

## ***The Defending Domestic Produce Production Act*** (S. 16 and H.R. 101)

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**Critical Need for Trade Remedy Reforms for Seasonal Produce:** In virtually every year since NAFTA took effect, the Mexican fruit and vegetable industry has made larger and larger inroads in the US market due to unfair pricing and subsidy practices. While these Mexican inroads initially hit a few core US sectors (tomatoes, bell peppers, cucumbers, and squash), over time Mexico has flooded the US winter market with unfairly priced strawberries, blueberries, watermelon, and a range of other seasonal products as well.

Southeast produce growers impacted by these imports depend on a narrow marketing window -- often no more than a matter of weeks -- to sell their perishable goods and sustain their businesses. When competing imports from Mexico flood the US market at dumped or subsidized prices during that narrow window, Southeast growers do not have the option of storing their crops until market prices stabilize. They critically need import relief.

Although US anti-dumping (AD) and countervailing duty (CVD) laws are intended to be available to all manufacturing and agricultural sectors to address injury from dumped or subsidized imports, current US laws measure injury based on national, year-round, total US industry data. That full-year orientation denies US seasonal and perishable agricultural producers fair and effective access to import relief remedies

**Call for Reforms by Congress and Executive Branch:** For at least the past 15 years, Congress has recognized that seasonal and perishable sectors need improved AD and CVD laws to address their special trade circumstances. The 2015 Trade Promotion Authority Act (TPAA) expressly calls on all new US trade deals to “eliminate practices that adversely affect trade in perishable or cyclical products,” while “improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture.” The Trump Administration has also expressly called for “a separate domestic industry provision for perishable and seasonable products in AD/CVD proceedings” under its *Summary of Objectives for the NAFTA Renegotiation*. Nevertheless, USMCA as now drafted fails to accomplish these vital reforms for the seasonal and perishable sectors.

**Legislative Solution:** In early 2019, *The Defending Domestic Produce Production Act* was introduced by Senator Marco Rubio (R-FL) (S.16) and by Congressmen Vern Buchanan (R-FL) and Al Lawson (D-FL) (H.R.101) to correct this USMCA omission and ensure that US import relief mechanisms recognize the unique characteristics of seasonal and perishable agriculture, as mandated by TPAA.

In basic terms, the legislation would define the relevant industry in AD/CVD cases involving seasonal and perishable produce to be those where a majority of the production in a State or group of States is produced during a discrete season that concludes not later than eight weeks after the date in which the produce is harvested, and substantially all of that production is sold during that discrete season. The bills would also limit the investigation period and any final AD/CVD order to that same discrete season.

S.16 and H.R.101 need urgent action. Mexico’s unfair produce shipments continue to trend upward, and its new President has announced his near-term intention to invest substantially more “seed capital” in the produce sector to plant a million more hectares of fruit.

***Unless the Defending Domestic Produce Production Act (S.16 and H.R.101) is passed and implemented before USMCA is enacted, the Southeast fruit and vegetable sectors will continue to suffer crippling harm from unfairly priced Mexican produce and eventually cease to exist.***