

# **2018 Trade Policy Assessment**

Turbulent Time for Trade:  
Impacts on Maine's Agriculture and Food Safety

Prepared for:  
Maine Citizen Trade Policy Commission

By Debbie Barker  
October 2018

## Introduction

It is perhaps an understatement to say that the current trade scene is highly volatile. Emerging from what used to be considered negotiations done *sotto voce* with little major media scrutiny, today's vicissitudes of trade provide high drama. Today, the only certainty about the state of trade between the U.S. and its trading partners is that steadily shifting trade actions and rhetoric are creating uncertain times for many economic sectors in the nation.

Since the original writing of this report, trade headlines shifted from being all about retaliatory tariffs to the spectacle of the North American Free Trade Agreement (NAFTA) negotiations concluding with a hasty agreement and release of an unfinished NAFTA 2.0 text. What does it all mean for Maine's food and agriculture sectors? This report will attempt to provide as current of an update as possible on how recent trade issues impact Maine's agriculture, along with food safety and public health arenas. However, with the rapid fire changes on the trade scene, no doubt some details will be out of date almost from the day they are written. This final report includes revisions reflecting the latest text; however, the text is still being finalized and will no doubt include changes that will not be reflected in this report. With this in mind, the report aims to offer some macro analysis and framing on trade issues that will provide relevance and context that can be meaningful even in changing times.

The report is divided into three main sections—*I. Impact of Retaliatory Tariffs; II. Poultry Imports From China; and III. NAFTA 2.0: Potential Threats to Food and Agriculture*. Suggested action items that the Commission may want to pursue will be included at the conclusion of some sections in the report.

Beginning with a review of how retaliatory tariffs are impacting Maine, the big story is about how China's new duties are causing havoc for Maine's lobster sector, by far the most impacted sector in the state. Around 99 percent of China's tariffs are directed at lobster according to the Maine International Trade Center.<sup>1</sup> With China purchasing at least 18 percent of Maine's lobster, the 40 percent tariff on live lobster and 35 percent on processed lobster, around double of what tariffs were prior to retaliatory levies, is cause for great concern.<sup>2</sup> It appears the wild blueberry market is also experiencing some decline due to China's actions.

Retaliatory tariffs of Canada, Mexico, and the EU, (at this moment EU tariffs are suspended) are also reviewed, though, at this time, tariffs from these countries do not represent a large threat to most of Maine's agricultural sectors.

At the request of the Commission, retaliatory tariffs were reviewed in regard to potential impacts on the forestry/paper sector; however, to date, no major impacts can be found.

The second section provides updates on poultry imports from China, an issue that CTPC has expressed concern about, notably in its March 2018 letter to USTR Ambassador Robert Lighthizer.<sup>3</sup> Some new information that has since come to light is discussed and some of the key aspects of trade policies that enable such imports are reviewed.

The fast-moving pace in trade arenas has influenced the report in ways that were not initially anticipated. For example, major attention is given to the new NAFTA recently negotiated because of the wide sweep of new rules that will greatly impact food labeling, food inspection and safety, organic foods, pesticide residue levels, and other issues that Maine's citizens, along with the Commission, care about deeply. Many aspects that concerned food safety and consumer groups in the Trans-Pacific Partnership (TPP) agreement are now included in the new NAFTA.

The U.S., Mexico, and Canada reached a new NAFTA agreement on October 1, 2018, under an insistent rush by the Trump Administration due to the desire to pass the agreement by Congress under Trade Promotion Authority, known as Fast Track. The new agreement is dubbed the U.S.-Mexico-Canada Agreement (USMCA) by the Trump Administration in hopes of separating it from the "bad connotations" of NAFTA.<sup>4</sup> However, most civil society groups still refer to the agreement as either the new NAFTA or NAFTA 2.0, citing that the new pact is not a distinct overall. This report will intertwine the use of these designations.

Although the Trump Administration had hoped to seal the deal under Fast Track Congressional approval by December 1, when Mexican President Enrique Peña Nieto will step down to make way for President-elect Andrés Manuel López Obrador, at this writing it is highly unlikely that Congress will consider the new NAFTA until 2019. This sets up a potential battle in Congress next year over the new agreement as Democrats, largely unhappy with the pact, may then have a majority in the House. (See *Section III: NAFTA 2.0* for further details.)

## **Section I. Impact of Retaliatory Tariffs**

### How Did We Get Here? Summary Background

While some may welcome the Trump administration's disruption of trade terms and agreements and others may find the situation unacceptable, all can perhaps agree that the trade scene today is rather akin to Mr. Toad's Wild Ride, a whirling, unpredictable voyage. Before delving into specific impacts that trade is having on Maine's food and agriculture sectors, it is helpful to have a bit of context and follow the trajectory of events that have led us to where we are today.

Fixing "bad" trade agreements was one of the major themes of the Trump campaign and arguably his pledge to "fix" trade issues helped his successful bid the presidency. Mr. Trump was very clear on his position when he accepted the Republican nomination for president in Cleveland in July 2016: "No longer will we enter into these massive deals, with many countries, that are thousands of pages long —and which no one from our country even reads or understands. We are going to enforce all trade violations, including through the use of taxes and tariffs, against any country that cheats."<sup>5</sup> Increasing tariffs on steel and aluminum, and threats of increasing levies on foreign automobiles and auto parts, reflect this policy and is rocking the world of trade.

As early as April 2017 President Trump directed the Commerce Department to investigate whether imports of foreign steel and aluminum from China and other countries could be a threat to national security.<sup>6</sup> A series of other investigations such as looking into China's alleged theft of intellectual property and instigating tariffs on imported solar panels and washing machines from China continued in 2017 and early into 2018.

Igniting what is now referred to as a "trade war," the Trump administration implemented a 25 percent tariff on imported steel and a 10 percent tariff on imported aluminum for several countries in spring and summer of 2018.<sup>7</sup> At first, tariffs applied to metal imports only from China. Almost immediately, China deployed a series of retaliatory tariffs against targeted U.S. exports, which included, significantly for Maine, doubling tariffs on lobster.

On August 23, the U.S. issued a second set of tariffs on a further \$16 billion worth of Chinese imports, bringing the total tariffs imposed on China to around \$50 billion worth of goods. Not surprisingly China has responded in kind with a 25 percent charge on \$16 billion of U.S. items.<sup>8</sup>

The President's next move was to order the U.S. Trade Representative (USTR), Robert Lighthizer, to begin a process of imposing tariffs of 10 percent on an additional \$200 billion of Chinese imports.<sup>9</sup> However, negotiations between the two countries may curb further escalation. The administration extended the public

comment period on the proposed tariff to September 5. The U.S. is also holding hearings about potential impacts to the U.S. if the extra tariffs are implemented.

The Trump administration initially exempted other major trade partners—the EU, Mexico, and Canada—from increased steel and aluminum tariffs until June 1 in hopes of working out acceptable trade terms with our allies. However, unable to reach agreements, the exemption expired and these countries began issuing retaliatory tariffs, with each country varying in their tariff tactics. (At this writing, the EU has suspended implementation of its retaliatory tariffs as the U.S. and the EU continue negotiations in hopes of coming to amenable terms.)

Other countries that were part of the steel and aluminum trade dispute included India, South Korea, Argentina, Australia, and Brazil. But in exchange for a reprieve from U.S. increased tariffs, all countries except for India agreed to limit exports of these metals to the U.S. India's retaliatory tariffs on 29 products such as almonds, walnuts, and chickpeas<sup>10</sup> will not likely impact Maine's exports.

#### The Numbers: Significance of Trade for Maine (See *Annex 2: Maine's Top Exports*)

Trade plays a significant role in Maine's economy. In 2017 approximately 2,262 Maine companies exported \$2.7 billion in goods and services to 176 countries.<sup>11</sup> In Maine, trade supports 180,500 jobs (that's nearly 1 in 4), and since 2009 Maine trade-related jobs have increased by 25.9 percent. Overall job growth was at 0.3 percent during the same time frame.<sup>12</sup>

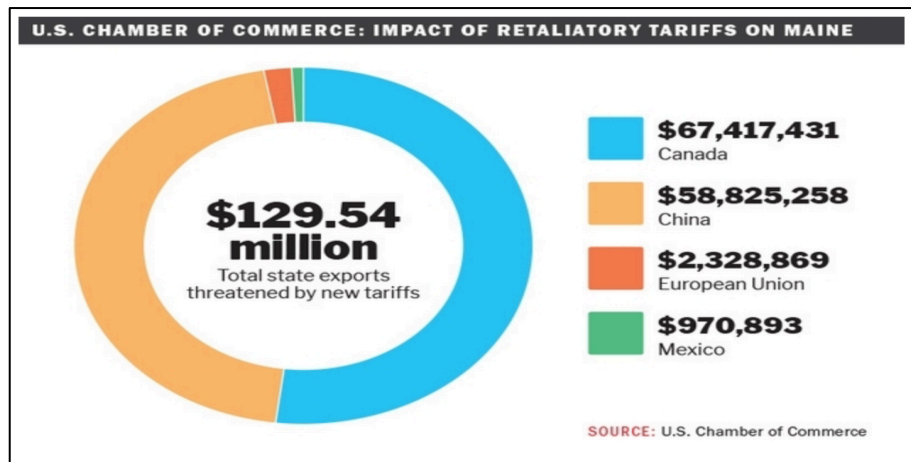
Agricultural commodities and seafood are driving a large part of the growth of Maine's exports. Between 2007 and 2013 (the most recent federal census numbers available at the printing of this report), international sales of Maine food products more than doubled, especially to Asia.<sup>13</sup>

Export growth numbers are impressive: exports of seafood, agricultural commodities, and prepared food products have increased from \$276 million in 2007 to \$557 million in 2013.<sup>14</sup> New census data, expected to be released sometime near the end of 2018, will likely show this trend continuing and even increasing, at least up until the period of retaliatory tariffs.

Maine's largest trading partner is Canada, reflecting the highly integrated economies between Canada and Maine. In 2013, Canada imported about \$300 million of Maine food and agriculture products.<sup>15</sup> After Canada the next four leading importers (as of 2013) were Japan, Hong Kong, South Korea, and China. Exports to China increased by more than 1,000 percent between 2007 and 2013, from \$1.4 million to nearly \$17 million.<sup>16</sup>

A recent analysis by the U.S. Chamber of Commerce reveals that roughly \$130 million of Maine's exports are threatened by new tariffs already imposed or threatened by

China, the European Union (EU), Mexico, and Canada in retaliation for U.S. tariffs imposed upon these countries.<sup>17</sup> Almost half of total exports represent lobster sales—in 2017 Maine exported 7 million pounds of live lobster to 29 different countries, including China, at a value of \$57million.<sup>18</sup> However, many trade experts observe that the actual value may be closer to \$142 million. The figure of \$142 million represents the total U.S. lobster exports allocated to Maine and Massachusetts; however, Maine represents 80-plus percent of the catch. Export numbers are imperfect and don't reflect this—it's estimated that most of Massachusetts' exports are actually lobsters fished in Maine, sold by Maine dealers, but shipped from Boston.<sup>19</sup>



Here is how the Chamber's study breaks down on the threats the new tariffs pose on the estimated \$130 million in state exports:

Canada: \$67.4 million of exports threatened by new tariffs on prepared or preserved chicken meat; maple sugar and maple syrup; and motorboats.

China: \$55.5 million of exports threatened by new tariffs on lobster (live, fresh or chilled); fruit (frozen) and nuts; and lobster (frozen).

European Union: \$2.3 million of exports threatened by new tariffs on yachts, rowboats and canoes; cooking appliances; articles made of iron or steel. (At this time the EU has suspended its retaliatory tariffs.)

Mexico: \$970,893 of exports threatened by new tariffs on cranberries, non-alloy steel, other bars and rods and other alloy steel.<sup>20</sup>

While the majority of Maine agricultural exports, with the exception of lobster, appear to be minimally impacted to date by recent trade conflicts, any decline in exports can have a major impact on small-scale agricultural producers, workers, and distributors. For example, Canada's increased tariffs against the maple industry impacts the entire \$8 million maple product export market.<sup>21</sup>

### China Retaliatory Tariff Impacts— It's Maine-ly About Lobster

(See *Annex 3: Top Maine Exports Possibly Impacted by Chinese Counter Tariffs*)

*The lobster proves itself to be not only a delicious meal and a sustainable resource but also an amorous master of the boudoir, a lethal boxer, and a snoopy socializer with a nose that lets it track prey and paramour alike with the skill of a bloodhound.*

—The Secret Life of Lobsters, Trevor Corson

For Maine, the lobster industry is taking the biggest hit in the trade dispute. Just as runners in Rockland's Maine Lobster Festival's annual crate race heroically attempt to scamper across wobbly lobster crates without falling into the chilly Atlantic waters, the Maine lobster industry is struggling to keep steady. Many fear that the lobster industry will experience a significant fall in exports and revenue due to China's retaliatory tariffs of 40 percent on live lobster and 35 percent on processed lobster.<sup>22</sup> Given the sudden and recent application of China's tariffs, at the time of this report there is no solid data on the impact, but already lobster distributors are reporting that Chinese buyers are cancelling purchasing agreements and instead buying Canadian lobster at a 7 percent tariff rate.<sup>23</sup>

For Maine lobster distributor Stephanie Nadeau, Chinese buyers used to account for 35 percent of her sales, but today she says, "There are no lobsters going to mainland China. They've stopped."<sup>24</sup>

As the state's congressional delegation—U.S. Senators Susan Collins and Angus King and Representatives Chellie Pingree and Bruce Poliquin—noted in its joint statement about China's tariffs on lobster: "Maine's lobster industry is an irreplaceable piece of our state's economy that supports thousands of jobs and entire coastal communities."<sup>25</sup> A 2016 economic study shows that the lobster supply chain in Maine of dealers, distributors and processors contributes \$1 billion to the state's economy each year and generates 4,000 jobs throughout the state.<sup>26</sup> The estimated \$1 billion impact is on top of the income that lobstermen earn when they bring their catch to shore and sell it, which in 2017 was \$433 million statewide.<sup>27</sup> Besides its importance to the economy of the state, the shellfish is an icon for Maine and linked with its culture and way of life.

China is an important emerging market for U.S. lobster, and, more specifically, for Maine. In 2010, Maine sold only \$100,000 worth of lobster to China.<sup>28</sup> The tremendous growth since then is reflected in the value of Maine lobster exports to China increasing from \$8 million in 2012 to \$56 million in 2017<sup>29</sup> (Although, per text on *The Numbers* section, page 6, the figure could well be around \$142 million.)

The industry had been gearing up in the last several years to further expand the Chinese market in anticipation of losing markets in the EU due to the recently completed Comprehensive Economic & Trade Agreement (CETA) between the EU and Canada which eliminated Europe’s tariffs on Canadian lobster. The enthusiasm for the market in Asia, of which China represents a major segment, is reflected in 2017 comments made by Dave Cousens, president of Maine Lobstermen’s Association: "We've opened new markets in Asia, which is booming." Cousens added, "Everything is clicking now."<sup>30</sup> The retaliatory tariffs of 2018 may change this boom.

Even if the trade war with China were to be resolved tomorrow, it would be difficult for the Maine lobster industry to retrieve its market in China as once business goes elsewhere it is usually very difficult to resume a prior business relationship. Another handicap is that the \$12 billion agricultural aid package announced by the Trump administration to assist those impacted by the tariff retaliations will not extend to the lobster industry. As Senator King noted in a recent statement: "...this plan does nothing for the hardworking Maine lobstermen, and processors, and dealers, who are rapidly losing ground to foreign competitors in one of their most valuable export markets—a market that they have spent years developing."<sup>31</sup>

The joint statement of Senators Collins and King celebrating the U.S. Senate approval to designate September 25 as National Lobster Day sums up the pride that this industry represents: “Lobsters are an economic force in coastal Maine communities and have supported the livelihoods of generations of lobstermen, processors, and dealers. In addition, this shellfish has become a Maine icon, with an international reputation that plays an important role in attracting millions of visitors to our state each summer. We’re proud that the Senate unanimously passed this resolution honoring not only the lobster, but the thousands of Mainers who work day-in and day-out to harvest, cook, and ship our state’s prized catch.”<sup>32</sup>

Maine Exports of Lobster to China												
Rank	Description	ANNUAL 2010	ANNUAL 2011	ANNUAL 2012	ANNUAL 2013	ANNUAL 2014	ANNUAL 2015	ANNUAL 2016	ANNUAL 2017	MAY 2017 YTD	MAY 2018 YTD	%2017- 2018
1	Lobsters, Live, Fresh,Or Chilled	\$89,560	\$806,165	\$7,879,572	\$14,486,507	\$12,978,127	\$11,586,952	\$32,080,783	\$55,548,090	\$12,455,303	\$35,674,598	186.42
2	Lobsters, Including In Shell, Frozen	\$21,580	\$661,267	\$47,402	\$640,402	\$8,471,727	\$8,368,276	\$2,710,268	\$635,490	\$335,490	\$0	-100
<b>Total</b>		<b>\$111,140</b>	<b>\$1,467,432</b>	<b>\$7,926,974</b>	<b>\$15,126,909</b>	<b>\$21,449,854</b>	<b>\$19,955,228</b>	<b>\$34,791,051</b>	<b>\$56,183,580</b>			
*In USD. Please note HS code 030632 was previously 030622 prior to 2017, HS codes have been combined for readability. Source: WiserTrade												
Maine Exports of Lobster to the EU												
Rank	Description	ANNUAL 2010	ANNUAL 2011	ANNUAL 2012	ANNUAL 2013	ANNUAL 2014	ANNUAL 2015	ANNUAL 2016	ANNUAL 2017	MAY 2017 YTD	MAY 2018 YTD	%2017- 2018
1	Lobsters, Live, Fresh,Or Chilled	\$11,889,946	\$14,947,007	\$16,588,857	\$11,473,428	\$10,617,176	\$10,633,428	\$9,062,847	\$15,887,620	\$4,461,479	\$3,971,661	-10.98
2	Lobsters, Including In Shell, Frozen	\$3,509,474	\$5,134,235	\$917,258	\$4,372,555	\$4,158,391	\$4,029,776	\$3,013,994	\$1,840,191	\$592,538	\$747,685	26.18
<b>Total</b>		<b>\$15,179,420</b>	<b>\$20,081,242</b>	<b>\$17,486,115</b>	<b>\$15,845,983</b>	<b>\$14,775,567</b>	<b>\$14,663,204</b>	<b>\$12,076,841</b>	<b>\$17,727,811</b>			
*In USD. Please note HS code 030632 was previously 030622 prior to 2017, HS codes have been combined for readability. Source: WiserTrade												



## Impacts on Wild Blueberries

*The annual ritual begins when soft blue shadows spread over the vast barrens of Down East Maine in early August.*

—The Wild Blueberry Book, Virginia M. Wright

Similar to the iconic association that lobsters have with Maine, wild blueberries are also a vibrant part of Maine’s culture. Maine is the largest producer of wild blueberries, prized for their intense flavor and color, in the world. According to a 2007 study conducted by Planning Decisions, Inc., the economic impact of the Maine Wild Blueberry harvest is substantial in Maine and provides:

- \$173 million in direct sales
- 2,500 jobs in Maine’s most economically challenged Down East region
- \$63 million annual payroll
- potential for a \$400-\$500 million annual impact over the next decade<sup>33</sup>

China has increased duties on wild blueberries, 45 percent on frozen blueberries, through an “Other” category into which wild blueberries fall. Although most of Maine’s wild blueberries are sold in the U.S.—almost 80 percent—the impact, both short- and long-term could be consequential. In 2017, Maine exported nearly 2 million pounds of wild blueberries to China; however, Maine has exported only 75,398 pounds as of the second quarter of this year.<sup>34</sup> While there could be other factors at play in the reduced numbers, it is very likely that the newly imposed higher tariffs have played a significant role in declining sales of blueberries to China this year.

As with the lobster industry, China and Southeast Asia have become important new markets for wild blueberries. Over the last several years wild blueberry processors have been expanding their market into Asia, particularly China, and Southeast Asia. As Nancy McBrady, executive director of the Wild Blueberry Commission of Maine explains, “China is an enormous market and has consumers that are seeking fresh, healthy foods such as Maine’s wild blueberries.”<sup>35</sup>

The drop in Chinese exports is especially unwelcome given that the wild blueberry market has been depressed for the last few years due to a combination of poor growing conditions and oversupply, which resulted in a 33 percent drop in production since 2016 and a 37 percent drop in the harvest’s value.<sup>36</sup> This lowered the price of blueberries prompting the quest to find new buyers in order to drive up demand and improve prices for producers and ensure long-term stability for the industry. McBrady notes: “We are not panicking but the situation is disappointing and concerning for building long-term markets.”<sup>37</sup>

## Frozen Wild Blueberry Exports:

June 27, 2018

United States Department of Agriculture  
Foreign Agricultural Service

Area/Partners of Destination      January - December  
And Commodities Exported      Cumulative To Date Quantities/Values in Thousands of Dollars

Partner	Product	UOM	2013		2014		2015		2016		2017		Jan - Apr 2017		Jan - Apr 2018		Period/Period % Change (Value)
			Value	Qty	Value	Qty	Value	Qty	Value	Qty	Value	Qty	Value	Qty	Value	Qty	
China	0811902024 - FRZ WILD BLUEBER	MT	244	767.8	0	0.0	1,083	362.5	472	168.5	1,592	884.0	620	346.3	93	34.1	-85

Notes:  
 1. Data Source: U.S. Census Bureau Trade Data  
 2. (\*) denotes a country that is a summarization of its component countries.  
 3. Users should use cautious interpretation on QUANTITY reports using mixed units of measure. QUANTITY line items will only include statistics on the units of measure that are equal to, or are able to be converted to, the assigned unit of measure of the product.  
 4. Product Group : BICO-HS10

## Indirect Consequences of China’s Retaliatory Tariffs—Potatoes On Watch

Maine potatoes have been enjoying a boon of worldwide popularity. Sales of frozen Maine potatoes increased nearly 200 percent, from \$9 million to \$27 million from 2007 to 2013.<sup>38</sup> Because potatoes can be grown in most parts of the world, increased sales are generated by competitive pricing and quality, according to Donald Flannery, executive director of the Maine Potato Board.<sup>39</sup>

Although China has not increased tariffs on potatoes, the Maine Potato Board is concerned about indirect impacts of the clash between China and the U.S. and is monitoring the trade scene. For example, if major potato exporters in the Pacific Northwest are unable to sell their normal volume to China, this may end up flooding the U.S. and Canadian markets, which could have a negative bearing on Maine’s potato growers.

## Tariff Scene With Allies—Canada, Mexico, the European Union (EU), and Other Countries

### Canada Trade Status

(See Annex 4: Top Maine Exports Impacted by Canadian Counter Tariffs)

Canada Day celebrations on July 1 were accompanied by issuing retaliatory tariffs in response to U.S. tariffs on steel and aluminum. In a dollar-for-dollar exchange amounting to \$16.6 billion worth of American imported goods, Canada’s list was long and included maple syrup, orange juice, ketchup, inflatable boats, dishwashers, whiskies, hair lacquers, candles, insecticides, fungicides, herbicides, strawberry jam, pizza and quiche, soya sauce, gherkins and more.<sup>40</sup> While Maine companies are feeling the impact of the steel tariff dispute, Maine’s agricultural sector has largely been spared. However, for some industries, such as maple syrup, Canada’s retaliatory tariffs could have a significant impact on smaller producers.

As the largest U.S. export market for the majority of states, Canada's tariffs will no doubt make an impression on the U.S. economy. However, although around half of Maine's exports go to Canada, most of Maine's companies will be insulated from damaging effects because of the highly integrated economies between country and state. Supply chains are tightly bound and if Canada whittles away trade with Maine it would damage its own economy. Cumulative tariffs imposed on Maine will impact approximately 5 percent of Maine exports, and of these the agriculture sector is largely unscathed.<sup>41</sup> For example, \$16 million of \$22 million of Maine's frozen and prepared potato exports are delivered to Canada, yet potatoes are not targeted for tariff increases.<sup>42</sup> Lobsters also were not targeted by Canada's new duties.

### *Maple Products*

However, for areas that are affected, such as maple products, the impact could be deep. Maple syrup and sugar products represent around \$8 million in exports to Canada, a small number compared to overall 2017 sales of \$23.8 million;<sup>43</sup> however, the 10 percent tariffs under the new regime, will impact *all* maple product exports.<sup>44</sup> Lyle Merrifield, president of Maine Maple Producers, believes that the increased tariff will not have a huge overall impact.<sup>45</sup> It remains to be seen if and how maple producers exporting products to Canada can either absorb the tariffs or find alternative markets.

### *Processed Poultry*

The almost \$35 million in processed chicken exports to Canada will now be taxed at 10 percent. Prepared chicken makes up more than half of the total value of Maine goods exposed to Canadian tariffs. Even so industries such as AdvancePierre Foods, which owns Portland-based chicken producer Barber Foods, have not, to date, commented on how the increased levy could affect its operations.<sup>46</sup>

### *Lumber Sector*

Regarding the lumber sector, Maine is unaffected by the blow-by-blow trade dispute with the U.S. at this point.

### Mexico Trade Status

Beginning in June 2018, Mexico imposed two stages of almost \$3 billion of retaliatory tariffs on U.S. goods in response to President Trump's duties on Mexican steel and aluminum exports to the U.S.. Most of Mexico's retaliatory tariffs will be imposed on U.S. agricultural exports, such as apples, cranberries, pork, potatoes, and various cheeses. Mexico is also targeting a number of American steel products. The majority of products on the list will face tariffs between 15 and 25 percent.<sup>47</sup> Mexico's tariffs are not likely to impact Maine's agriculture sector.

## EU Trade Status

(See *Annex 5: Top Maine Exports Possibly Impacted by EU Counter Tariffs*)

After the Trump administration lifted the EU's exemption from steel and aluminum tariffs, EU countries immediately issued counter tariffs equal to the amount of tariffs that the U.S. imposed upon them—roughly \$3.3 billion in U.S. goods—and targeted politically and economically sensitive goods including 25 percent on products such as Harley Davidson motorcycles, tobacco, and bourbon, and 50 percent on select items such as footwear, some types of clothing, and washing machines.<sup>48</sup>

However, in July, the U.S. and the EU stepped back from the brink of a trade war and agreed to hold off on further tariffs, and work toward dropping the existing ones while they tried to negotiate a deal to eliminate tariffs, nontariff barriers and subsidies on industrial goods, excluding autos.<sup>49</sup> To help ease tensions the EU agreed to purchase U.S. soybeans to make up for the steep falloff of buying by China and also assured it would purchase liquefied natural gas when the U.S. has finished constructing more export terminals. At the July meeting, the U.S. did not promise to remove the offending metal tariffs and the EU did not promise to lift retaliatory levies; however, at this writing it seems that the EU has suspended imposing its tariffs.

Of note, shortly after the metal tariffs were imposed the EU filed a case against the U.S. at the World Trade Organization, claiming that the taxes were trade “illegal,” which would likely be pursued should the U.S. sustain the tariffs and/or pursue tariffs on foreign autos and auto parts.<sup>50</sup>

## Other Countries Involved in the Trade Dispute

As noted earlier, the U.S. also threatened tariffs on steel and aluminum against South Korea, Argentina, Australia, Brazil, and India; however, all these countries, with the exception of India, have agreed to put limits on the volume of metals they can ship to the US in lieu of tariffs.

## On the Horizon—U.S. Threatens Tariffs on Auto and Auto Part Imports

At the time of the writing of this report, President Trump's push to impose tariffs on imported foreign cars appears to be delayed. Mr. Trump has repeatedly threatened to slap tariffs as high as 25 percent on all imported cars and auto parts, which would be a particular blow to the auto industry in the EU.

The U.S. Commerce Department is presently conducting an auto tariff probe, which was originally expected to be completed by the end of August; however, Commerce Secretary Wilbur Ross has reported that the report is not ready at this time.<sup>51</sup> Ross said the delay was due to negotiations involved with Canada and Mexico over NAFTA and also talks with the European Commission on ramping down a trade dispute on steel and aluminum.

Potential Actions for the Commission:

—Deliver a statement to the USDA Secretary of Agriculture Sonny Perdue to ask what remedies will be available to Maine’s lobster industry.

—Work closely with the state’s congressional delegation to exert pressure on the Trump administration to offer short-term assistance, but more importantly, to end the trade war policies that are inflicting damage to a vital part of the state’s economy.

—Monitor impacts on wild blueberry sector and review potential avenues to seek remedy for the industry if needed.

—Monitor impacts on maple syrup product sector.

## **Section II. Poultry Imports from China**

As the Commission is well aware and has already taken action in a March 23, 2018, letter to USTR Ambassador Robert Lighthizer, China is now exporting poultry slaughtered and processed in China into the U.S.<sup>52</sup> At the conclusion of a March 2016 audit, the USDA's Food Safety and Inspection Service (FSIS) found that China's poultry slaughter system met the criteria for an equivalence determination.<sup>53</sup>

Equivalence is a trade term that, on a basic level, means that a country will accept imports of products from other countries that may have different food safety standards (referred to as Sanitary and Phytosanitary measures in trade parlance) but have been deemed to be appropriate by the importing country. (For a more thorough discussion about "equivalency" versus "equal to" standards, see below.) Of concern to many food safety and consumer advocates, the FSIS granted equivalence despite long-standing concerns about China's poultry farming and slaughter operations, particularly in regard to avian influenza, the use of food additives and drugs that are illegal in the U.S., research that found the presence of multiple antibiotic-resistance genes in China's commercial chicken flock, and other alarming issues.

### *Potential Improper Audit Standards*

Before giving a final approval, the FSIS audit reported that it inspected four Chinese poultry facilities, three in the Shandong Province and one in the Anhui Province. Two microbiology laboratories, one each in Shandong and Anhui, were also inspected.<sup>54</sup> Many food safety groups and government officials believe that in a country that produces millions of pounds of poultry each year, reviewing only four production establishments is too small of a subset of China's poultry producers to make a fully informed, favorable decision to allow Chinese poultry exports. It also brings into questions whether USDA has the resources to conduct audits at the frequency needed to ensure the safety of Chinese products.<sup>55</sup>

Of further concern are recent findings by the office of Representative Rosa DeLauro (D-Conn) that FSIS did not adequately verify food safety procedures at two of China's chicken processing plants before granting approval to export to the U.S. In documents obtained through a Freedom of Information Act (FOIA) request, it appears that USDA officials did not conduct audits at these locations but relied heavily on emails from Chinese officials to confirm if two of China's recently approved for export poultry processing plants had safety procedures and oversight that are equivalent to those in the U.S. The USDA responded that it plans to be conducting audits in the fall of 2018.<sup>56</sup>

In further defense of the equivalence approval, the USDA highlights that Chinese plants can only process raw poultry that comes from approved sources, which are currently limited to the U.S., Canada and Chile; however, this doesn't ease worries of food safety advocates who note that there is no USDA inspector stationed in Chinese

poultry processing facilities to verify that the products are actually coming from approved sources. Further, food inspections conducted by AsiaInspection, a China-based quality control and compliance company, found that about 40 percent of the factories it inspected in China in 2015 failed to meet health and safety standards.<sup>57</sup>

To many the approval for the equivalence standard seemed auspiciously timed to be part of a *quid pro quo* to allow U.S. beef exports to China. A Trump tweet of “our beef for your chicken deal” and comments from the USTR and other federal agencies seems to confirm that the U.S. was eager to allow poultry imports into the U.S. in exchange for China to lift its import ban on U.S. beef, which had been in place since the 2003 outbreak of mad cow disease.<sup>58</sup> The 1.4 billion consumers in China have an increasing appetite for beef and U.S. beef producers have been intent on having access to the potential \$2.5 billion market.<sup>59</sup> Thus far, U.S. beef exports to China have been small but appear to be growing sporadically. In November, beef exports to China were 1.97 million pounds.<sup>60</sup>

### *Potential Impacts for Maine*

Once a leading poultry producer in the U.S., today, there are few poultry producers in Maine. However, many view a large potential for growth, especially given the increasing interest by Maine consumers to purchase locally produced food. While the chicken imports are not likely to impact Maine’s burgeoning chicken production at this point, the imports do raise serious consumer-right-to-know concerns especially given that the poultry is unlabeled. (See The End of COOL section for more information on U.S. labeling laws overruled by trade rules.)

And, as the CTPC notes, it is troubling that the unlabeled poultry products from China are produced with fewer costs and lower safety requirements than poultry in the U.S., thus threatening the ability of Maine’s poultry farmers to fairly compete. For example, if import numbers increase significantly it could impact poultry enterprises such as the Barber Foods plant which prepares frozen and other prepared chicken products and is a major employer in the Portland, ME, region. (At this time, China estimates that it will export up to 324 million pounds of cooked chicken annually to the U.S. over the next five years, which is only 2.6 percent of total U.S. chicken meat production over the same period.)<sup>61</sup>

### *Food Inspections at the Point of Entry*

U.S. border inspections are of relevance to the discussion about poultry imports from China, and to the general discussion of food safety in light of the trend of increasing food imports. About 15 percent of the food that Americans eat today is imported, more than double the amount just a decade ago.<sup>62</sup> Yet Congress has not adequately funded the Food and Drug Administration (FDA), responsible for inspecting 80 percent of imported foods, including poultry. At present, the FDA inspects approximately 2 percent of foods coming into the U.S.<sup>63</sup> In the case of seafood, less

than 1 percent of imports are lab tested, which is necessary to find drug or chemical residues, salmonella, and other pathogens.<sup>64</sup>

### *Trade Rules Lower Standards—Equal To Vs. Equivalency*

Reviewing trade rules that allow processed and Chinese-slaughtered poultry to enter U.S. supermarkets is also relevant to this issue. Since NAFTA and the World Trade Organization (WTO), a long-standing concern of food safety, consumer, and public health groups has been around granting “equivalency” to products and processes of food items versus the higher standard of “equal to.” Embedded under an umbrella of “harmonization” established in trade agreements of the last few decades, these trade rules impact the ability of local, state, and federal government to establish food safety standards that are in the interest of and culturally appropriate to local citizens. (See NAFTA 2.0 section for more detailed information on trade agreements influencing food safety and public health standards.)

Establishing “equivalency,” as was done with Chinese exports of poultry to the U.S., is rooted in harmonizing domestic standards into centralized international standards. Instead of focusing on tariffs and quotas as was done prior to NAFTA, WTO, and other “modern day” trade agreements, trade policies now include a wide range of issues, many that impact domestic food safety, labeling, and other public health standards.

Establishing equivalency became part of the harmonization process in trade agreements beginning with the Uruguay Round Agreement Act, a pre-cursor to the WTO. Under these negotiations (and replicated in subsequent trade agreements), the higher food safety processing and production standard of “equal to” was lowered to “equivalent.” In laymen’s terms it could be said that the “equal to” standard signified good while the “equivalence” standard signified good enough.

An example of how this seemingly slight change of words has dramatically changed food safety standards can be found in today’s trade standards for meat imports to the U.S. After the Uruguay Round Agreement Act, meat plants in 37 nations that had not previously qualified under an “equal to” standard were suddenly certified to import meat to the U.S. under the “equivalent” standard. This has resulted in some nasty incidences of tainted meat imports.<sup>65</sup>

### *USDA Reorganization Plan—Extending Trade Uber Alles*

A seemingly innocuous reorganization plan of the USDA, released in May 2018, signals that trade interests could exert further influence over food safety priorities. The plan calls for a new undersecretary for trade position and the establishment of an interagency committee that would coordinate agricultural trade policy. While some coordination between food safety and trade is certainly appropriate, the restructure seems to be subordinating the department of Food Safety Inspection Service (FSIS) to the authority of trade and marketing offices such as the Foreign



Agricultural Service (FAS). Many concerned with food safety issues advocate that FSIS should apply scientific standards more vigorously, nevertheless, FSIS does have science-based protocols not found in some other U.S. agencies such as FAS.

The coordination panel will be chaired by the new trade undersecretary as part of the department of the FAS, a body that has frequently urged the FSIS to implement harmonization standards more rapidly. Historically there has been tension between FSIS and FAS over the equivalency determination process. Some countries have found the FSIS process to be onerous, and have been able to find advocates within FAS, especially when the country is considering opening their markets to U.S. products.<sup>66</sup>

While nuanced and difficult to draw a straight line of cause and effect, many believe it is reasonable to be concerned that the creation of a new trade undersecretary under the auspices of FAS could facilitate easier paths for countries to obtain equivalency status. The concern is that the reorganization will move food safety to an even lower rung on the ladder when it comes to approving trade with foreign countries.

Potential Actions for the Commission:

—Join with Representative DeLauro's efforts to find out more about the USDA's potentially improper audit reviews of China's poultry operations and sign-on to further letters from DeLauro's office.

### **Section III: NAFTA 2.0—Potential Threats to Food and Agriculture**

Along with the trade debates about steel and aluminum tariffs (and perhaps soon-to-come tariffs on automobiles and auto part imports), the renegotiation of the North American Free Trade Agreement (NAFTA) is offering plenty of its own drama. As with other trade matters discussed in this report, the theatre of NAFTA has been changing almost daily. The U.S., Mexico, and Canada reached a new NAFTA agreement on October 1, 2018, under an insistent rush by the Trump Administration due to the desire to pass the agreement by Congress under Trade Promotion Authority, known as Fast Track.

The new agreement is dubbed the U.S.-Mexico-Canada Agreement (USMCA) by the Trump Administration in hopes of separating it from the “bad connotations” of NAFTA.<sup>67</sup> However, most civil society groups still refer to the agreement as either the new NAFTA or NAFTA 2.0, citing that the new pact is not a distinct overall.

Canada sat out negotiations during the summer while Mexico and the U.S. worked out some sticky issues, primarily related to auto manufacturing. It rejoined the negotiations under a hot seat to reach a deal by a Trump Administration deadline of August 31. When that did not happen the Administration notified Congress on Friday, August 31, of its intent to forge a deal with Mexico—and with Canada “if it is willing.”<sup>68</sup> This put continued pressure on Canada to come to an agreement by a hard deadline of October 1, the last viable date that the pact could be considered by Congress under Fast Track rules.

The aim to present the new agreement under Fast Track is driven by two considerations. First, the Trump Administration hopes to seal the deal by December 1 when Mexican President Enrique Peña Nieto will step down to make way for President-elect Andrés Manuel López Obrador. In sum, President Trump doesn’t want to risk the new Mexican administration balking at the deal, which includes further opening of Mexico’s oil and gas sector, something that Lopez Obrador pledged not to do in his campaign. Second, under Fast Track rules, Congress is required to vote on the deal within 90 days of a White House submission. Congress must vote “up or down,” meaning that no amendments can be made to the agreement and debate is limited.

However, at present Senator Majority Leader Mitch McConnell has said that there will not be a vote by the end of the year, citing procedural issues. This sets up a potential battle in Congress next year over the new NAFTA as Democrats, largely unhappy with the new agreement, may then have a majority in the House.

## *The Missing Headline—NAFTA 2.0 Potential Threats to Food Safety, Labeling, and Transparency*

Renegotiating NAFTA has been a centerpiece of Trump's economic and foreign policy agenda, arguing that the 24-year-old trade deal disadvantages American workers by luring U.S. jobs and companies overseas. NAFTA 2.0 may have some positive outcomes for the automobile sector in the U.S. and for higher labor standards and wages in Mexico's autoworkers although at this writing labor unions have yet to endorse the new agreement until the final text and supporting evidence of its economic benefits claimed by the Administration are published. However, while a lot of attention has been given to the jobs and auto sectors, no attention has been paid to the ways that this new agreement will significantly lower the quality and integrity of food on America's dinner plates.

Similar to the original NAFTA, the new version has few, if any, direct impacts on trade of Maine's agricultural goods, but the agreement impacts numerous aspects of food and agriculture standards and practices that have historically been important in Maine.

At this time, the hastily released USMCA texts are incomplete, which could explain why they are peculiarly both specific and vague. Negotiators are still working out final texts and no doubt when members of Congress review the text, additional changes will need to be made. (And, as of this writing, the text has still not been published in Spanish, which denies Mexican civil society, most government officials, and the general public the right to learn what is actually in the agreement.) However, what is clear in the present texts, and also from documents such as the USTR's *U.S.-Mexico Fact Sheet: Strengthening NAFTA for Agriculture*, is that rules in this new agreement promote a trade agenda over values such as food safety and public health.<sup>69</sup> (See *Annex 1 U.S.-Mexico Fact Sheet*)

This section will review the measures impacting food safety and labeling standards in the renegotiated NAFTA. Matters regarding geographical indicators (GIs) and also potential outcomes for Maine's dairy sector are also discussed.

### **Summary of NAFTA Chapters Covering Food and Agriculture<sup>70</sup>**

Before reviewing specific aspects of the new NAFTA it may be useful to briefly review sections of the existing, original agreement that impact food and agriculture.

The U.S., Mexico, and Canada finalized NAFTA negotiations in 1992. The deal was ratified by the U.S. Congress in 1993, and then went into effect in 1994. Initiating novel and radical changes, NAFTA founded the era of "modern" trade agreements. Whereas prior trade agreements focused mainly on setting tariffs and quotas, NAFTA extended its purview to a number of sectors that had not been part of past trade agreements. "Trade related" became the rubric that subsumed all kinds of issues into a trade agreement that, heretofore, had been largely regulated by domestic

governments—product labeling, food border inspection practices, food safety standards, and more.

With 22 chapters, grouped into eight sections, the agreement covers a wide scope of issues associated with trade including textiles, agriculture and food safety, energy, technical standards for traded goods, government procurement, protection for investors and trade in services, intellectual property, notification of new laws and how to settle trade disputes.

The following Chapters of NAFTA have direct and indirect consequences on food and farming issues.

### Tariff Phase Out and Reduction

NAFTA's Chapter 3 on National Treatment and Market Access set a schedule that phased out tariffs on most agricultural goods traded among the three countries. Tariffs on most goods were already quite low. U.S.-Canada tariffs on most agricultural items had already been eliminated under the U.S.-Canada Free Trade Agreement of 1989.<sup>71</sup> Most Mexican agricultural goods were already duty-free due to the Generalized System of Preferences, which provided tariff preferences to developing countries.

While most tariffs were eliminated or greatly reduced, some countries retained tariffs and/or supply management programs on sectors they viewed to be critical for their domestic producers. For example, Canada retained the right to maintain its dairy, poultry and egg supply management programs, which support fair prices for Canadian producers and consumers (although this appears to currently be under negotiation in NAFTA renegotiation talks). While NAFTA also includes a side agreement that expands the volume of Mexican sugar imports into the U.S., the U.S. carved out protections for a U.S. sugar program that essentially works as a supply management program.

### Food Safety

The Agriculture and Sanitary and Phytosanitary (SPS) Chapter 7 of NAFTA sets broad rules for domestic agricultural supports, eliminates export subsidies, and establishes a mechanism to handle trade disputes; the second section of Chapter 7 focuses on food safety rules. A hallmark of NAFTA that became standard in subsequent trade agreements is the provision that food safety and other public health rules should not act as barriers to trade. NAFTA and other trade agreements of last few decades established equivalency agreements, which abridge border inspections of food products and encourage inspectors and food safety agencies to make sure that standards do not inhibit trade. SPS rules in NAFTA and other trade deals such as the WTO make it easier for food products, such as poultry from China, to cross U.S. borders.

## Investor Rights for Foreign Corporations

NAFTA's Chapter 11 establishes the Investor State Dispute Settlement (ISDS) that provides special legal rights for foreign corporations. It is one of the most contentious sections of the agreement. Under ISDS foreign investors can leap frog over domestic courts to sue local or national governments in special trade tribunals for policies they believe could affect their actual or potential profits on existing or planned investments.<sup>72</sup> ISDS, first introduced in NAFTA, has been included in almost all subsequent U.S. trade deals.

There have been few ISDS cases involving agricultural goods, but one case has disturbing implications for the ability of domestic governments to set food safety and labeling standards. Cargill, Archer Daniels Midland, and Corn Products International have all successfully sued Mexico for multimillion-dollar settlements because of the country's tariffs on high fructose corn syrup, imposed as part of its efforts to reduce increasing rates of obesity and diabetes.

## Intellectual Property

Another first is NAFTA's Chapter 17, which includes significant rules that regulated intellectual property rights (IPR) for seeds and other biological resources. All parties are to follow rules as articulated in both agreements of the International Convention for the Protection of New Varieties of Plants (UPOV Convention)—pacts made in 1978 and then revised in 1991. These agreements, particularly the UPOV 1991, restrict the rights of farmers and researchers to save and share seeds.<sup>73</sup> As the land where corn, or maize, evolved, Mexico has not signed on to UPOV 1991 due to concerns that its farmers could lose rights to the diverse maize varieties they have cultivated for millennia. Corn is an icon of Mexico's cuisine, culture, and economy and, increasingly, the genetic diversity of its corn varieties provide some resilience to changing weather patterns associated with climate change.

## **A New NAFTA: Potential Outcomes for Food And Agriculture**

As noted, a critique of NAFTA and trade agreements of the last several decades is that these modern-day trade agreements go beyond simply negotiating tariffs and quotas and now focus on eliminating "trade barriers." But what many corporations and some governments tout as "barriers" to trade are actually democratically constructed social, health, and environmental standards intended to safeguard citizens. Food packaging labels, health warnings on products containing high-fructose corn syrup, food additive restrictions—these are examples of safeguards that protect citizens and, for many, represent the role of good governance. But in today's world of trade, such measures restrict trade and need to be contained.

## *Shrouded in Secrecy*

One of the first things to note about the NAFTA renegotiation process is that, in the view of most civil society groups and many government officials, including U.S. congressional members and state legislators, this has been the most closed-door trade agreement process to date. Many who protested the infamously secretive talks for the now-quelled TTIP look upon that process almost with nostalgia when compared to NAFTA talks that have completely shut out non-industry constituencies representing public health, environmental, or food and farm standards. But, similar to TTIP negotiations, over 500 corporate advisors, including representatives from big chemical and agribusiness, have had extensive access.<sup>74</sup>

Although the process was padlocked, the recently released texts, along with initial negotiating statements by the USTR, position papers of corporate advisors, and the USTR's *Strengthen NAFTA for Agriculture Fact Sheet* demonstrate a NAFTA 2.0 that fosters a downward spiral of food safety and other public health issues.

What will perhaps surprise the American public is that many of the food safety and other public health measures threatened under the unpopular Trans-Pacific Partnership (TPP), an agreement that Trump himself condemned, are included in the new NAFTA. As an official at the Wilson Center, a Canadian think tank, shared in a convening of state legislators in Quebec City during the negotiation process, the TPP is being “cut and pasted into NAFTA through the side door.”<sup>75</sup> Secretary of Commerce Wilbur Ross confirmed this view when he told the Bipartisan Policy Center last May that TPP will be “a starting point.”<sup>76</sup> The new NAFTA text confirms that the TPP was a model for many provisions.

### **Big Picture Issues—A Race to the Bottom for Food Safety and Public Health Standards?**

This section begins by discussing big picture, overarching trade concepts and contexts that are part of NAFTA 2.0. The second half of the section reviews more specific potential impacts in areas such as labeling, organic standards, and other issues that impact Maine on food safety, public health, and marketing fronts.

#### Harmony or Discord?

As noted earlier in this report, a central aspect of trade agreements of the last two decades, including NAFTA, is to harmonize differing safety standards between countries. In trade speak, “harmonization” is represented under terms such as “regulatory coherence or convergence,” “mutual recognition,” “substantial equivalency,” and similar terms. In practical terms, harmonization, in all of its forms, can change a nation’s food safety standards by relying on regulatory and inspection systems of foreign governments. Often this means that imports are allowed into a country even though they do not meet specific standards of a host country.

In the view of many citizen groups, civic leaders, and government representatives, harmonization has resulted in a downward spiral of numerous safeguards for society and, perversely, constrains governments from setting safety standards higher than trade agreement rules. This “chilling” effect can inhibit governments from implementing or setting standards that may be challenged in a trade tribunal. (It is not a hypothetical that governments indeed change domestic laws that have been ruled to be trade illegal in trade disputes—see *The End of COOL* section to learn more.)

The new NAFTA continues and augments harmonization of food safety standards, biotech regulations, pesticide and chemical standards, potentially organic certification, and other areas. This should be no surprise as these issues were identified as being targeted to come under various forms of harmonization within NAFTA according to public comments submitted to the USTR by agribusiness corporations and NAFTA negotiating statements of the USTR. It’s critical to note that aspects of harmonization—regulatory cooperation, mutual recognition, equivalency standards, and more—are interwoven throughout trade agreement chapters and often requires a deep dive into trade texts to discover how, and under what trade rule, areas such as food safety could be impacted.

### Weakening the Precautionary Principle

The quest for harmonization also diminishes a well established food safety and public health guideline, known as the Precautionary Principle. Adopted by the United Nations General Assembly in 1982, the Precautionary Principle has been incorporated into a number of international conventions and is used as the standard in many countries, including those in the EU, for enacting environmental, food safety, and public health policies.

The most widely cited definition is the 1992 Rio Declaration on Environment and Development, which states: “...Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”<sup>77</sup>

A simple summary of the Principle is “better safe than sorry.” Under the Precautionary Principle approach, a company wanting to commercialize a food additive, pesticide, chemical, or other items that may cause potential harm, must prove that its product is safe. This is in contrast to a risk-assessment, or cost-benefit, approach that is creeping into trade agreements, which, generally, begins with costs for businesses versus potential harms to citizens and puts the burden on the concerned consumer or government to prove that a product is unsafe. This is a difficult hurdle for citizen and consumer groups to overcome. And, as with harmonization rules, a risk-assessment/cost-benefit approach can also have chilling effect—governments bound under trade agreements could be more compelled to approve products and processes in fear of risking a trade dispute.

Discussion of the Precautionary Principle is relevant when reviewing USMCA texts and the Key Achievements of the USTR *Fact Sheet* as the “trade-speak” in these documents have adopted many of the buzz words and phrases used by food and agriculture corporations to diminish the Precautionary Principle approach. For instance, the *Fact Sheet* notes (and the text concurs) that the new NAFTA “strengthens disciplines for science-based SPS measures.”<sup>78</sup> For those not ensconced in trade arenas the phrase sounds as though science is viewed to be an important criteria for setting food safety standards. However, this language is used by many corporations and U.S. trade negotiators to signal a preference for risk assessment and cost benefit analyses, which typically weigh heavily on maintaining business profits over the Precautionary Principle.

The food and agriculture industry maintains that the Precautionary Principle is a “non-scientific approach” to food safety that has blocked imports of genetically engineered (GE) products, poultry treated with chlorine washes, and meat from animals fed with the growth stimulant ractopamine, to name a few practices that are allowed in the U.S.<sup>79</sup> And the North American Market Working Group of the U.S. Food and Agriculture Dialogue for Trade asserted in its comments to the USTR about NAFTA negotiations: “Protectionist [SPS] measures that lack a scientific basis and are not based on a risk assessment continue to unjustifiably restrict access for U.S. food and agricultural exports in numerous foreign markets.”<sup>80</sup>

The characterization of the Precautionary Principle as being unscientific is not accurate as its common guidelines stress that “...the fullest possible scientific evaluation...must be undertaken.”<sup>81</sup> This is observed in countries that have adopted the Principle such as under the EU, which relies on rigorous scientific testing and reviews for food safety by its European Food Safety Authority.

### Regulatory Coherence and Cooperation

Another tool used to implement harmonization of standards (and weaken Precautionary Principle approaches) can be found through “regulatory coherence” or “regulatory cooperation.” In its NAFTA objectives statement, the USTR said the U.S. would “promote greater regulatory compatibility” for industrial and agricultural goods, “including through regulatory cooperation where appropriate”<sup>82</sup> and indeed the new agreement greatly expands its regulatory capacity, which, in essence, deregulates and dismantles food safety provisions.

A central part of regulatory coherence emphasizes analysis and risk assessment approaches. Within a trade context, these approaches elevate trade and financial interests and reduce scientific research and evidence when evaluating the safety of food additives, chemicals, GE materials, and the like. Because these assessments are often done in closed panels or in obscure meetings, it can allow food safety products and practices to be validated by confidential corporate studies, unsubstantiated by scientific peer review.



## *Regulatory Coherence—Vastly Expanded in NAFTA 2.0*

Many agribusiness corporations steadily advocated for regulatory coherence mechanisms throughout the negotiations. The North American Market Working Group of the U.S. Food and Agriculture Dialogue for Trade, representing over 100 agribusinesses, called for NAFTA to include regulatory cooperation maintaining that it will provide “...harmonization of food and feed safety systems; fortification standards; organics standards; and pesticide residue tolerances.” It also urged that labeling systems have the “least trade restrictive measures.”<sup>83</sup> The Canadian Agri-Food Policy Institute (CAPI) also chimed in its support for a regulatory cooperation chapter in *NAFTA in its Risk and Reward: Food Safety and NAFTA 2.0* report: “Food safety is not just about consumer protection, it’s about enhancing the competitiveness of the Canada-U.S. agri-food supply chain around the world.”<sup>84</sup>

The original NAFTA did not contain a chapter on regulatory cooperation; instead, bilateral working groups were formed to review food safety and pesticide issues, largely out of public view and with inputs from agribusinesses and food industries. But under the sustained campaign by the food and agriculture industry, regulatory coherence and cooperation have a greatly expanded role in the new NAFTA. Chapter 28 covers “Good Regulatory Practices,” or GRPs, and its scope is broad. For example, it curbs how domestic food safety standards can be established—in large part by insisting that countries rely on “scientific evidence” of risk (despite this data often being based on industry publications), which stresses managing health risks instead of taking the Precautionary Principle approach of guarding against or eliminating potential dangers to health.

The Chapter also allows for industry science used to assess risk to be kept confidential under Confidential Business Information claims; and it encourages NAFTA governments to coordinate on various aspects of setting food safety standards, border inspection procedures, biotech approvals, and other critical issues impacting public safety and health by choosing the least trade restrictive measures possible. As outlined in Chapter 28, regulatory approaches within nation-states should “avoid unnecessary restrictions on competition in the marketplace.” (Article 28 4(f))

Yet another feature of Chapter 28 establishes a Committee on Good Regulatory Practices to monitor implementation and compliance; this includes assessing and advising on how proposed new domestic legislation would impact trade interests. Critics contend that this enables governments and corporations, through corporate advisors assigned to trade bodies, to dilute or block safety standards that could impede profits, and essentially could supersede democratic decision-making of sovereign nations. And, as noted previously, such measures can impose a chilling effect on domestic lawmakers.

### *New State-to-State Dispute Settlement Mechanism Included*

A new and disturbing provision of Chapter 28 is the establishment of a state-to-state dispute settlement enforcement mechanism. This is a significant change as the original NAFTA contained a voluntary consultative process. While many celebrate that the ISDS is largely eliminated from USMCA, a broad regulatory cooperation enforcement system seems to be a move to reinstate some ISDS-like elements such as enabling corporate access and influence while shutting out interests representing food safety, labeling, border inspection, and other interests of public health.

### *Rapid Response Mechanism*

A further aspect of regulatory coherence includes provisions such as setting up a Rapid Response Mechanism (this was included in the TPP), which would require companies to be notified when shipments are stopped at the border for food safety or health reasons and to challenge such actions. Companies can claim unnecessary delay if, for example, a suspect shipment is held while awaiting laboratory test results and request a trade panel to review the decision to halt the shipment. Congresswoman Rosa DeLauro (D-Conn), a staunch food safety advocate, noted in a letter to the USTR: "...rapid-response mechanisms...serve to give favor to foreign importers—enabling them to circumvent our food safety laws and put pressure on domestic food safety agencies already hard strapped to conduct foreign import food inspections within tight budgets."<sup>85</sup> The new NAFTA, like the TPP, supports such a mechanism in that it stipulates many more measures that constrain border import checks than were contained in the original NAFTA. Additionally, the new text details rules about how countries may audit other countries' implementation of compliance with food safety policies.

## **NAFTA 2.0 Potential Threats to Specific Sectors**

### Organic Foods and Standards

The new NAFTA, if ratified by the U.S. Congress, could potentially threaten the integrity of organic food standards, which could diminish the market of Maine's valued organic farmers and food purveyors as well as the trust of consumers. And, most certainly, any decline in organic and small farm purveyors will have a negative impact on already disenfranchised rural communities.

In 2016 the USDA's Certified Organic Survey reported that Maine had 494 certified organic farms that produced \$65.6 million in certified organic products. Of the 55,316 acres of certified land in Maine, 44,177 acres were cropland and 11,139 acres were pastureland/rangeland. The top two certified commodities sold in Maine were maple syrup with sales valued at \$19.1 million and potatoes with sales valued at \$3.7 million.<sup>86</sup>

While the new NAFTA does not have text that explicitly refers to organic products, provisions in various chapters call on countries to consider approving other countries' entire food safety systems to be equivalent instead of the current practice of determining equivalence for specific products. This could potentially be applied to the organic sector.

Under the original (current) NAFTA, Mexican and Canadian organic exports to the U.S. must meet U.S. organic standards and are certified by U.S. accredited inspectors. But some worry that the new NAFTA's regulatory cooperation and/or equivalence measures, being so broad in scope, could be used to allow a country to export organic products that only need to comply with the exporting country's organic standards. (See *Trade Rules Lower Standards—Equal To Vs. Equivalency* for more discussion on this issue.)

### Biotechnology and Genetically Engineered (GE) Foods and Products

As the USTR's NAFTA *Fact Sheet* notes: "For the first time, the agreement specifically addresses agricultural biotechnology..."<sup>87</sup> Further, countries agreed to "...provisions to enhance information exchange and cooperation on agricultural biotechnology trade-related matters."<sup>88</sup> Chapter 3 on Agriculture includes extensive and specific measures pertaining to biotechnology/genetically engineered products.

Under the original NAFTA, a country that bans GE products could reject an import product containing GE materials, including a "low level presence" (LLP) of unauthorized GE materials. But the new NAFTA puts onerous measures on countries that may not want to accept imports with LLP of biotech substances. For example, the new NAFTA requires that if an importing party halts a product with LLP it must provide the exporting party with "any risk assessment or safety assessment that the importing Party has conducted in accordance with its domestic law in connection with the LLP."<sup>89</sup> This challenges concepts such as the Precautionary Principle in that it puts the burden on the importing country to prove harm of biotech products/LLP of biotech substances instead of requiring the exporting party of a product with LLP biotech materials to provide research demonstrating that the biotech product or substance is safe. The new NAFTA further requires that "the LLP occurrence is managed without unnecessary delay."<sup>90</sup>

In its comments on NAFTA negotiations to the USTR, the U.S. Biotech Crops Alliance (USBCA), composed of 13 groups representing various agricultural sectors, proposed a new NAFTA chapter that would provide for Mutual Recognition Agreements (MRA) requiring that Canada and Mexico accept U.S.-approved biotech products. An American Farm Bureau Federation (a member of USBCA) document sent to the USTR in June 2017 states: "We support adding a new chapter on biotechnology..." and "...enter a mutual recognition agreement on the safety determination of biotech crops intended for food and feed...."<sup>91</sup> The USTR's July 2017 "Summary of Objectives for the NAFTA Renegotiation" pledged to "promote greater regulatory compatibility to reduce burdens associated with unnecessary differences in regulation...."<sup>92</sup> While

the new NAFTA does not contain a distinct chapter or MRA on biotech products, the text contained in Chapter 3 provides the biotech industry with many of its requests.

### Food Label Warnings About Unhealthy Foods Restricted Under NAFTA 2.0

Due to strong opposition by members of the U.S. Congress and food movement constituencies, the USTR did not restrict junk-food warning labels as was anticipated. Siding with food manufacturers of sugary drinks, salty snacks, and other processed, packaged foods, the USTR had pledged to remove any warning symbol, shape, or color that “inappropriately denotes that a hazard exists from consumption of the food or nonalcoholic beverages.”<sup>93</sup> USTR Ambassador, Robert Lighthizer defended the policy at a congressional hearing testifying that food label warnings could “create a protectionist environment.”<sup>94</sup>

The intention of the USTR to restrict labeling came in response to Chile’s regulations in 2016 that include requirements for black stop-sign warnings on the front of packaged foods with high levels of sugar, salt and fat. Skyrocketing rates of obesity and diseases such as diabetes associated with unhealthy eating habits have prompted other countries—including Mexico and Canada, along with governments in Brazil, Peru, Uruguay, Argentina and Colombia— to consider similar food labeling systems. Research shows that obesity has at least doubled in 73 countries since 1980 and many public health officials associate this increase to the rapid spread of highly processed foods, many of which are imported from the U.S.<sup>95</sup>

While encouraged that the new text does not eliminate the ability of domestic governments to issue appropriate warning labels on junk food products, NAFTA did not remedy a labeling rule to allow for country-of-origin labeling, a labeling issue that some government leaders and consumers, as well as small pork and beef producers, had hoped would be addressed.

Currently, beef imported from Mexico, and Canada as well, can be marketed with a “Product of the USA” label. Allowing such labeling (while inhibiting food safety labels) do not provide consumers with accurate information about the food in their supermarkets and can thwart buy local efforts, which Maine has vigorously supported. (See *The End of Cool* section for further details.)

### *GE Food Labeling*

The USMCA text contains new problematic provisions that could limit product labeling regimes. In the Technical Barriers to Trade Chapter countries must ensure that “...technical regulations concerning labels...do not create unnecessary obstacles to trade.”<sup>96</sup> Further, the terms in the food standards section prohibit certification requirements concerning “the quality of a product or information relating to consumer preferences.”<sup>97</sup> These terms, together with terms on agricultural biotechnology found in the Agriculture Chapter, are designed to “reduce the

likelihood of disruptions to trade in products of agricultural biotechnology,”<sup>98</sup> as well as advance domestic government approval of GM seeds and foods.

As already noted, biotechnology measures, as outlined in Chapter 3 (the Agriculture Chapter discussed above), advances that countries accept a low level presence of biotech substances; this could indirectly impact labeling of GE products. It will be important to determine whether NAFTA 2.0 rules on biotechnology could supersede labeling policies in Maine and other states that require GE products to be labeled as such. In contrast to state mandatory labeling requirements, recent trade agreements favor voluntary labeling of GE products (and other potentially unhealthy products as well). Over several administrations, and the Trump administration seems to be no exception, the USTR continually challenges U.S. mandatory labeling laws through trade policy.

### **The End of COOL (Country-of-Origin-Labeling)—Labeling Law Rescinded Due to Trade Dispute Decision**

In an extraordinary example of how a trade agreement can overturn a nation’s domestic laws, Congress rescinded a U.S. labeling law in response to a WTO court ruling of 2015. The country-of-origin-labeling law, known as COOL, was passed as part of the 2002 U.S. Farm Bill. The law required retailers to provide country-of-origin labels (COOL) to indicate where livestock was born, raised, and slaughtered—it applied to fresh beef, pork, and lamb. This sensible measure was passed with overwhelming support from consumers who have consistently said that they want to know the origin of their food. Yet, a closed-door WTO tribunal overruled the law of the land, essentially telling U.S. consumers that it will decide what public health protections are best for our citizens.

It should be noted that this happened under the WTO dispute system, which is arguably a higher bar than an ISDS system because in the WTO challenges can only be waged country to country versus corporations being able to sue a country under ISDS. It’s also an example of how, for large agribusiness influencing trade negotiations, there is no loyalty to borders when it comes to trade—although the ruling went against U.S. law, industrial American beef and pork trade institutions hailed the ending of COOL. (The industry had previously challenged the legislation in U.S. courts unsuccessfully.)

### **Other NAFTA Measures Potentially Impacting Food and Agriculture**

#### Government Procurement—Buy American

Given Trump’s resounding call to “Buy American,” many hoped that limits on Buy American preferences contained in the original NAFTA’s government procurement policies would be removed in the new NAFTA. However, the new agreement did not remove this measure and constraints on the U.S. Buy American program remain. The aim of Buy American is to reinvest U.S. tax dollars to create jobs here rather than

being outsourced to buy goods produced in Mexico and Canada. The original NAFTA set some limits on government procurement policies that signatory countries could implement domestically. It seems the campaign to derail reform of Buy American preferences by U.S. Chamber of Commerce and a chorus of other corporate lobby groups, which strongly denounced reforms to Buy American preferences as “highly dangerous,” scored a victory in this new NAFTA.<sup>99</sup>

### Investor-State Dispute Settlement System (ISDS)

The banner news about the new NAFTA is that, assuming the passage of NAFTA 2.0 by the U.S. Congress and legislatures of Mexico and Canada, ISDS will terminate between the U.S. and Canada, and a new approach will be adopted between the U.S. and Mexico. Many civil society groups have long advocated that ISDS be dropped from a new NAFTA deal. CTPC joined this call in a March 2018 letter to the USTR Ambassador.<sup>100</sup> The present ISDS will remain in place for three years after the new agreement goes into effect. ISDS is a mechanism that allows corporations to sue national governments over public health, environmental, and other policies intended to protect citizens.

Under the new agreement disputes between U.S. and Canada must be pursued within domestic court systems versus the closed-door tribunals of the ISDS. This change will eliminate the vast majority of ISDS challenges as most cases took place between U.S.-Canada; the 24,751 U.S. firms now in Canada and the 8,216 Canadian firms presently in the U.S. will no longer be able to use ISDS to undermine the other nation’s domestic policies.<sup>101</sup>

ISDS reforms with Mexico include requiring investors from the two countries to use domestic remedies for 30 months after which time they may file a review under a NAFTA system with many new procedural reforms such as eliminating the ability of attorneys to rotate between acting as tribunal judges one day to suing governments on behalf of corporations another day. However, a problematic U.S.-Mexico investment annex will allow the nine U.S. investors with 13 oil and gas concession contracts from Mexico to bring disputes under original ISDS rules.<sup>102</sup>

### *How ISDS Works*

While much of ISDS is eliminated in the new NAFTA text, the agreement is not yet ratified and therefore this system is currently in play. Also, as noted above, even if the present version of the agreement is approved, the gas and oil sector between the U.S. and Mexico will still be able to employ ISDS. With this in view, this section provides a summary of key aspects of ISDS. The ISDS sanctions the ability of a foreign company to sue national governments in a closed-door trade court over host government laws or policies it believes limits or could limit corporate profits. It reverses the norm that the “polluter pays” and puts the burden on governments instead.

In the original NAFTA, judges in these trade courts, or trade tribunals, typically comprise three trade attorneys; many rotate between acting as tribunal judges one day to suing governments on behalf of corporations another day. (This practice of flipping between being a judge and an attorney is unethical in most legal systems but not in the ISDS system.) When a trade tribunal rules in favor of a corporation against a country's policy aimed to protect its citizens, the country must either cease the policy or compensate the corporation. There is no limit to the amount of money that the tribunal can order a government to pay a foreign corporation. Under NAFTA and subsequent trade investor-state systems, more than \$475 million in compensation has already been paid out to corporations challenging domestic policies on the environment, food labeling, energy, bans on toxins, and more.<sup>103</sup>

Here is an example of an early investor-state challenge under NAFTA: In 1997, U.S.-based Ethyl Corporation sued Canada for banning a known neurotoxin gasoline additive, MMT. Ethyl Corporation argued that the ban, intended to protect Canadian citizens from a known toxin, "expropriated" its profit potential. Advised by attorneys that NAFTA laws would uphold Ethyl's claim, the Canadian government settled the case. Canada repealed the ban against MMT, issued a public apology to Ethyl Corporation and paid USD\$13 million in compensation to the company. (Ethyl claimed USD\$251 million in its NAFTA dispute claim.)

In a stunning observation, a lawyer for Ethyl Corporation said at the time of the settlement. "It wouldn't matter if a substance was liquid plutonium destined for a child's breakfast cereal. If the government bans a product and a U.S.-based company loses profits, the company can claim damages under NAFTA."<sup>104</sup>

### Dairy

Dairy was and remains a sensitive negotiating issue in the Canada-U.S. NAFTA discussion. Under the original NAFTA, Canada maintained its supply management program, which has kept dairy farmers afloat in Canada. The new pact may have opened up small avenues for the U.S. dairy sector to send products to Canada; however, more analysis is needed as much of the hastily released text is unclear and, as trade officials acknowledge, further terms and text are still being worked out between the countries. As an anonymous Canadian stakeholder recently reported to *Politico*, "We don't have a perfect handle on it yet." Adding, "The analysis could change depending on the final text."<sup>105</sup>

To date, it appears that Canada will adjust part of its Class 7 milk policy that makes it cheaper for processors to buy domestic supplies of ultra-filtered milk, a concentrated ingredient used to boost protein content in cheese and yogurt. Many outside of Canada have been critical of Class 7 alleging that this is a de facto subsidy via price and import controls benefitting Canadian producers. (The extent to which Class 7 policies will be changed is still under dispute.)

It is unclear whether Maine's dairy sector could benefit from any changes in the NAFTA text regarding dairy. Analysts point out that, even with the purported changes in NAFTA, Canada's concessions would likely impact only a small percentage of its dairy sector. (Concessions already made in the dairy sector in two previous trade deals, one with the European Union and another with Pacific Rim nations, represent only 3.89 percent of Canada's total market.)<sup>106</sup>

In any case, many food and farm civil society groups advocate for Canada's right to sustain its dairy farmers and urge that the U.S., instead of forcing other countries to give up policies to help struggling domestic dairy farmers, return to a price control and supply management system. As Sharon Treat, senior attorney at the Institute for Agriculture and Trade Policy (and former state senator for the Maine legislature) observes: "Rather than destroy the Canadian dairy industry, we should be learning from their example and adopting policies that successfully balance supply and demand and lift up our own farmers. That's why family farm groups in the U.S. have spoken on the need to overhaul domestic dairy policy that relies on overproduction to compensate for low prices, rather than attacking Canada's program."<sup>107</sup>

### *Geographical Indicators (GIs)*

Mexico and the U.S. agreed to "new disciplines" to GIs and common names for cheeses; however, it appears that new text will not impact Maine's food sectors. GIs are a type of place-based (or *terroir*) recognition of a product; it recognizes inherent, unique qualities of a product based on its place of production.

When the Transatlantic Trade and Investment Partnership (TTIP) was underway, there was some concern about GIs among Maine's cheese producers that they would not be able to market certain cheeses under names that the EU had proclaimed to be exclusive to European cheeses. It is unlikely that the new NAFTA agreement would impact the Maine cheese sector as neither Canada nor Mexico have cheese GIs that would seem to conflict with Maine's *fromages*.

(For a full discussion on TTIP/trade potential impacts, see the MCTP 2014 Policy Assessment:[https://www.iatp.org/sites/default/files/2014\\_07\\_07\\_MaineTradePolicyAssessment\\_KHK\\_0.pdf](https://www.iatp.org/sites/default/files/2014_07_07_MaineTradePolicyAssessment_KHK_0.pdf))

### Potential Actions for the Commission:

—As noted in the above section, there are numerous unanswered questions about how the renegotiated NAFTA could impact food safety, labeling, biotechnology standards, organic standards, and other issues critical to citizens of Maine. CPTC could write to USTR Ambassador Robert Lighthizer to insist on the following:

- Access to texts of the renegotiated NAFTA for review and comment.
- Maintain the ability of federal and state governments to maintain food labeling laws, including labels that allow consumers to know if food products



contain any GE materials and allow consumers to know where their food comes from (e.g., country-of-origin-labeling).

- Reject regulatory cooperation provisions that advance mutual recognition or harmonization of standards on biotechnology, or genetically engineered, products and processes and ensure that a country can reject imports with “low level presence” of an unapproved genetically modified organism (GMO).
- Reject the right of food and agriculture corporations to challenge the rejection of import shipments for food safety reasons.
- Eliminate the carve-in allowing the U.S./Mexico oil and gas sector to utilize the Investor State Dispute Settlement (ISDS) mechanism.
- Restore national and local sovereignty on farm policy that allows countries to enact measures, such as supply management programs, to sustain farmers and farmland.
- Protect farmers’ rights to seeds and not require NAFTA countries to be signatories of UPOV91 (International Convention for the Protection of New Varieties of Plants).
- Reject any regulatory cooperation and coherence mechanisms that restrict the ability of governments to maintain and improve regulations and regulatory systems on food safety, labeling, chemical food additives, GMOs, and other regulations to protect public health and the environment.

—CPTC can also work with and write to Maine’s congressional delegation to insist on access to renegotiated NAFTA texts and that they support the issues as outlined above.

## **Annex 1: U.S.-Mexico Fact Sheet: Strengthening NAFTA for Agriculture Published by the USTR August 2018**

The USTR's *U.S.-Mexico Fact Sheet* provides some general bullet points on what it views to be Key Achievements that will "reduce the use of trade distorting policies."<sup>108</sup>

In its use of trade speak, which is often opaque to a non-trade expert, these bullet points seem to confirm that food and agriculture industry wish-lists embracing a trade *uber alles* stance were largely incorporated into the agreement. One example of confusing trade jargon is the USTR's mantra of advocating for "science-based" standards. While this sounds reasonable, a close examination reveals that, perversely, the apparent appeal for science to guide standards is a move to weaken the Precautionary Principle (see Precautionary Principle section). Below are the c's "Key Achievements":

### **Key Achievement: Setting Unprecedented Standards for Agricultural Biotechnology**

For the first time, the agreement specifically addresses agricultural biotechnology to support 21<sup>st</sup> century innovations in agriculture. The text covers all biotechnologies, including new technologies such as gene editing, whereas the Trans-Pacific Partnership text covered only traditional rDNA technology. Specifically, the U.S. and Mexico have agreed to provisions to enhance information exchange and cooperation on agricultural biotechnology trade-related matters.

### **Key Achievements: Significant Commitments to Reduce Trade Distorting Policies, Improve Transparency, and Ensure Non-Discriminatory Treatment for Agricultural Product Standards**

Building on NAFTA, the U.S. and Mexico agree to work together in other fora on agriculture matters, improve transparency and consultations on matters affecting trade between the two countries, and provide for non-discriminatory treatment in grading of agricultural products.

The U.S. and Mexico agreed to several provisions to reduce the use of trade distorting policies, including:

- To not use export subsidies or World Trade Organization (WTO) special agricultural safeguards for products exported to each other's market.
- Improved commitments to increase transparency and consultation regarding the use of export restrictions for food security purposes.

- If supporting producers, to consider using domestic support measures that have minimal or no trade distorting or production effects and ensure transparency of domestic support and supply management programs.

To facilitate the marketing of food and agricultural products, Mexico and the U.S. agree that grading standards and services will be non-discriminatory, including for grains and that grading will operate independently from domestic registration systems for grain and oilseed varieties. In addition, Mexico and the U.S. agreed to disciplines related to cheese compositional standards.

### **Key Achievement: Enhanced Rules for Science-Based Sanitary and Phytosanitary Measures**

In the Sanitary and Phytosanitary (SPS) Measures chapter, the U.S. and Mexico have agreed to strengthen disciplines for science-based SPS measures, while ensuring Parties maintain their sovereign right to protect human, animal, and plant life or health. Provisions include increasing transparency on the development and implementation of SPS measures; advancing science-based decision making; improving processes for certification, regionalization and equivalency determinations; conducting systems-based audits; improving transparency for import checks; and working together to enhance compatibility of measures. The new agreement would establish a new mechanism for technical consultations to resolve issues between the Parties.

### **Key Achievement: New Disciplines on Geographic Indications and Common Names for Cheeses**

For the first time in NAFTA, the U.S. and Mexico have agreed to geographical indication standards that: enhance transparency for opposition and cancellation proceedings for geographical indications (GIs); establish a mechanism to consult on GIs pursuant to international agreements; and allow for additional factors that may be taken into account in determining whether a term is a common name instead of a GI. In addition, for the first time in a U.S. trade pact, Mexico and the U.S. agreed to not restrict market access in Mexico for U.S. cheeses labeled with certain names.

## Annex 2: Maine's Top Exports



Maine's Top Exports by 2-Digit HS Code to All Countries

Rank	Description	ANNUAL 2015	ANNUAL 2016	ANNUAL 2017
	TOTAL ALL COMMODITIES	2,761,768,870	2,863,225,983	2,711,926,781
1	Fish, Crustaceans & Aquatic Invertebrates	444,799,541	565,333,195	474,624,229
2	Electric Machinery Etc; Sound Equip; Tv Equip; Pts	334,270,052	279,839,326	284,918,360
3	Mineral Fuel, Oil Etc.; Bitumin Subst; Mineral Wax	94,752,279	160,488,197	245,655,820
4	Aircraft, Spacecraft, And Parts Thereof	268,385,245	315,366,289	239,257,119
5	Wood And Articles Of Wood; Wood Charcoal	278,374,416	209,700,631	190,454,814
6	Wood Pulp Etc; Recovd (Waste & Scrap) Ppr & Pprbd	158,595,565	141,205,687	179,238,019
7	Paper & Paperboard & Articles (Inc Papr Pulp Artl)	305,755,403	284,187,557	170,643,479
8	Industrial Machinery, Including Computers	136,510,023	132,975,285	149,489,455
9	Special Classification Provisions, Nesoi	64,797,423	76,524,268	89,797,904
10	Optic, Photo Etc, Medic Or Surgical Instrments Etc	64,621,815	63,400,471	64,929,297
11	Arms And Ammunition; Parts And Accessories Thereof	62,327,994	57,391,646	57,555,962
12	Vehicles, Except Railway Or Tramway, And Parts Etc	62,372,533	60,021,230	56,332,340
13	Lac; Gums, Resins & Other Vegetable Sap & Extract	7,388,710	55,543,670	52,989,478
14	Plastics And Articles Thereof	53,531,921	54,507,174	51,699,654
15	Miscellaneous Chemical Products	52,279,618	44,511,491	50,007,343
16	Iron And Steel	21,818,666	37,434,792	41,274,641
17	Edible Preparations Of Meat, Fish, Crustaceans Etc	37,598,875	44,209,925	36,310,094
18	Pharmaceutical Products	35,358,035	29,620,497	32,193,273
19	Prep Vegetables, Fruit, Nuts Or Other Plant Parts	22,423,481	19,949,684	24,260,184
20	Edible Fruit & Nuts; Citrus Fruit Or Melon Peel	29,207,564	40,133,565	23,843,622
21	Ships, Boats And Floating Structures	12,210,795	10,835,668	23,785,211
22	Salt; Sulfur; Earth & Stone; Lime & Cement Plaster	5,389,724	16,157,246	14,076,860
23	Wadding, Felt Etc; Sp Yarn; Twine, Ropes Etc.	18,834,857	14,540,306	11,638,464
24	Sugars And Sugar Confectionary	7,562,810	10,258,181	9,819,756
25	Live Animals	9,505,619	8,910,488	8,863,075
26	Articles Of Iron Or Steel	14,376,814	8,283,264	8,590,146
27	Furniture; Bedding Etc; Lamps Nesoi Etc; Prefab Bd	10,289,257	7,753,451	8,290,766
28	Base Metals Nesoi; Cermets; Articles Thereof	15,267,399	11,583,062	7,492,218
29	Glass And Glassware	7,108,330	4,510,781	6,064,597
30	Edible Vegetables & Certain Roots & Tubers	3,875,937	3,937,902	5,336,964
31	Soap Etc; Waxes, Polish Etc; Candles; Dental Preps	5,168,276	4,711,498	4,685,070
32	Cereals	5,267,806	3,109,671	4,398,497

33	Fertilizers	2,029,480	3,072,047	4,301,966
34	Footwear, Gaiters Etc. And Parts Thereof	3,674,397	4,510,464	4,210,654
35	Tools, Cutlery Etc. Of Base Metal & Parts Thereof	3,218,017	3,526,823	3,907,648
36	Toys, Games & Sport Equipment; Parts & Accessories	3,763,328	3,372,839	3,753,497
37	Aluminum And Articles Thereof	6,051,151	3,768,630	3,418,303
38	Printed Books, Newspapers Etc; Manuscripts Etc	4,861,025	2,725,598	3,395,040
39	Manmade Filaments, Including Yarns & Woven Fabrics	583,476	444,944	3,343,175
40	Impregnated Etc Text Fabrics; Tex Art For Industry	4,232,825	3,864,598	3,231,355
41	Prep Cereal, Flour, Starch Or Milk; Bakers Wares	4,597,595	3,770,500	3,219,477
42	Copper And Articles Thereof	4,786,949	3,630,120	2,981,348
43	Miscellaneous Edible Preparations	2,208,902	2,317,409	2,730,023
44	Miscellaneous Manufactured Articles	4,731,531	3,462,571	2,663,661
45	Textile Art Nesoi; Needlecraft Sets; Worn Text Art	4,262,869	2,548,373	2,512,333
46	Nickel And Articles Thereof	2,886,537	979,614	2,495,486
47	Products Of Animal Origin, Nesoi	358,183	1,660,068	2,363,839
48	Works Of Art, Collectors Pieces And Antiques	6,291,863	4,598,664	2,360,433
49	Wool & Animal Hair, Including Yarn & Woven Fabric	213,912	196,253	2,062,864
50	Rubber And Articles Thereof	1,933,758	2,336,668	2,008,497

[WISERTrade: State HS Database](#)

Source: <http://www.wisertrade.org>, data from U.S. Census Bureau Foreign, Trade Division.

Note: The State Exports by HS data series does not contain imputations for missing states and industries.

## Annex 3: Top Maine Exports Possibly Impacted by Chinese Counter Tariffs



WISERTrade  
State HS Database

### Top Maine Exports Possibly\* Effected by Chinese Counter-Tariffs

Rank	Code	Description	New Tariff Rate as of 7/6/2018	ANNUAL 2015	ANNUAL 2016	ANNUAL 2017
		TOTAL ALL COMMODITIES	-	11,744,354	8,375,903	58,825,258
1	030632	Lobsters, Live, Fresh,Or Chilled*	32%	0	0	55,548,090
2	081190	Fruit Nesoi & Nuts, Sweetened Etc Or Not, Frozen	45%	617,841	417,946	1,436,346
3	030612	Lobsters, Including In Shell, Frozen	32%	8,368,276	2,710,268	635,490
4	030633	Crabs, Live, Fresh Or Chilled	32%	0	0	498,800
5	030692	Lobsters, Other, Dried Salted Or In Brine, Smoked	32%	0	0	497,560
6	030323	Tilapias, Frozen	32%	0	0	69,990
7	081040	Cranberries, Blueberries, Etc, Fresh	70%	0	0	64,320
8	200893	Cranberries, Prepared Or Preserved, Nesoi	40%	0	0	56,342
9	160530	Lobster, Prepared Or Preserved	30%	2,678,319	4,825,513	13,680
10	030782	Stromboid Conchs, Live, Fresh Or Chilled	35%	0	0	4,640
11	760200	Aluminum Waste And Scrap	39%	58,553	111,430	0
12	040410	Whey & Modfd Whey Whet/Nt Cncntrtd Cntg Add Sweetn	27%	21,365	33,766	0
13	030614	Crabs, Including In Shell, Frozen	32%	0	215,364	0
14	030821	Sea Urchins, Live, Fresh Or Chilled	35%	0	61,616	0

\*Please note that our statistics are only as specific as the 6 digit code, but some of the tariffs are being applied to 8 digit codes, so the above numbers could be over stated. To see if a more specific product is effected, please send us an email, or consult the [FAS GAIN Report](#).  
All Values are in USD

This data was pulled on July 12, 2018.

\*Lobster data is provided for direct Maine exports. The Total U.S. Lobster exports data was \$128m from 2017, most of that product originating in Maine. The New Tariff Rate is devised from the original MFN rate plus any new tariffs imposed on July 6, 2018. Tariff Source: [FAS GAIN Report](#)  
Source: <http://www.wisertrade.org> data from U.S. Census Bureau Foreign, Trade Division.

## Annex 4: Top Maine Exports Impacted by Canadian Counter Tariffs



WISERTrade  
Canadian Data Harmonized Query

### Top Maine Exports Effected by Canadian Counter-Tariffs

Rank	Code	Description	Additional Duty	ANNUAL 2015	ANNUAL 2016	ANNUAL 2017
		TOTAL ALL COMMODITIES	-	47,466,171	55,721,192	59,691,683
1	1602329210	Poultry Meat,Fowls (Gallus Dom),Spec Defined Mixtures,Nes,O/T In Cans/Glass Jars	10%	24,918,707	31,085,199	34,320,517
2	1702200020	Maple Syrup	10%	6,722,142	9,619,299	9,298,842
3	4822900000	Bobbins,Spools,Cops&Sim Supports Of Ppr Pulp,Ppr/Pprbrd, W/N Perfo/Hardened,Nes	10%	3,438,622	3,319,698	3,865,670
4	8903999090	Vessels, For Pleasure Or Sports, Nes; Rowing Boats And Canoes	10%	0	0	2,342,282
5	8903920012	Cabin Cruisers, O/T Outboard Motorboats, Of Length > 9.2 Metres	10%	3,071,009	217,224	1,963,292
6	4909000000	Postcards, Printed/Illus; Printed Greeting Cards W/N Illus, With Or W/O Env/Trim	10%	648,040	810,922	1,070,981
7	7210610000	Flat Rolled Prod, I/Nas, Plated Or Coated W Aluminumzinc Alloys,>=600mm Wide	25%	410,304	665,956	921,755
8	3923299000	Sacks And Bags, Including Cones, Of Plastics, Nes	10%	0	0	704,108
9	7616100090	201201-999912: Nails, Tacks, Staples Excl Staples Hd 83.05, Screws, Bolts Etc, Of Aluminum, 198801-199712: Staples, O/T Heading 83.05, Screwhooks,Cotters,Cotterpins & Sim Art,Alum,Nes, 198801-199712: Staples, O/T Heading 83.05,Screwhooks,Cotters,Cotterpins & Sim Art,Alum,Nes	10%	712,940	706,794	544,662
10	4818100000	Toilet Paper	10%	89,480	87,494	487,755
11	2104100000	Soups And Broths, Preparations Thereof	10%	0	0	433,877
12	2103909090	199301-999912: Sauces And Preparations, Nes, 198801-199012: Sauces And Preparations Nes	10%	590,225	500,402	389,819
13	7226920000	Flat Rolled Products, As, O/T Stainless, Nfw Than Cold Rolled, < 600mm Wide, Nes	25%	145,315	248,704	254,398
14	8903920024	Motorboats, Inboard, Of A Length >8 Metres	10%	0	1,284,536	224,998
15	8903999029	Outboard Motorboats, For Pleasure Or Sports, Nes	10%	0	0	218,178
16	7229900020	201201-999912: Wire Of Alloy Steel, Other Than Stainless, Coated Or Covered, Nes, 198801-199712: Wire Of Alloy Steel,O/T Stainless,Coated Or Covered, Nes	25%	48,747	9,660	216,637
17	8903999021	Outboard Motorboats, Of Metal, Nes, For Pleasure Or Sports	10%	0	0	179,699
18	2103901010	Mayonnaise	10%	145,572	182,991	177,149
19	3923219090	Sacks And Bags, Including Cones, Of Polymers Of Ethylene, Nes	10%	138,106	235,592	159,549
20	7224100000	Ingots And Other Primary Forms Of Alloy Steel, Other Than Stainless	25%	1,358	203,745	149,069
21	4811590090	Paper And Paperboard, Coated/Impregnated/Covered With Plastics, Nes	10%	267,311	452,565	144,930
22	2103901020	Salad Dressing	10%	161,707	183,411	138,548
23	4811590012	Paper,Printing,Strip/Roll > 15 Cm/Sht > 36x15 Cm, Ctd/Impreg/Cov W Plastics,Nes	10%	169,334	1,135	133,602
24	7321901010	Parts For Appliances, Excluding Cooking Appliances And Plate Warmers	10%	101,624	102,824	131,784
25	7304900020	Tubes, Pipes And Hollow Profiles, Of Alloy Steel, Seamless, Nes	25%	0	0	128,134
26	4811590019	Paper/Pprbrd,Strip/Roll > 15 Cm/Sht > 36x15 Cm, Ctd/Impreg/Cov W Plastics,Nes	10%	80,932	11,694	103,838
27	8903999022	Outboard Motorboats, Of Reinforced Plastics, For Pleasure Or Sports	10%	0	0	83,960
28	4818200010	Paper Towels	10%	74,000	89,864	79,205
29	3924100091	Utensils, Kitchenware, Of Plastics	10%	73,562	49,080	63,903
30	3923219040	Food Packaging Sacks And Bags, Of Polymers Of Ethylene	10%	0	0	57,370
31	7306900020	Tubes, Pipes And Hollow Profiles, Of Alloy Steel, Nes	25%	18,587	9	52,005
32	7616999090	201201-999912: Other Articles Of Aluminum, Nes, 199601-201112: Articles Of Aluminum, Nes	10%	145,143	113,051	48,846

Rank	Code	Description	Additional Duty	ANNUAL 2015	ANNUAL 2016	ANNUAL 2017
33	2103902000	Mixed Condiments And Mixed Seasonings	10%	71,711	60,368	43,890
34	3401300000	Surfaceactive Prep, F Washing The Skin, Liq/Cream, W/N Cont Soap, Up F Ret Sale	10%	10,475	10,148	43,140
35	7210500000	Flat Rolled Prod,I/Nas,Pltd Or Ctd W Chrom Oxides/Chrom W Chrom Oxides,>=600mm	25%	12,176	150,444	42,234
36	8903910011	Sailboats, With An Auxiliary Motor, Of A Length <=9.2 Metres	10%	0	0	35,829
37	7606120011	Plates,Sheets & Strip,Of Aluminum Alloys,Thick >0.2mm	10%	0	0	34,442
38	4412999090	Plywood, Veneered Panels, Similar Laminated Wood, Nes	10%	0	0	30,010
39	7306400030	Tubes&Pipes,Stainless Steel,Welded,Of Circular Crosssection,Ext Diam >114.9 Mm	25%	0	0	24,462
40	7228300090	Other Bars & Rods,As,O/T Stainless,Nfw Than Hotrolled/Drawn/Extruded, Nes	25%	90,364	339,970	24,435
41	7210700000	Flat Rolled Prod,I/Nas,Painted,Varnished Or Plast Coated,>=600mm Wide	25%	641	5,696	23,595
42	7228600000	Bars And Rods, Alloy Steel, Other Than Stainless, Nes	25%	1,272	0	23,519
43	7226200000	Flat Rolled Products, Of High Speed Steel, < 600 Mm Wide	25%	0	0	19,507
44	7207190090	Semifinished Prod,O/T Rounds,Of Iron/Nas,Cont By Wt <0.25% Of Carbon, Nes	25%	2,477	0	17,132
45	7610909020	Aluminum Siding, Including Soffits And Fascia	10%	20,040	15,375	15,684
46	2103201000	Tomato Ketchup	10%	30,055	17,081	15,302
47	2202100090	Waters,Incl Min & Aerated, Containig Sugar Or Sweetening Matter,Nes Or Flav	10%	22,277	22,551	14,799
48	8903920021	199701-999912: Mtrboats,Inb, Pers Wat/Craft, Le<=4m,Watjet Driven,To Be Op Sit/Stand/Kneel Pos, 198801-199612: Motorboats, Inboard, Of A Length <=6 Metres	10%	0	0	13,090
49	2103209092	Tomato Sauces, Nes, Not Certified Organic	10%	37,085	17,526	11,517
50	7221000090	Bars & Rods, Ss, Hr, In Irreg Wound Coils, Nes	25%	17,651	13,358	11,143
51	7610909090	Structures & Parts,Alum,Plates,Rods,Tubes,Etc,For Structures,O/T Prefab Bldg,Nes	10%	132,192	72,157	10,145
52	0901210020	Coffee, Roasted, Not Decaffeinated, Not Certified Organic	10%	26,427	27,178	9,556

\*All Values are in USD

This data was pulled on July 12, 2018.

[WISERTrade](http://www.wisertrade.org): Canadian Data Harmonized Query

Data provided by WISERTrade, at <http://www.wisertrade.org>, from Statistics Canada, International Trade Division



## Annex 5: Top Maine Exports Possibly Impacted by EU Counter Tariffs



WISERTrade  
State HS Database

### Top Maine Exports Possibly\* Effected by EU Counter-Tariffs

Codes	Description	Additional Duty	ANNUAL 2015	ANNUAL 2016	ANNUAL 2017
	TOTAL ALL COMMODITIES	-	3,800,821	2,464,014	2,328,869
890399	Yachts Etc For Pleas/Sport Nesoi; Row Bts, Canoes	25%	2,727,511	1,570,950	1,724,895
732111	Cooking Appliances Etc For Gas Fuel, Iron Or Steel	25%	156,076	395,777	443,342
732690	Articles Of Iron Or Steel Nesoi	10%	64,657	265,613	124,320
732510	Cast Articles Nesoi Of Nonmalleable Cast Iron	25%	31,560	9,264	10,331
722990	Wire Of Other Alloy Steel, Nesoi	25%	0	7,866	8,256
731519	Parts Of Articulated Link Chain Of Iron Or Steel	25%	0	0	7,957
731029	Tanks Csk Drms Cns Bxs Etc Ios Nesoi Und 50 Ltr	25%	0	0	5,568
731816	Nuts Of Iron Or Steel	25%	0	0	4,200
890392	Motorboats, Other Than Outboard Motorboats	25%	555,000	194,000	0
730830	Drs, Wndws A Frms A Thrshlds Fr Drs, Iron Or Steel	25%	134,137	3,680	0
890391	Sailboats, With Or Without Auxiliary Motor	25%	26,525	2,993	0
640359	Footwear, Outer Sole & Upper Of Leather Nesoi	25%	47,500	0	0
722240	Angles, Shapes And Sections Of Stainless Steel	25%	28,649	0	0
732599	Cast Articles Of Iron Or Steel Nesoi	25%	8,940	0	0
721934	Flt-Rld Stnls Stl 600mm Om W Cld-Rld .5-1 Mm Thck	25%	8,450	0	0
730890	Structures And Parts Nesoi Of Iron Or Steel	25%	7,694	0	0
330491	Powder Make-Up, Etc. Preps, Incl Rouge & Baby Pwdr	25%	4,122	0	0
200190	Vegt/Fruit/Nuts Etc Nesoi Prep/Pres By Vinegar Etc	25%	0	7,880	0
630231	Bed Linen Nesoi, Of Cotton, Not Knit Or Crocheted	25%	0	2,991	0
730900	Tanks Etc, Over 300 Liter Capacity, Iron Or Steel	25%	0	3,000	0

\*Please note that our statistics are only as specific as the 6 digit code, but some of the tariffs are being applied to 8 digit codes, so the above numbers could be over stated.

\*All Values in USD

This data was pulled on of July 12, 2018.

WISERTrade: State HS Database

Source: <http://www.wisertrade.org>, data from U.S. Census Bureau Foreign, Trade Division.

Note: The State Exports by HS data series does not contain imputations for missing states and industries.

## Endnotes

---

- <sup>1</sup> Conversation with Wade Merritt, president, Maine International Trade Center, August 2018.
- <sup>2</sup> WBUR News, View at: <http://www.wbur.org/news/2018/07/18/maine-lobster-industry-deals-with-new-tariffs-from-china>
- <sup>3</sup> Maine Citizen Trade Policy Commission, Letter to Ambassador Robert E. Lighthizer, "USDA rule on importation of processed chicken from the People's Republic of China," March 23, 2018
- <sup>4</sup> The Washington Post, "Trump announces separate U.S.-Mexico trade agreement, says Canada may join later," Paletta, Damian, Werner, Erica, Lynch, David J., August 27, 2018  
[https://www.washingtonpost.com/business/2018/08/27/us-mexico-reach-partial-agreement-resolve-trade-conflict-step-towards-nafta-deal/?utm\\_term=.8043adce91be](https://www.washingtonpost.com/business/2018/08/27/us-mexico-reach-partial-agreement-resolve-trade-conflict-step-towards-nafta-deal/?utm_term=.8043adce91be)
- <sup>5</sup> The Hill, "Trump's pro-American trade policy is just what he promised," Lewandowski, Corey R., March 7, 2018 <http://thehill.com/opinion/white-house/377111-trumps-pro-american-trade-policy-is-just-what-he-promised>
- <sup>6</sup> Petroff, Alanna; Iyengar, Rishi; Mullen, Jethro US-China trade battle: Catch Up here; CNN Money, May 30, 2018
- <sup>7</sup> Office of the U.S. Trade Representative, USTR Issues Tariffs on Chinese Products in Response to Unfair Trade Practices, June 2018. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/june/ustr-issues-tariffs-chinese-products>
- <sup>8</sup> <https://www.cnn.com/2018/08/08/china-announces-25percent-tariffs-on-16-billion-worth-of-us-goods-including.html>
- <sup>9</sup> Office of the U.S. Trade Representative, USTR Robert Lighthizer Statement on the President's Additional China Trade Action, June 2018.
- <sup>10</sup> BBC News: Can view at: <https://www.bbc.com/news/business-44567636>
- <sup>11</sup> <http://www.mainebiz.biz/article/20180703/NEWS01/180709986/us-chamber-comes-out-against-new-tariffs-details-impact-on-maine>
- <sup>12</sup> Ibid.
- <sup>13</sup> U.S. Census Bureau, State Exports of Maine, can be viewed at: <https://www.census.gov/foreign-trade/statistics/state/data/me.html>
- <sup>14</sup> Portland Press Herald, "Trade trend: More Maine food on world's plates," Bell, Tom, January 5, 2015.
- <sup>15</sup> Ibid.
- <sup>16</sup> <https://www.pressherald.com/2015/01/05/maine-agriculture-seafood-and-prepared-food-going-global/>
- <sup>17</sup> US Chamber of Commerce, "New Analysis Outlines State-by-State Impact of Tariffs" July 2, 2018
- <sup>18</sup> <http://www.mainebiz.biz/article/20180703/NEWS01/180709986/us-chamber-comes-out-against-new-tariffs-details-impact-on-maine>
- <sup>19</sup> Email from Wade Merritt, president, Maine International Trade Center, September 2018.
- <sup>20</sup> US Chamber of Commerce, "New Analysis"
- <sup>21</sup> Interview with Wade Merritt, President Maine International Trade Center, August 2018.
- <sup>22</sup> <https://www.cbsnews.com/news/lobster-industry-hit-by-tariffs-us-china-trade-war/>
- <sup>23</sup> Ibid.
- <sup>24</sup> Ibid.
- <sup>25</sup> <https://poliquin.house.gov/media-center/press-releases/maine-delegation-issues-joint-statement-regarding-china-s-retaliatory>
- <sup>26</sup> <https://bangordailynews.com/2018/03/02/business/fisheries/lobster-supply-chain-contributes-1b-to-maine-economy-each-year-study-finds/>
- <sup>27</sup> Ibid.
- <sup>28</sup> Press Herald, "Value of Maine lobster exports to China on pace to triple for 2016," Overton, Penelope. <https://www.pressherald.com/2017/01/28/value-of-maine-lobster-exports-to-china-on-pace-to-triple/>
- <sup>29</sup> Data of Maine International Trade Center.
- <sup>30</sup> CNBC, "Lobster-crazy China sets record for US crustacean imports," <https://www.cnn.com/2017/03/20/lobster-crazy-china-sets-record-for-us-crustacean-imports.html>

- 
- <sup>31</sup> <https://www.king.senate.gov/newsroom/press-releases/king-statement-on-exclusion-of-lobster-industry-from-administration-plan-to-mitigate-tariff-impacts>
- <sup>32</sup> <https://www.king.senate.gov/newsroom/press-releases/senate-passes-collins-king-resolution-to-designate-september-25-2018-as-national-lobster-day>
- <sup>33</sup> <https://extension.umaine.edu/blueberries/wp-content/uploads/sites/56/2009/11/WBC-14466-EcoImpactState.pdf>
- <sup>34</sup> <https://bangordailynews.com/2018/07/26/homestead/maine-blueberry-industry-expected-to-be-affected-by-trade-disputes/>
- <sup>35</sup> Interview with Nancy McBrady, executive director of the Wild Blueberry Commission of Maine, August 2018.
- <sup>36</sup> <https://www.pressherald.com/2018/06/29/maine-blueberry-value-tumbles-to-lowest-point-in-more-than-30-years/>
- <sup>37</sup> Interview with Nancy McBrady, executive director of the Wild Blueberry Commission of Maine, August 2018.
- <sup>38</sup> <https://www.pressherald.com/2015/01/05/maine-agriculture-seafood-and-prepared-food-going-global/>
- <sup>39</sup> Ibid.
- <sup>40</sup> <https://www.thestar.com/news/canada/2018/07/11/everything-you-wanted-to-know-about-the-canada-us-trade-war-but-were-afraid-to-ask.html>
- <sup>41</sup> <https://www.pressherald.com/2018/07/01/in-trade-war-with-canada-maine-mostly-got-off-easy/>
- <sup>42</sup> Ibid.
- <sup>43</sup> USDA, U.S. Maple Syrup Production, National Agricultural Statistics Service, 2017. [https://www.nass.usda.gov/Statistics\\_by\\_State/New\\_York/Publications/Latest\\_Releases/2017/2017\\_Maple\\_Syrup.pdf](https://www.nass.usda.gov/Statistics_by_State/New_York/Publications/Latest_Releases/2017/2017_Maple_Syrup.pdf)
- <sup>44</sup> Interview with Wade Merritt, President Maine International Trade Center, August 2018.
- <sup>45</sup> <https://www.pressherald.com/2018/07/01/in-trade-war-with-canada-maine-mostly-got-off-easy/>
- <sup>46</sup> Ibid.
- <sup>47</sup> <https://www.politico.com/story/2018/07/05/mexico-imposes-retaliatory-tariffs-670424>
- <sup>48</sup> <https://www.independent.co.uk/news/world/americas/eu-tariffs-take-effect-us-trump-trade-war-china-latest-a8411026.html>
- <sup>49</sup> Politico Magazine, “Trump backs off new tariffs on EU in retreat from trade war,” Cassella, Megan and Morin, Rebecca, July 25, 2018. <https://www.politico.com/story/2018/07/25/trump-trade-eu-negotiations-741162>
- <sup>50</sup> <https://www.independent.co.uk/news/world/americas/eu-tariffs-take-effect-us-trump-trade-war-china-latest-a8411026.html>
- <sup>51</sup> Politico Magazine, “Trump isolated in his push for tariffs on foreign cars,” White, Ben, July 22, 2018. <https://www.politico.com/story/2018/07/22/trump-foreign-car-tariffs-juncker-735555>
- <sup>52</sup> Maine Citizen Trade Policy Commission, Letter to Ambassador Robert E. Lighthizer, “USDA rule on importation of processed chicken from the People’s Republic of China,” March 23, 2018
- <sup>53</sup> <https://www.fsis.usda.gov/wps/portal/fsis/newsroom/news-releases-statements-transcripts/news-release-archives-by-year/archive/2016/faq-china-030416>
- <sup>54</sup> <https://www.foodsafetynews.com/?s=China%20poultry%20exports%20to%20US>
- <sup>56</sup> Ibid.
- <sup>56</sup> Letter to USDA Agriculture Secretary Sonny Purdue from Congresswoman Rosa DeLauro (D-Conn), July 20, 2018 [https://delauro.house.gov/sites/delauro.house.gov/files/RLD.LETTER.USDA\\_%20Chinese%20Poultry%20Processing%20Facilities.pdf](https://delauro.house.gov/sites/delauro.house.gov/files/RLD.LETTER.USDA_%20Chinese%20Poultry%20Processing%20Facilities.pdf)
- <sup>57</sup> Foreign Policy, “Are China’s Chickens Contaminating America’s Plates?” Huang, Yanzhong, November 16, 2017. <https://foreignpolicy.com/2017/11/16/are-chinas-chickens-contaminating-americas-plates/>
- <sup>58</sup> <https://www.foodsafetynews.com/?s=China%20poultry%20exports%20to%20US>
- <sup>59</sup> Ibid.
- <sup>60</sup> Drovers, “China Not a Factor in U.S. Beef Exports...Yet,” Peel, Darrell S., January 18, 2018 <https://www.drovers.com/article/china-not-factor-us-beef-exportsyet>

- 
- <sup>61</sup> Foreign Policy, “Are China’s Chickens Contaminating America’s Plates?”
- <sup>62</sup> U.S. Food and Drug Administration, “Advancing the Safety of Imported Food,” April 20, 2017 <https://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm553432.htm>
- <sup>63</sup> [http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm376478.htm?source=govdelivery&utm\\_medium=email&utm\\_source=govdelivery](http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm376478.htm?source=govdelivery&utm_medium=email&utm_source=govdelivery)
- <sup>64</sup> <http://americannutritionassociation.org/newsletter>
- <sup>65</sup> Call for USDA Review of Australia's Meat Inspection System,” The Beef Site, January 4, 2013. <http://www.thepigsite.com/swinenews/31950/call-for-usda-review-of-australias-meat-inspection-system>
- <sup>66</sup> <https://www.foodsafetynews.com/?s=China%20poultry%20exports%20to%20US>
- <sup>67</sup> The Washington Post, “Trump announces separate U.S.-Mexico trade agreement, says Canada may join later,” Paletta, Damian, Werner, Erica, Lynch, David J., August 27, 2018 [https://www.washingtonpost.com/business/2018/08/27/us-mexico-reach-partial-agreement-resolve-trade-conflict-step-towards-nafta-deal/?utm\\_term=.8043adce91be](https://www.washingtonpost.com/business/2018/08/27/us-mexico-reach-partial-agreement-resolve-trade-conflict-step-towards-nafta-deal/?utm_term=.8043adce91be)
- <sup>68</sup> <https://www.washingtontimes.com/news/2018/aug/31/donald-trump-wont-wait-canada-new-nafta-sent-congr/>
- <sup>69</sup> Office of the U.S. Trade Representative, “U.S.-Mexico Fact Sheet: Strengthening NAFTA for Agriculture,” August 2018
- <sup>70</sup> This section is drawn from a report by Ben Lilliston’s, director of rural strategies and climate change, Institute for Agriculture and Trade Policy: [https://www.iatp.org/sites/default/files/2017-08/2017\\_08\\_14\\_NAFTA\\_101\\_BL.pdf](https://www.iatp.org/sites/default/files/2017-08/2017_08_14_NAFTA_101_BL.pdf)
- <sup>71</sup> M. Angeles Villareal and Ian F. Fergusson, The North American Free Trade Agreement, Congressional Research Service, February 22, 2017.
- <sup>72</sup> Stop Investor State Dispute Settlement. NAFTA. Accessed August 8, 2017.
- <sup>73</sup> North American Free Trade Agreement, Secretariat. Accessed: August 8, 2017. <https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/North-American-Free-Trade-Agreement?mvid=1&secid=b6e715c1-ec07-4c96-b18e-d762b2ebe511>.
- <sup>74</sup> The Washington Post, “Industry voices dominate the trade advisory system,” Ingraham, Christopher, and Schneider, Howard, February. 27, 2014 <http://www.washingtonpost.com/wp-srv/special/business/trade-advisory-committees/>
- <sup>75</sup> [www.wilsoncenter.org/person/laura-dawson](http://www.wilsoncenter.org/person/laura-dawson)
- <sup>76</sup> [https://www.huffingtonpost.com/entry/wilbur-ross-nafta-tpp-starting-point\\_us\\_592f5cefe4b0540ffc845387](https://www.huffingtonpost.com/entry/wilbur-ross-nafta-tpp-starting-point_us_592f5cefe4b0540ffc845387)
- <sup>77</sup> United Nations General Assembly, “Report of the United Nations Conference on Environmental and Development,” June 1992. <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>
- <sup>78</sup> Office of the U.S. Trade Representative, Press Release, August 2018. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/august/strengthening-nafta-agriculture>
- <sup>79</sup> Palmer, D. 2013. “Senior senators outline priorities for U.S.-EU trade pact.” Reuters. February 12, 2013
- <sup>80</sup> Regulations.gov, Comment from Cassandra Kuball, North American Market Working Group of the U.S. Food and Agriculture Dialogue for Trade, June 14, 2017.
- <sup>81</sup> *Summaries of EU Legislation*. Europa: “Food and feed safety.” Available at: [http://europa.eu/legislation\\_summaries/consumers/consumer\\_safety/f80501\\_en.htm](http://europa.eu/legislation_summaries/consumers/consumer_safety/f80501_en.htm).
- <sup>82</sup> Regulations.gov, Comment from Cassandra Kuball, North American Market Working Group of the U.S. Food and Agriculture Dialogue for Trade, June 14, 2017.
- <sup>83</sup> Ibid.
- <sup>84</sup> NAFTA in its Risk and Reward: Food Safety and NAFTA 2.0; <https://www.wilsoncenter.org/article/risk-and-reward-food-safety-and-nafta-20>
- <sup>85</sup> Letter from Congresswoman Rosa DeLauro to USTR Ambassador Michael Froman, October 2015
- <sup>86</sup> U.S. Department of Agriculture National Agricultural Statistics Service 2016 Certified Organic Survey – Maine [https://www.nass.usda.gov/Surveys/Guide\\_to\\_NASS\\_Surveys/Organic\\_Production/2016\\_State\\_Publications/ME.pdf](https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Organic_Production/2016_State_Publications/ME.pdf)
- <sup>87</sup> Office of the U.S. Trade Representative, Press Release, 2018

---

<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/august/strengthening-nafta-agriculture>

<sup>88</sup> Ibid.

<sup>89</sup> <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/03%20Agriculture.pdf>

<sup>90</sup> <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/03%20Agriculture.pdf>

<sup>91</sup> Letter, Docket No. 2017-10603, Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement with Canada and Mexico, June 12, 2017.

[https://www.fb.org/files/NAFTA\\_renegotiation\\_comments\\_6-14-2017.pdf](https://www.fb.org/files/NAFTA_renegotiation_comments_6-14-2017.pdf)

<sup>92</sup> International Trade Compliance Blog, USTR releases summary of NAFTA renegotiation objectives, July 18, 2017.

<http://www.internationaltradeupdate.com/2017/07/18/ustr-releases-summary-of-nafta-renegotiation-objectives/>

<sup>93</sup> New York Times, “Nafta food labels and obesity,” March 20, 2018

<https://www.nytimes.com/2018/03/20/world/americas/nafta-food-labels-obesity.html>

<sup>94</sup> <https://youtu.be/z00VKcIvng0>

<sup>95</sup> Op. cit. New York Times, “Nafta Food”.

<sup>96</sup> <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/11%20Technical%20Barriers%20to%20Trade.pdf>

<sup>97</sup> <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/03%20Agriculture.pdf>

<sup>98</sup> <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/03%20Agriculture.pdf>

<sup>99</sup> <http://thehill.com/blogs/congress-blog/economy-budget/361575-the-corporate-lobby-might-look-to-kill-nafta-rather-than>

<sup>100</sup> <https://www.maine.gov/legis/opla/CTPCLighthizerletterISDSinNAFTA.pdf>

<sup>101</sup> [https://www.citizen.org/sites/default/files/gtw\\_nafta-isds-facts-oct-2018\\_final.pdf](https://www.citizen.org/sites/default/files/gtw_nafta-isds-facts-oct-2018_final.pdf)

<sup>102</sup> <https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Annex%20I%20Investment%20and%20Services%20Non-Conforming%20Measures%20-%20Mexico.pdf> and

<https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Annex%20II%20Investment%20and%20Services%20Non-Conforming%20Measures%20-%20Mexico.pdf>

<sup>103</sup> Public Citizen, Table of Foreign Investor-State Cases and Claims Under NAFTA and Other U.S.

“Trade” Deals, February 2018. [https://www.citizen.org/sites/default/files/investor-state-chart\\_feb\\_2018.pdf](https://www.citizen.org/sites/default/files/investor-state-chart_feb_2018.pdf)

<sup>104</sup> May, E. 2013. “What happened under Chapter 11 of NAFTA?” *Elizabeth May, MP*. May 17. Available at: <http://elizabethmaymp.ca/investor-state-treaties/what-happened-under-chapter-11-nafta>.

<sup>105</sup> Politico Pro, “How fine print could soften hard rhetoric of Canada-U.S. dairy deal, October 16, 2018.

<sup>106</sup> <https://www.ibj.com/articles/70703-new-nafta-good-news-for-dairy-prospects-in-united-states-experts-say>

<sup>107</sup> <https://www.iatp.org/documents/insults-achieve-nothing-farmers>

<sup>108</sup> <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/august/strengthening-nafta-agriculture>