Why Protect Agriculture?

- Food Security
- National Health
- Productive Capacity
- Infant or “New” Industry
- National Security
- Mitigate Unfair Foreign Trade Policies
- Domestic Programs
How is Agriculture Protected?

- Tariff Barriers
  - Includes Antidumping and Counterveiling Duties (AD/CVD)
- Non-tariff Barriers
  - Quotas
  - Sanitary and Phytosanitary (SPS) Measures
  - Licenses
  - Technical Barriers To Trade
    - Regulations, Standards, Testing, Certification
    - Complex Packaging/Labeling Requirements
- Other Laws
  - Mandatory Country of Origin Labeling
  - Domestic Subsidies and Other Policies
Tariff Barriers to Trade

- Tariff (Levied by Country of Import)
  - Customs Document Specifying Rates of Duty and Other Quantitative Restrictions
  - Tariff Rates Correspond to Harmonized Tariff Code for the Product

- Duty Tax on Imports
  - Specific Duty
    - Specified Amount for Each Imported Unit (ie. $40 Per MT of Beef)
Tariff Barriers to Trade (continued)

- **Ad Valorem Duty**
  - Specified Percentage of the Value of the Imported Good (i.e. 6% of the Value of Beef Imported)

- **Combination Duty**
  - Specific and Ad Valorem Duties

- U.S. International Trade Commission Maintains the U.S. Harmonized Tariff Schedule
Harmonized Tariff System Agriculture, Food, and Related Chapters

**Section I: Live Animals; Animal Products**
- **Chapter 1** Live animals
- **Chapter 2** Meat and edible meat offal
- **Chapter 4** Dairy produce; birds eggs; natural honey; edible products of animal origin, not elsewhere specified or included
- **Chapter 5** Products of animal origin, not elsewhere specified or included

**Section II: Vegetable Products**
- **Chapter 6** Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
- **Chapter 7** Edible vegetables and certain roots and tubers
- **Chapter 8** Edible fruit and nuts; peel of citrus fruit or melons
- **Chapter 9** Coffee, tea, maté and spices
- **Chapter 10** Cereals
- **Chapter 11** Products of the milling industry; malt; starches; inulin; wheat gluten
- **Chapter 12** Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruits; industrial or medicinal plants; straw and fodder
- **Chapter 13** Lac; gums, resins and other vegetable saps and extracts
- **Chapter 14** Vegetable plaiting materials; vegetable products not elsewhere specified or included

**Section III: Animal or Vegetable Fats and Oils and Their Cleavage Products; Prepared Edible Fats; Animal or Vegetable Waxes**
- **Chapter 15** Animal or vegetable fats and oils and their cleavage products prepared edible fats; animal or vegetable waxes

**Section IV: Prepared Foodstuffs; Beverages, Spirits, and Vinegar; Tobacco and Manufactured Tobacco Substitutes**
- **Chapter 16** Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates
- **Chapter 17** Sugars and sugar confectionery
- **Chapter 18** Cocoa and cocoa preparations
- **Chapter 19** Preparations of cereals, flour, starch or milk; bakers' wares
- **Chapter 20** Preparations of vegetables, fruit, nuts or other parts of plants
- **Chapter 21** Miscellaneous edible preparations
- **Chapter 22** Beverages, spirits and vinegar
- **Chapter 23** Residues and waste from the food industries; prepared animal feed
- **Chapter 24** Tobacco and manufactured tobacco substitutes

**Agriculture within other Sections**
- **Chapter 41** Raw hides and skins (other than furskins) and leather
- **Chapter 51** Wool, fine or coarse animal hair; horsehair yarn and woven fabric
- **Chapter 52** Cotton

**Food and Agriculture Related**
- **Chapter 3** Fish and crustaceans, molluscs and other aquatic invertebrates
- **Chapter 44** Wood and articles of wood; wood charcoal
- **Chapter 31** Fertilizers

### Specific Tariff Example

**Harmonized Tariff Schedule of the United States (2014)**

Annotated for Statistical Reporting Purposes

<table>
<thead>
<tr>
<th>Heading/Subheading</th>
<th>Article Description</th>
<th>Unit of Quantity</th>
<th>Rates of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>General</td>
</tr>
<tr>
<td>0805</td>
<td>Citrus fruit, fresh or dried:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0805.10.00</td>
<td>Oranges</td>
<td>1.9¢/kg</td>
<td>Free</td>
</tr>
<tr>
<td></td>
<td>20 Temple oranges</td>
<td>kg</td>
<td>(AU, BH, CA, CL, CO, D, E, IL, JO, KR, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td></td>
<td>40 Other</td>
<td>kg</td>
<td>2.2¢/kg</td>
</tr>
<tr>
<td>0805.20.00</td>
<td>Mandarins (including tangerines and satsumas); clementines, wilkins and similar citrus hybrids</td>
<td>1.9¢/kg</td>
<td>Free (AU, BH, CA, CL, CO, D, E, IL, JO, KR, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td></td>
<td>20 Tangerines</td>
<td>kg</td>
<td>2.2¢/kg</td>
</tr>
<tr>
<td></td>
<td>60 Clementines</td>
<td>kg</td>
<td></td>
</tr>
<tr>
<td></td>
<td>80 Other</td>
<td>kg</td>
<td></td>
</tr>
<tr>
<td>0805.40</td>
<td>Grapefruit, including pomelos:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0805.40.40.00</td>
<td>If entered during the period from August 1 to September 30, inclusive, in any year.</td>
<td>1.9¢/kg</td>
<td>Free (AU, BH, CA, CL, CO, D, E, IL, JO, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td></td>
<td>0.7¢/kg (KR)</td>
<td></td>
<td>3.3¢/kg</td>
</tr>
<tr>
<td>0805.40.60.00</td>
<td>If entered during the month of October.</td>
<td>1.5¢/kg</td>
<td>Free (CA, CL, CO, D, E, IL, JO, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td></td>
<td>0.1¢/kg (BH)</td>
<td></td>
<td>3.3¢/kg</td>
</tr>
<tr>
<td></td>
<td>0.6¢/kg (AU, MA)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.6¢/kg (KR)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0805.40.80.00</td>
<td>If entered at any other time.</td>
<td>2.5¢/kg</td>
<td>Free (CA, CL, CO, D, E, IL, JO, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
</tbody>
</table>
### Harmonized Tariff Schedule of the United States (2014)

Annotated for Statistical Reporting Purposes

<table>
<thead>
<tr>
<th>Heading/Subheading</th>
<th>Article Description</th>
<th>Unit of Quantity</th>
<th>Rates of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>0807</td>
<td>Melons (including watermelons) and papayas (papaws), fresh:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0807.11</td>
<td>Melons (including watermelons):</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Watermelons:</td>
<td></td>
<td>Free (A, AU, BH, CA, CL, CO, D, E, IL, JO, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td>0807.11.30</td>
<td>If entered during the period from December 1, in any year, to the following March 31, inclusive.</td>
<td>9%</td>
<td>35%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>3.6% (KR)</td>
</tr>
<tr>
<td>0807.11.40</td>
<td>Seedless</td>
<td>kg</td>
<td>Free (A+, AU, CA, CL, CO, D, E, IL, JO, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td></td>
<td>17%</td>
</tr>
<tr>
<td></td>
<td>If entered at any other time.</td>
<td>kg</td>
<td>Free (A+, AU, BH, CA, CL, CO, D, E, IL, JO, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td>0807</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0807.19</td>
<td>Other:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0807.19.10</td>
<td>Cantaloupes:</td>
<td></td>
<td>Free (A+, AU, BH, CA, CL, CO, D, E, IL, JO, MA, MX, OM, P, PA, PE, SG)</td>
</tr>
<tr>
<td></td>
<td>If entered during the period from August 1 to September 15, inclusive, in any year.</td>
<td>12.8%</td>
<td>7.3% (KR)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>35%</td>
</tr>
<tr>
<td>0807.19.20</td>
<td>If entered at any other time.</td>
<td>29.8%</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Trade Agreement Codes

Programs under which special tariff treatment may be provided, and the corresponding symbols for such programs as they are indicated in the "Special" subcolumn, are as follows:

Generalized System of Preferences .................................................. A, A* or A+
United States-Australia Free Trade Agreement ................................ AU
Automotive Products Trade Act ......................................................... B
United States-Bahrain Free Trade Agreement Implementation Act .......... BH
Agreement on Trade in Civil Aircraft ................................................ C
North American Free Trade Agreement:
  Goods of Canada, under the terms of general note 12 to this schedule ........ CA
  Goods of Mexico, under the terms of general note 12 to this schedule .......... MX
United States-Chile Free Trade Agreement ........................................ CL
African Growth and Opportunity Act ............................................... D
Caribbean Basin Economic Recovery Act ......................................... E or E*
United States-Israel Free Trade Area ............................................... IL
Andean Trade Preference Act or Andean Trade Promotion and Drug Eradication Act ............ J, J* or J+
United States-Jordan Free Trade Area Implementation Act ................... JO
Agreement on Trade in Pharmaceutical Products ................................ K
Dominican Republic-Central America-United States Free Trade Agreement Implementation Act .......... P or P+
Uruguay Round Concessions on Intermediate Chemicals for Dyes ............... L
United States-Caribbean Basin Trade Partnership Act ......................... R
United States-Morocco Free Trade Agreement Implementation Act .......... MA
United States-Singapore Free Trade Agreement ................................... SG
United States-Oman Free Trade Agreement Implementation Act .............. OM
United States-Peru Trade Promotion Agreement Implementation Act .......... PE
United States-Korea Free Trade Agreement Implementation Act .............. KR
United States-Colombia Trade Promotion Agreement Implementation Act ...... CO
Tariff Barriers to Trade (continued)

- **Protective Duty**
  - Designed to Discourage Imports and Protect Domestic Producers

- **Revenue Duty**
  - Designed to Raise Money

- **Anti-Dumping and Countervailing Duty**
  - Offset Export Dumping and/or Subsidy on Exports of Another Country
Non-Tariff Barriers to Trade

Non-Tariff Trade Barriers
- Any Trade Barrier Other Than a Tariff

Explicit Non-Tariff Trade Barriers
- A Non-Tariff Trade Barrier which is measurable

vs.

Implicit Non-Tariff
- A Non-Tariff Trade Barrier which is not measurable
Explicit Non-Tariff Barriers to Trade

- **Import Quotas**
  - Quantity Restrictions on Imports (ie. Up to 10,000 Tons)

3. The aggregate quantity of beef, entered under subheadings 0201.10.10, 0201.20.10, 0201.20.30, 0201.20.50, 0201.30.10, 0201.30.30, 0201.30.50, 0202.10.10, 0202.20.10, 0202.20.30, 0202.20.50, 0202.30.10, 0202.30.30 and 0202.30.50 in any calendar year shall not exceed the quantities specified in this note.

<table>
<thead>
<tr>
<th>Country</th>
<th>Quantity (metric ton)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada</td>
<td>No limit</td>
</tr>
<tr>
<td>Mexico</td>
<td>No limit</td>
</tr>
<tr>
<td>Australia</td>
<td>378,214</td>
</tr>
<tr>
<td>New Zealand</td>
<td>213,402</td>
</tr>
<tr>
<td>Japan</td>
<td>200</td>
</tr>
<tr>
<td>Argentina</td>
<td>20,000</td>
</tr>
<tr>
<td>Uruguay</td>
<td>20,000</td>
</tr>
<tr>
<td>Other countries</td>
<td>64,805</td>
</tr>
</tbody>
</table>

Imports under these provisions are subject to regulations issued by the United States Trade Representative.
Explicit Non-Tariff Barriers to Trade (continued)

- **Variable Levy**
  - Import Duties Adjusted Weekly, Monthly, or Quarterly by some countries (EU in the past)

- **Domestic Content**
  - Requirement that Industry Use Specific Amount (Proportion) of Domestic Product
Implicit Non-Tariff Barriers to Trade

- **Sanitary & Phytosanitary Regulations (SPS)**
  - Government Regulations Designed to Protect Human, Animal, and Plant Health - **IMPORTANT**
  - **Sanitary Regulations**: Used to ensure the sanitation of meats, poultry & dairy products
  - **Phytosanitary Regulations**: Used to ensure the health/sanitation of plants & plant material
  - **Animal Health Regulations**: Used to ensure that animals are free from pests & diseases

- **All Countries Have SPS Regulations**
Implicit Non-Tariff Barriers to Trade

WTO SPS Agreement

• The SPS Agreement Applies to SPS Government Measures that Impact Trade
  ◦ Private firms can impose most any rules they want to – more and more are doing so

• An SPS measure is any laws, regulations, decrees, requirements, and procedures used to protect human, animal and plant life or health

• Must be science and risk-based, apply to all like products, and base standards on international standards

• SPS Agreement Provides Forum for Resolving Disputes
Implicit Non-Tariff Barriers to Trade

SPS Trade Barriers

• An SPS Measure Might be a Barrier to Trade if:
   not developed in a transparent manner
   not science-based
   not based on international standards such as Codex, OIE, IPPC
   only applies to foreign companies (imports)
   compliance process is unclear
   compliance time-frame is unreasonable

• Biotech a Target for Many SPS Trade Barriers – Precautionary Principle
Implicit Non-Tariff Barriers to Trade (continued)

- Technical Barriers to Trade are those Technical Regulations and Standards which Unfairly Restrict Trade and Can Include:
  - Licensing Regimes
  - Labeling Regulations
  - Packaging Size/Weight Restrictions
  - Terminology

- Like the SPS Agreement, the WTO TBT Agreement Helps to Ensure Member’s Have Product Regulations Which Do Not Unfairly Restrict Trade
Implicit Non-Tariff Barriers to Trade (continued)

- Government Procurement
  - Domestic Preference in Government Purchases, Including:
    - Military, Food Aid, and Public Sector Cafeterias

- Macroeconomic Policies
  - Monetary/Fiscal Actions Which Affect Exchange Rates, Prices, Interest Rates, and the Balance of Trade

- Public Financed Research & Development
U.S. Regulatory Requirements Which Help to Protect U.S. Agriculture

- U.S. Department of Agriculture
  - Agricultural Marketing Service - AMS (USDA) Ensures Imported Products Meet U.S. Market Order Restrictions
  - Marketing Orders Impacting Imports Include:
    - Avocados, Dates, Hazelnuts, Grapefruit, Kiwi, Oranges, Olives, Onions, Irish Potatoes, Pistachios, Raisins, Tomatoes, and Walnuts
  - AMS also Enforces Mandatory Country of Origin Labeling (MCOOL) – More on that Later
U.S. Regulatory Requirements Which Help to Protect U.S. Agriculture


- **Food Safety Inspection Service** – FSIS (USDA) is Responsible for Assuring that Meat and Poultry Products Are Safe, Wholesome for Consumption, and Accurately Labeled.

- **Environmental Protection Agency** – EPA
  - Establishes Tolerance Levels for Specific Pesticides That are Enforced by the FDA or USDA.
U.S. Regulatory Requirements Which Help to Protect U.S. Agriculture

- Food and Drug Administration – FDA
  - Ensures the Safety, Sanitation, and Proper Labeling of Imported Foods as Specified by the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act
  - FDA Inspects Shipments, Collects and Examines Samples, and Conducts Investigations to Ensure Product Quality Standards are Met
  - Product Specific Regulations May Be Obtained Through the FDA International Affairs Staff
U.S. Regulatory Requirements Which Help to Protect U.S. Agriculture

Food Groups Under FDA Authority

- Dairy Products
  - Milk
  - Cheese
  - Butter
- Plant products
  - Vegetables
  - Fruits
  - Nuts
  - Juices
- Spices
- Dietary Supplements
- Infant Formula
- Seafood
  - Finfish
  - Shellfish
  - Crustaceans
  - Surimi based
- Grain-based
  - Bread
  - Cereals
  - Flour
- Bottled water
Food Safety Modernization Act (FSMA)

- Legislation Designed to be an Update to a Myriad of U.S. Food Safety Laws Dating back to 1906, When FDA was Created and Meat Inspection Act Passed
- New Import Authorities and Mandates for Imports Under FSMA Include:
  - Importer Accountable for Ensuring Foreign Suppliers Have Food Safety Measures in Place
  - New Program for 3rd Party Food Safety Certification
  - High Risk Foods for Import Require Assurance of Compliance
  - Voluntary Qualified Importer Program for Expedited Entry
  - FDA Will Now Have Authority to Deny Entry if FDA Denied Access to the Foreign Facility or Country
Food Safety Modernization Act (FSMA)

• Signed into Law on January 4, 2011
  – Only 3 of at Least 8 Final Rules Have Been Issued by FDA
  – New rule deadlines:
    • Preventive controls for human and animal food (8/30/15)
    • Imported food and foreign suppliers (10/31/15)
    • Produce safety (10/31/15)
    • Food transportation (3/31/16)
    • Intentional adulteration of food (5/31/16)
    • Deadlines for the sanitary transportation and intentional food adulteration rules also pushed back to 2016
<table>
<thead>
<tr>
<th>Year</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>• 2002 Farm Bill – Enacted Mandatory COOL</td>
</tr>
</tbody>
</table>
| 2004 | • IFR published for Fish and Shellfish Only – 7 CFR Part 60  
      • Implementation for remaining covered commodities delayed |
| 2008 | • 2008 Farm Bill Amended COOL Provisions  
      • IFR published for remaining covered commodities: 7 CFR Part 65  
      • Implementation September 30, 2008 |
| 2009 | • Final Rule published for all covered commodities combined  
      • 7 CFR Part 60  
      • 7 CFR Part 65  
      • Implementation – March 16, 2009; Remained in 2014 Farm Bill |
MCOOL: Who Must Label?

- **Applies only to Retailers:** Retailers handling fresh and frozen fruits and vegetables with an invoice value of at least $230,000 annually
  - Does not apply to Restaurant, Cafeteria, Food Stand or Location Providing Ready-to-Eat Food or Products used as Ingredients or Being Exported

- **Covers Fresh and Frozen Muscle Cuts of Meat, Seafood, Fruits, Vegetables, Pecans, Macadamia Nuts, and Ginseng**
  - Does not apply to further processed or cooked foods, or foods used as ingredients (mixes)
MCOOL: Determining Origin

- Exclusive U.S. Origin - Product of U.S.A.
- Foreign Origin - Imported for Consumption: Product of X
- Country of Origin Declarations can be made on: Placards, Signs; Labels; Stickers; Bands; Twist Ties; Pin Tags; or other display
- Labels Must be: Legible; In a Conspicuous Location, and Abbreviations are Acceptable but Limited
- Symbols and Flags Alone Not Acceptable
MCOOL: Implications

Problems:

✓ Shelf Space at Premium & High Degree of Competition Among Retailers, So Cost Passed Back to Production Sector
✓ U.S. Retailers & Especially Packers May Reduce Number of Countries Supplying Products

Canada and Mexico both took MCOOL to the WTO

The U.S. Lost Several Rounds in the WTO as MCOOL found to be an Unfair Trade Barrier – a Labeling TBT

The U.S. Now May Face Retaliatory Tariffs from Canada and Mexico

U.S. House Voted to Repeal MCOOL for Meats; Senate is Considering
Options to Ensure Integrity of Food Supply

- Improved Surveillance & Monitoring: Pathogens, Disease, Pests
- Increased Coordination Among U.S. Agencies
  - Food Safety
  - Animal Health
  - Plant Health
- Improve Computer Hardware & Software Compatibility
Options to Ensure Integrity of Food Supply (continued)

- In the U.S. – Improve Diagnostics & Analytics: USDA, FDA, EPA
- Increase Coordination w/in North American Food, Animal, & Plant Health Agencies: USDA, CFIA
- Increase Outreach by U.S. to Other Food, Animal, & Plant Health Agencies in W. Hemisphere
- Expand the Border: Inspectors in Other Countries-similar to Canada
Example: U.S. Cantaloupe Imports

- U.S. Imports 400-500 TMT/Year of Cantaloupes
- Mexico, a Cantaloupe Producer Located Next to the U.S., Had a Significant Share of U.S. Market
- Following Outbreaks of Salmonella in Mexican Cantaloupes (NOTE: Not Intentional Outbreaks), FDA Halted Imports of in October 2002
- Central American Countries Filled Mexico’s Share of the Market
- Mexico Allowed to Resume Exporting Shortly Afterward But Yet to Reclaim Previous Market Share
  - No Agreement with FDA to Clarify until 2005
  - Competitors Reluctant to Give Up Share
Example: U.S. Cantaloupe Imports

- In 2012, Cantaloupe Imports dropped below 400 TMT first time in recent history
- Why?
  - Numerous food safety outbreaks in recent years
    - 2008 – Honduran cantaloupes with salmonella
    - 2011 – Guatemalan cantaloupes with salmonella
    - 2011 – Colorado cantaloupes with listeria (33 died)
    - 2012 – Indiana cantaloupes with salmonella (3 died)
- The U.S. outbreaks seem to have impacted imports more than outbreaks in imported cantaloupes
- Outbreaks in U.S. and imported products continue to happen (bagged salad anyone?)
Trade Disruption Impacts

- Actions of Dept. of Homeland Security, USDA, & FDA if Outbreak Occurs
  - Border Closings
    - Isolated
    - Complete

- Cargo Backlogs/Spoilage

- Disruption of Just-In-Time Delivery
Trade Disruption Impacts

• Supply Chain Disruption

• Higher Prices in U.S. Market

• Lower Prices in ROW

• Mexican Cantaloupe Example – Consider the Impacts if the Salmonella was Intentional!
  ◦ Would Have Shaken Confidence in Entire Food Supply
Thank You!!

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