Federal Trade -- NAFTA

Provisions within NAFTA have negative impacts on American wine exports that must be changed

The North America Free Trade Agreement (NAFTA), which took effect in 1994, created a set of rules for trade between the US, Mexico and Canada. Its intent was to stimulate economic growth, give the three countries equal access to each other's markets, and superseded a previous trade agreement, the 1987 Canada-U.S. Free Trade Agreement (CUSFTA). NAFTA lifted tariffs on most goods produced by the U.S., Mexico and Canada, and called for gradual elimination, over 15 years, of most remaining barriers to trade among the three countries.

Renegotiation of NAFTA began on August 16, 2017. Proposed changes include increased enforcement of environmental and labor regulations in Mexico, updates regarding information-age technology and products, and modifications to the dispute resolution process with Mexico and Canada. Negotiations are continuing, with the next round of talks scheduled for April 2018.

After the negotiating teams reach agreement on changes to NAFTA, the revised agreement must be approved by the U.S. Congress, the Canadian Parliament, and the Mexican Congress. In the U.S., Congressional approval consists of a yes or no vote; no amendments are allowed. The vote by the Canadian Parliament is similar to the U.S. Congress vote. If the changes to NAFTA are not significant, the Mexican President has authority to implement the new agreement without approval of the Mexican Congress.

After the revised NAFTA is signed, state, provincial and local governments will need to pass laws to implement the revised agreement.

If the NAFTA negotiations fail, then the countries can withdraw from the agreement with a six-month warning.

How does NAFTA impact my winery?

Since NAFTA, U.S. wine exports have steadily increased, reaching an all-time high of $1.61 billion in 2015. Canada is the largest foreign buyer of U.S. wine, with annual exports increasing from $35 million in 1994 (prior to NAFTA) to over $430 million in 2016. In Mexico, exports have increased from $7 million to $24 million during the same time period. However, under NAFTA, there still remain some barriers to trade.

NAFTA retains protections originally included in CUSFTA for what was then a newly emerging wine industry in Canada. These included restrictions on listing, distributing, transporting and sale of imported wine.

Every province in Canada has set its own formula for markups, taxes and fees on wine which is discriminatory for imported wines. In addition, the Canadian federal government charges an excise tax and a goods and services tax. Some provinces add bottle fees, environmental fees and bottle deposit fees to the wine cost. The total fees can nearly double the cost of an imported bottle of wine, while a markup exemption is provided for Canadian wines in British Columbia, Quebec and Ontario. In British Columbia, wine from the U.S. is prohibited from being sold on the same grocery shelf as Canadian wine, while other provinces provide preferential shelf space in stores for domestic wine.

In January 2017, the U.S. brought claims to the World Trade Organization regarding regulations in British Columbia that prohibit U.S. wine and other imported wine from being sold on the same grocery shelf as provincial wines.

Drawback restrictions are another concern for the U.S. wine industry. Drawback is a refund, reduction or waiver of duties collected for imports. The U.S. Bureau of Customs and Border Protection is the agency that oversees the drawback program. NAFTA established the drawback refund as the lesser of the duties paid on imports into the NAFTA country and amount paid when the item is exported. In the U.S., import duties and federal excise taxes can be refunded on imports of non-sparkling wine with less than 14 percent alcohol when a wine broker matches imports with exports of wines that are legally defined as “interchangeable”. NAFTA prohibits drawback for wine exported to Canada or Mexico. However, those two countries have enacted internal programs providing relief to their wine industries from the NAFTA drawback restrictions, while no such relief exists for the U.S. wine industry.

What is Winegrowers doing for you?

Winegrowers supports state and national wine and agriculture industry groups’ advocacy for updates to NAFTA that would remove provisions that create barriers to sale of U.S. wine in Canada, remove restrictions on duty drawback for wine, and include provisions to protect intellectual property. Winegrowers supports the following principles:

- End prohibition on Duty Drawback;
- End discriminatory benefits provided to Canadian wineries in British Columbia and Ontario; and
- End Canadian import markups.

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