

What does NAFTA actually say about Supply Management?

The World Trade Organization rules allow all 164 member countries – including Canada – to restrict or prohibit imports of a product if they do so to enforce government restrictions on the domestic production of the same product or one for which it can easily be substituted. NAFTA restricts Canada's use of this rule¹, limiting the authority to restrict such imports to 59 specific supply managed dairy, poultry and egg goods which are listed in Appendix 703.2.B.7 of NAFTA. As a result, Canada's participation in NAFTA has restricted our federal government's autonomy to expand supply management to cover additional goods if it wished to do so.

Here is the text of the World Trade Organization rule that allows countries to restrict or prohibit imports of a product if they do so to enforce government restrictions on the domestic production of the same product or one for which it can easily be substituted:

Article XI:2(c)(i) of the GATT

1. *No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.*
2. *The provisions of paragraph 1 of this Article shall not extend to the following:*
 - (c) *Import restrictions on any agricultural or fisheries product, imported in any form, * necessary to the enforcement of governmental measures which operate:*
 - (i) *to restrict the quantities of the like domestic product permitted to be marketed or produced, or, if there is no substantial domestic production of the like product, of a domestic product for which the imported product can be directly substituted*

And here is the portion of the NAFTA text that limits the application of the above WTO rule:

NAFTA Chapter Seven: Agriculture and Sanitary and Phytosanitary Measures, Section A – Agriculture

6. *Subject to this Section and for purposes of this Section, Canada and Mexico incorporate their respective rights and obligations with respect to agricultural goods under the GATT and agreements negotiated under the GATT, including their rights and obligations under Article XI of the GATT.*
7. *Notwithstanding paragraph 6 and Article 309:*
 - *a) the rights and obligations of the Parties under **Article XI:2(c)(i) of the GATT** and those rights as incorporated by Article 309 shall apply with respect to trade in agricultural goods only to the dairy, poultry and egg goods set out in **Appendix 703.2.B.7**; and*
 - *adopt or maintain a prohibition or restriction or a customs duty on the importation of such good consistent with its rights and obligations under the GATT.*

Appendix 703.2.B.7

Dairy, Poultry and Egg Goods

Note: (For purposes of reference only, descriptions are provided next to the corresponding tariff provision).

Schedule of Canada - *For Canada, a dairy, poultry or egg good is a good provided for in one of the following Canadian tariff items: (see <http://bit.ly/2shlv5y> for the list of specific dairy, poultry and egg products)*

¹ Article XI:2(c)(i) of the General Agreement on Tariffs and Trade (GATT)