

TRADE

**Agreement between the
UNITED STATES OF AMERICA
and MEXICO**

Effected by Exchange of Letters at
Mexico City and Washington July 24 and 25, 2003



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

MEXICO

Trade

*Agreement effected by exchange of letters at
Mexico City and Washington July 24 and 25, 2003;
Entered into force July 25, 2003.*



Mexico City, July 24 2003

THE HONORABLE ROBERT B. ZOELICK

United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

The Mexican Ministry of Economy has determined that, as a result of the elimination of duties pursuant to the North American Free Trade Agreement ("NAFTA"), chicken leg quarters, or parts thereof, originating in the United States of America ("United States") classified under subheadings 0207.13.03 (chicken legs, thighs, or legs attached to thighs, fresh or chilled) and 0207.14.04 (chicken legs, thighs, or legs attached to thighs, frozen) of the Mexican tariff schedule ("U.S. chicken leg quarters") are being imported into the United Mexican States ("Mexico") in such increased quantities, in absolute terms, and under such conditions that those imports alone constitute a substantial cause of threat of serious injury to the Mexican poultry industry. In light of this determination, Mexico has determined to apply a safeguard measure on imports of such U.S. chicken leg quarters.

Safeguard Measure

1. Mexico will apply the safeguard measure on imports of U.S. chicken leg quarters beginning July 22, 2003. The safeguard measure, which will expire no later than December 31, 2007, will take the form of a tariff-rate quota, administered through the use of import licenses allocated in the same manner as described in *Acuerdo por el que se da a conocer el cupo para importar en el año 2003, dentro del arancel-cupo establecido piernas, muslos o piernas unidas al muslo, de pollo, originarias de los Estados Unidos de América*, published in the *Diario Oficial de la Federación* ("Diario Oficial") on January 31, 2003, with the following terms:

- (a) For the period July 22, 2003, to December 31, 2003, Mexico shall issue import licenses no later than nine business days after the date of this letter providing duty free access for at least 46,950 metric tons of U.S. chicken leg quarters to be imported into the northern border zone (*Franja Fronteriza Norte y Región Fronteriza*), as defined under the *Decreto por el que se establece el impuesto general de importación para la Región Fronteriza y la Franja Fronteriza Norte* published in the *Diario Oficial* on December 31, 2002. Mexico shall not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 98.8 percent *ad valorem* on such imports.



- (b) For calendar year 2004, Mexico shall issue import licenses no later than January 1, 2004, providing duty free access for at least 101,000 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 79.0 percent *ad valorem* on such imports.
- (c) For calendar year 2005, Mexico shall issue import licenses no later than January 1, 2005, providing duty free access for at least 102,010 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 59.3 percent *ad valorem* on such imports.
- (d) For calendar year 2006, Mexico shall issue import licenses no later than January 1, 2006, providing duty free access for at least 103,030 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 39.5 percent *ad valorem* on such imports.
- (e) For calendar year 2007, Mexico shall issue import licenses no later than January 1, 2007, providing duty free access for at least 104,060 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 19.8 percent *ad valorem* on such imports.

2. Mexico shall allow any imports of U.S. chicken leg quarters in excess of the duty free quantities established in the preceding subparagraphs to be sold throughout Mexico.

3. Effective no later than January 1, 2008, Mexico shall provide full duty free access and eliminate import license requirements for U.S. chicken leg quarters.



Compensation

4. Pursuant to Article 801 of the NAFTA, we would like to confirm the following understanding reached between the Government of Mexico and the Government of the United States concerning Mexico's imposition of the safeguard measure.
5. Beginning July 22, 2003, Mexico shall provide to the United States mutually agreed trade liberalizing compensation as set forth below:
 - (a) Except as provided in subparagraph (b) below, Mexico shall not impose any import restriction on U.S. poultry meat, poultry products (except eggs and egg products), or live birds, including, but not limited to, quantitative import restrictions or technical barriers to trade, bilateral or global safeguard measures, antidumping duties, or countervailing duties.
 - (b) Mexico shall notify and consult with the Office of the United States Trade Representative ("USTR") and the United States Department of Agriculture ("USDA") at least 60 days before imposing any food safety or sanitary measure on U.S. poultry meat, poultry products, or live birds, except that Mexico may notify and consult with USTR and USDA within seven calendar days after imposing a measure necessary to address a sanitary emergency. To the extent possible, consultations under this paragraph shall take place under the auspices of the U.S.-Mexico Consultative Committee on Agriculture. Mexico shall ensure that any such measure that it imposes is consistent with Chapter Seven of the NAFTA and the World Trade Organization ("WTO") Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement").
 - (c) Mexico confirms that with the elimination of NOM 16-ZOO-2002, effective May 23, 2003, imports of U.S. poultry meat, poultry products, and live birds into Mexico will not be subject to any Hemagglutination Inhibition testing requirement. Further, through publication of a notice in the *Diario Oficial*, Mexico shall remove its prohibition due to Low Pathogenic Avian Influenza ("LPAI") on imports of U.S. poultry meat, poultry products, and live birds originating in Maine, North Carolina, Pennsylvania, Texas, Virginia, and West Virginia. Mexico shall expeditiously review and publish a decision in the *Diario Oficial* regarding the status of LPAI in California and Connecticut after it receives a response to its LPAI questionnaire from USDA's Animal and Plant Health Inspection Service ("APHIS"). APHIS shall notify Mexico of any official U.S. regulatory action to restrict the spread of LPAI.



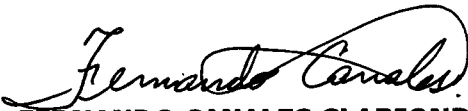
- (d) Through publication of a notice in the *Diario Oficial*, Mexico shall eliminate all testing requirements on imports of U.S. poultry meat, poultry products, and live birds for Exotic Newcastle Disease ("END") and shall remove its prohibition on imports of U.S. poultry meat, poultry products, and live birds originating in Oregon, Idaho, Utah, Colorado, and New Mexico. Upon review of documentation from APHIS that U.S. Federal quarantines for END applicable to the quarantined areas of Arizona, California, Nevada and Texas were removed no later than July 1, 2003, Mexico, through publication of a notice in the *Diario Oficial*, shall remove its END prohibition on imports of poultry meat, poultry products, and live birds originating in the quarantined areas of those states. APHIS shall notify Mexico of the status of any other END quarantine in the United States.
- (e) Mexico shall work with the United States toward establishing a framework for recognizing the equivalence of their respective sanitary measures in accordance with Article 714 of the NAFTA and Article 4 of the SPS Agreement.
- (f) Mexico shall notify and consult with USTR before imposing any other bilateral or global safeguard measure on a U.S. agricultural product.

Consent

6. Mexico acknowledges that Article 801(2)(c)(ii) of the NAFTA provides that no bilateral safeguard measure may be maintained beyond the expiration of the transition period, except with the consent of the Party against whose good the measure is taken. The transition period for U.S. chicken leg quarters ends on December 31, 2003. The United States consents to the application of the safeguard measure on U.S. chicken leg quarters beyond the expiration of the transition period on the basis of the terms specified in paragraphs one through five of this letter. Mexico acknowledges that the United States may withdraw its consent if the United States determines that Mexico is not fulfilling any of these terms. The United States shall notify Mexico at least ten days before the United States withdraws its consent.

We propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments.

Sincerely,


FERNANDO CANALES CLARIOND
Secretary of the Economy


JAVIER BERNARDO USABIAGA ARROYO
Secretary of Agriculture, Livestock,
Rural Development, and Fisheries

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

JUL 25 2003

His Excellency Fernando Canales Clariond
Secretary of the Economy
Alfonso Reyes 30
Col. Condesa
06140 México, D.F.

His Excellency Javier Bernardo Usabiaga Arroyo
Secretary of Agriculture, Livestock,
Rural Development and Fisheries
Avenida Municipio Libre 377
Col. Santa Cruz Atoyac
03310 México, D.F.

Dear Secretary Canales and Secretary Usabiaga:

I am pleased to refer to your letter of July 24, 2003, which reads as follows:

“The Mexican Ministry of Economy has determined that, as a result of the elimination of duties pursuant to the North American Free Trade Agreement (“NAFTA”), chicken leg quarters, or parts thereof, originating in the United States of America (“United States”) classified under subheadings 0207.13.03 (chicken legs, thighs, or legs attached to thighs, fresh or chilled) and 0207.14.04 (chicken legs, thighs, or legs attached to thighs, frozen) of the Mexican tariff schedule (“U.S. chicken leg quarters”) are being imported into the United Mexican States (“Mexico”) in such increased quantities, in absolute terms, and under such conditions that those imports alone constitute a substantial cause of threat of serious injury to the Mexican poultry industry. In light of this determination, Mexico has determined to apply a safeguard measure on imports of such U.S. chicken leg quarters.

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- (d) For calendar year 2006, Mexico shall issue import licenses no later than January 1, 2006, providing duty free access for at least 103,030 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 39.5 percent *ad valorem* on such imports.
- (e) For calendar year 2007, Mexico shall issue import licenses no later than January 1, 2007, providing duty free access for at least 104,060 metric tons of U.S. chicken leg quarters to be imported into the northern border zone. Mexico will not impose or apply any licensing requirements or quantitative or other restriction on any imports of U.S. chicken leg

quarters in excess of the duty free quantity established in this subparagraph; Mexico may apply a maximum tariff of 19.8 percent *ad valorem* on such imports.

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 - (b) Mexico shall notify and consult with the Office of the United States Trade Representative ("USTR") and the United States Department of Agriculture ("USDA") at least 60 days before imposing any food safety or sanitary measure on U.S. poultry meat, poultry products, or live birds, except that Mexico may notify and consult with USTR and USDA within seven calendar days after imposing a measure necessary to address a sanitary emergency. To the extent possible, consultations under this paragraph shall take place under the auspices of the U.S.-Mexico Consultative Committee on Agriculture. Mexico shall ensure that any such measure that it imposes is consistent with Chapter Seven of the NAFTA and the World Trade Organization ("WTO") Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement").
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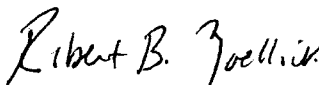
Consent

6. Mexico acknowledges that Article 801(2)(c)(ii) of the NAFTA provides that no bilateral safeguard measure may be maintained beyond the expiration of the transition period, except with the consent of the Party against whose good the measure is taken. The transition period for U.S. chicken leg quarters ends on December 31, 2003. The United States consents to the application of the safeguard measure on U.S. chicken leg quarters beyond the expiration of the transition period on the basis of the terms specified in paragraphs one through five of this letter. Mexico acknowledges that the United States may withdraw its consent if the United States determines that Mexico is not fulfilling any of these terms. The United States shall notify Mexico at least ten days before the United States withdraws its consent.

We propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two governments."

I confirm that the United States shares the understanding set forth in your letter, and that your letter and this reply constitute an agreement between our respective governments.

Sincerely,

A handwritten signature in black ink that reads "Robert B. Zoellick". The signature is written in a cursive style with a large, sweeping 'Z' and a long, curved tail that extends downwards and to the right.

Robert B. Zoellick