alianza budget covers payments per ton made by the Support Services for Agricultural Marketing Agency (ASERCA) to first-hand buyers of wheat, corn, and sorghum in certain Mexican states. The payments are conditional on the buyers having paid producers an administered minimum price. In addition, ASERCA pays rice producers a deficiency payment for each ton marketed, up to an overall limit. The other Alianza programs mostly relate to infrastructure and extension-type assistance. Among these, the most important is PRODUCE Capitaliza, a program consisting of three main elements: a “ferti-gation” program (using irrigation canals to deliver liquid fertilizer), a mechanization program, and a program designed to improve pasture quality for livestock producers.

## **Government Support Has Increased in Recent Years**

During the early years of the agreement, the domestic agricultural policies of the NAFTA countries appeared to be on a converging path, as each country significantly reduced the level of government intervention in its agricultural sectors. Although each country continued to maintain a comprehensive system of government support for agriculture, there was clearly a move toward greater market orientation. In particular, the distorting effects of agricultural policies were substantially reduced, as each NAFTA country moved away from programs that relied on market price support payments to ones which rely on decoupled income support payments. Figure B-1 illustrates the extent to which the level of government support to agriculture, as measured by the Producer Support Estimate (PSE), declined in each country between 1991-93 (the 3 years preceding NAFTA) and 1997.<sup>3</sup> In 1997, each country's overall PSE was about 15 percent.

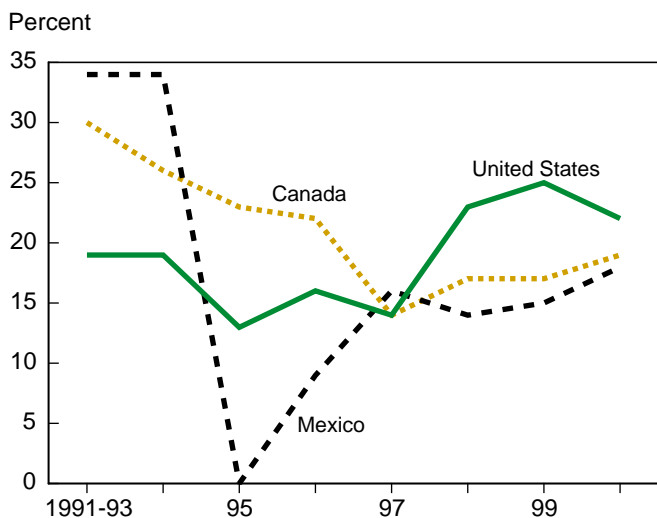
Since early 1998, farmers in each NAFTA country have faced severely depressed prices, which has led U.S. and Canadian policymakers to increase assistance to farmers. In the United States, Congress enacted emergency appropriations, consisting largely of supplemental AMTA payments and disaster relief payments, in October 1998, October 1999, and June 2000. As a result, total government direct payments reached a record \$25.9 billion in Fiscal Year (FY) 2000, after averaging just \$6.4 billion per year during the first 2 years of the FAIR Act (FY's 1996-97).<sup>4</sup> While helping to maintain farm incomes, these payments significantly increased the level of government expenditures on the agricultural sector, reversing what had been a trend toward reduced government support. By 1999, the U.S. PSE had increased to 25 percent, before declining to 22 percent in 2000. The U.S. PSE is the only one among the three NAFTA countries that was greater during 1998-2000 than it was immediately prior to NAFTA.

<sup>3</sup> The Producer Support Estimate (PSE) is an indicator of the value of gross transfers to agricultural producers from government policies, as measured by the Organization for Economic Cooperation and Development (OECD). The PSE comprises support from consumers and taxpayers in the form of market price support and budgetary payments to producers.

<sup>4</sup> For the Federal government of the United States, fiscal years begin on October 1 and end on September 30. Thus, FY 2000 began on October 1, 1999 and ended on September 30, 2000.

Figure B-1

### Producer support estimates (PSEs) for the NAFTA countries



Note: Prior to 1997, the values correspond to each country's producer subsidy equivalent, a slightly different measure used to calculate government support of agriculture.

Source: Organization for Economic Co-operation and Development (1997, 1999, 2001).

In Canada, the federal government instituted the Agricultural Income Disaster Assistance (AIDA) Program in December 1998, pledging Can\$900 million (about US\$600 million) over 2 years to help producers caught in the farm crisis. This sum represented 60 percent of a total aid package of Can\$1.5 billion (US\$1 billion). Under Canada's cost-sharing arrangement, provincial governments provide 40 percent of total funding. In 2000, direct program payments to Canadian producers increased to Can\$2.8 billion (US\$1.9 billion), 42 percent above their 1999 level and nearly double the previous 5-year average (Statistics Canada, 2001). In addition to AIDA payments, this total was made up of payments under several ongoing programs (including NISA, fall cash advances, and the Crop Insurance Act), as well as three one-time initiatives - the Alberta Farm Income Assistance Program and the Canada-Manitoba and the Canada-Saskatchewan Adjustment Programs. As a result of increases in both market price support and budgetary payments, Canada's PSE rose to 19 percent in 2000.

In July 2000, a 3-year safety net agreement worth Can\$5.5 billion (US\$3.7 billion) was signed. This agreement replaces AIDA with the Canadian Farm Income Program (CFIP), while continuing other ongoing programs. The new agreement goes into effect in 2001 and includes CFIP payments of Can\$2.2

billion (US\$1.5 billion) over 3 years. However, in February 2001, Canada's federal government pledged an additional Can\$500 million to CFIP for 2001, which would increase to Can\$833 million (US\$555 million) with provincial contributions. In addition, producers will be eligible to apply under the Spring Credit Advance Program for interest-free loans of up to Can\$50,000, compared to the previous limit of Can\$20,000 in 2000.

In 2000, Mexico's PSE increased to an estimated 18 percent, even though the budget for the *Alianza* program was unchanged compared with 1999, at about US\$500 million. The increase in the PSE was due to higher producer prices in Mexico and a slight appreciation of the peso. In general, Mexico has not followed the U.S. and Canadian lead in increasing support to agricultural producers during the ongoing farm crisis, citing fiscal constraints.

### Agricultural Trade Disputes in the NAFTA Era

The architects of NAFTA correctly anticipated that the agreement occasionally would be accompanied by trade disputes among the signatory countries. Laying the groundwork for the satisfactory resolution of these differences, they incorporated provisions within the agreement that established a new set of formal dispute settlement mechanisms. In addition, the NAFTA governments have made a sustained effort since the agreement's implementation to address matters of tension in a less adversarial, more cooperative fashion, before they take the form of a formal dispute.

There are four main sources of trade disputes among the NAFTA partners. First, on a few occasions, unintended ambiguities in the agreement's text have led to disputes over how to interpret NAFTA. Second, domestic policies that influence production, prices, or trade have direct spillover effects into the agricultural markets of the other NAFTA countries. With the deepening of trade and the increased integration of the NAFTA economies, these spillover effects may have increased, leading to further disputes. Third, a growing number of disputes are related to sanitary and phytosanitary issues, which are particularly complicated due to the existence of three different regulatory frameworks managing diseases and pests within the region. Fourth, the increased competitive pressures associated with freer trade have led some industries to seek protection through trade actions.

## Dispute Resolution Mechanisms in NAFTA

NAFTA created several formal mechanisms for the resolution of trade disputes. The principal mechanisms of this sort are specified in four chapters of the agreement:

- ✿ Chapter 11 - disputes related to investment;
- ✿ Chapter 14 - disputes related to services;
- ✿ Chapter 19 - disputes related to the application of antidumping and countervailing duty laws; and
- ✿ Chapter 20 - disputes related to the general interpretation or application of the agreement.

So far, agricultural trade disputes have been addressed solely under Chapters 19 and 20.

The arbitration panels associated with NAFTA's dispute settlement mechanisms have several distinguishing characteristics (Gifford, 1997). First, the agreement clearly spells out the right to establish a panel and the conditions under which a panel may be established. Second, experts may serve on panels in their personal capacity and not necessarily as government representatives. Third, the panels are marked by a quasi-judicial process of written submissions, counter-submissions, oral hearings, and cross-examination. Moreover, this process takes place within the context of a legal framework of rights and obligations. Fourth, NAFTA specifies firm timelines concerning the establishment and operation of the panel. Finally, no party to a dispute is allowed to block the adoption of a report.

National antidumping (AD) and countervailing-duty (CVD) investigations and assessments of duties are mechanisms that many countries - including the NAFTA partners - use to address trade practices that are found to violate specific rules. AD duties may be imposed if imports are being sold below their "normal" value (i.e., the price existing in the home market of the exporting country) and if these imports are causing or threaten to cause material injury to a domestic industry. CVD duties may be imposed on imports that are causing or threaten to cause material injury to a domestic industry in order to offset subsidies provided to producers or exporters by the government of the exporting country.

Such mechanisms have been in existence for some time in North America. Canada and the United States had well-developed laws and institutions of this type long before CFTA and NAFTA, although the creation of comparable laws and institutions in Mexico is a fairly recent development. NAFTA does not prevent the application of AD or CVD measures, nor does it provide for harmonized procedures or criteria for determining whether dumping has occurred or when and how countervailing duties should be set. However, the NAFTA countries must follow the rules of the World Trade Organization (WTO) regarding the application of these measures.

Agricultural producers in each NAFTA country have been involved in disputes concerning CVD measures and/or charges of dumping. Several of these cases have made their way to the NAFTA Secretariat, which administers the agreement's provisions for dispute resolution. There are two active NAFTA panels in agricultural cases under Chapter 19, and both cases concern Final Antidumping Duty Determinations by Mexico. One relates to U.S. exports of high-fructose corn syrup (HFCS); the other relates to U.S. exports of bovine carcasses. Previous NAFTA panels have issued rulings in cases involving U.S. exports of refined sugar to Canada, Canadian exports of live swine to the United States, and Mexican exports of fresh cut flowers to the United States.

Two completed agricultural cases under Chapter 20 have involved the United States. One concerned the interpretation of Canadian TRQ's on poultry, dairy products, barley, and margarine; the other dealt with U.S. safeguard duties on broomcorn brooms from Mexico. In addition, Mexico successfully brought a case under Chapter 20 concerning U.S. delays in implementing NAFTA's provisions for cross-border trucking. On February 6, 2001, the arbitration panel recommended that "the United States take appropriate steps to bring its practices with respect to cross-border trucking services and investment into compliance with its obligations under the applicable provisions of NAFTA" (NAFTA Secretariat, 2001). In response, the U.S. Department of Transportation's Federal Motor Carrier Safety Administration issued a proposed set of rules for implementing these provisions in May 2001. The commentary period for the proposed rules ended on July 2, 2001.

Occasionally, dispute settlement under NAFTA intersects with dispute settlement under the WTO. For

example, the United States has requested a WTO panel review of Mexico's HFCS duties, in addition to using NAFTA mechanisms.

Dispute resolution under the formal NAFTA mechanisms and AD and CVD actions represent only a very small part of the resolution process that has occurred and is strengthening under NAFTA. Most disputes are addressed in earlier stages through consultation and negotiation in the other venues that exist for their resolution. By fostering greater communication among parties engaged in trade, these mechanisms may also help to prevent trade disputes from occurring. One may identify three other trade dispute resolution mechanisms, in addition to the NAFTA arbitration panels and AD and CVD actions: governmental negotiations, private industry negotiations, and technical working groups and assistance (table B-2).

Government negotiations offer a venue for resolving disputes before they reach the litigation or investigation stage. Ad hoc negotiations have addressed trade disputes as they occur, as in the cases of U.S.-Canada grain trade disputes and the U.S.-Mexico tomato dispute. Other negotiations are conducted in standing committees, such

as the NAFTA SPS Committee. As the number of disputes relating to SPS measures has grown significantly in recent years, the role of the SPS Committee has been to facilitate technical cooperation between NAFTA partners and to enable consultation on SPS measures. One achievement of the working group has been the implementation of "regionalization." This term refers to the process in which certain regions of countries are declared to be free of pests or disease, thus permitting some trade to take place, even though disease or pests are present in other parts of the country. This is an example of trilateral *regulatory management*.

Government negotiations have also resolved disputes through *market management* and *policy management*. Market management may be necessary to assist the adjustment of sensitive sectors to increased competition under free trade, by stipulating temporary market conditions such as minimum prices. Government negotiations have also led to policy management in cases where one country's domestic policy has a direct impact on producers in other NAFTA countries. While the scope of NAFTA does not extend to domestic programs, subsequent government negotiations have resolved cases in which domestic programs had signif-

**Table B-2—Examples of Resolving Trade Disputes through NAFTA**

Dispute resolution mechanism	Selected examples
National Countervailing duty (CVD) or Antidumping (AD) actions	Mexico investigated or implemented duties on HFCS, hogs, apples, and wheat from the United States and wheat from Canada. United States investigated or implemented duties on tomatoes and broomcorn brooms from Mexico, and potatoes, beef, and wheat from Canada. Canada investigated and placed duties on apples, refined sugar, and potatoes from United States.
NAFTA arbitration panels	Chapter 19 panels considered Mexican AD duties on U.S. HFCS exports, U.S. refined sugar and product exports to Canada, Canadian swine exports to United States, and Mexican fresh cut flower exports to United States. Chapter 20 panels considered Canadian TRQs on poultry, dairy, barley, and margarine, and U.S. safeguards on broomcorn brooms from Mexico.
Government negotiations	" <i>Regionalization</i> " has addressed hog cholera, poultry Newcastle disease, avocado fruit fly, and karnal bunt in Mexico and the United States. <i>Market management</i> by United States and Mexico established minimum price agreements for U.S. apples and Mexican tomatoes, and negotiated outcomes for U.S.-Canada trade in beef, pork, and wheat. <i>Policy management</i> has modified Mexico's dry bean quota auction system, U.S.-Canada sweetener trade.
Industry negotiations	U.S. and Mexican grape industries resolved dispute over Mexican labeling regulations. Mexican and U.S. cattle industry negotiations prevented Mexican AD. Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods is established.
Technical assistance	NAFTA Sanitary and Phytosanitary (SPS) Committee facilitates regional technical cooperation. United States and Mexico established bilateral Plant Health Working Group and Karnal Bunt Team. Two countries also are cooperating in development of Mexican national grading and standards system for perishable commodities.



inant trade impacts, and helped smooth out differences in incompatible policies and regulations.

Private industry has begun to play a larger role in dispute resolution within the NAFTA region. In two recent disputes involving grapes and cattle, producer groups in Mexico and the United States worked together to address the regulatory incompatibilities and allegations of dumping that were at the root of the disagreements. In an effort to minimize litigation by strengthening private dispute resolution capacity, the NAFTA governments helped establish the Advisory Committee on Private Commercial Disputes Regarding Agricultural Goods. This organization, which is voluntarily supported by growers and shippers in the fruit and vegetable trade, allows its members to settle private commercial disputes largely on their own and in accordance with mutually recognized standards that are built into the group's by-laws and contracts.

Incompatible national regulatory frameworks are sometimes the result of inadequate national capacity to set and enforce standards. Technical assistance provides a mechanism for resolving or preventing disputes by building scientific and institutional capacity. The NAFTA SPS Committee has been one avenue for facilitating regional technical cooperation. Other programs have been established to address scientific cooperation and assistance relating to specific SPS concerns. Technical assistance and cooperation in developing agricultural statistics and strengthening analytical capacity can also contribute to the reduction of trade tensions by improving information and communication.

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