

**AGREEMENT BETWEEN
THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE AND
THE DEPARTMENT OF COMMERCE
OF THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF ECONOMY OF
THE UNITED MEXICAN STATES
(SECRETARIA DE ECONOMIA)
ON
TRADE IN CEMENT**

The Office of the United States Trade Representative (“USTR”) and the Department of Commerce (“DOC”) of the United States of America, of the one part, and the Ministry of Economy of the United Mexican States (“Secretaria de Economía” or “SE”) of the other part; (hereinafter referred to as the “Parties”) enter into this Agreement (the “Agreement”):

Desiring to resolve the numerous trade disputes arising from the Mexican Cement Order and to promote more liberal and stable trade in cement between Mexico and the United States;

Reaffirming the rights, obligations, and undertakings of the United States and Mexico under the North American Free Trade Agreement (“NAFTA”) and the Marrakesh Agreement Establishing the World Trade Organization (“WTO”) (including the Agreement on Implementation of Article VI of the GATT 1994);

Sharing a common interest in liberalizing trade in, and facilitating the cross-border movement of, cement between the territories of the United States and Mexico, consistent with the NAFTA;

Desiring to ensure the satisfactory resolution of a dispute settlement proceeding in the WTO and numerous proceedings under Chapter 19 of the NAFTA relating to the Mexican Cement Order;

Desiring, after a period during which trade in cement would be governed through trade liberalizing measures, to terminate the Mexican Cement Order; and

Noting the trade-liberalizing objectives of the Security and Prosperity Partnership of North America announced by President Fox and President Bush on March 23, 2005;

HAVE AGREED AS FOLLOWS:

I. Definitions

For purposes of this Agreement, the following definitions shall apply:

- A. “Act” means the United States antidumping law, as contained in Title VII of the Tariff Act of 1930, Sections 731 *et seq.*, 19 U.S.C. Sections 1673, *et seq.*, as amended.
- B. “Circumvention” means:
 - 1. The exportation of Mexican Cement by a Mexican Cement Producer, any person or enterprise in Mexico, or any person or enterprise outside of Mexico that is, as a matter of fact and law, acting on behalf of a Mexican Cement Producer, to a Sub-region that:
 - a. is not accompanied by an Export License;
 - b. for which an Import License has not been issued, once the U.S. Import License system has been established; or
 - c. exceeds in quantity the Export Limits for any Sub-region or the Export Rights allocated by SE to the producer of that cement; or
 - 2. Shipping from Mexico to the United States, through third countries, Mexican Cement that is unaccompanied by an Export License;

except for any such exports that are inconsequential, inadvertent, or do not substantially frustrate the purposes of this Agreement.

- C. “Date of Export” means the date on which SE issues an Export License.
- D. “Effective Date” means April 3, 2006.
- E. “Escrow Accounts” means the accounts at SunTrust Bank established pursuant to the Escrow Agreement.
- F. “Escrow Agreement” means the agreement entered into by the individual members of the Southern Tier Cement Committee (“STCC”), Holcim (US) Inc. (“Holcim”), Capitol Aggregates, Ltd. (“Capitol Aggregates”), and the U.S. importers of record of Mexican Cement produced by CEMEX and GCCC, on the date of this Agreement, CEMEX Cement, Inc. (formerly known as Sunbelt Cement, Inc.) (“CEMEX Cement”), Gulf Coast Portland Cement Co. (formerly known as HM Gulf Coast Portland Cement Company)(“Gulf Coast Portland Cement”), and Rio Grande Portland Cement Corp. and its successor, GCC Rio Grande, Inc. (collectively “GCC Rio Grande”). The Escrow Agreement is attached to this Agreement as Appendix 13.
- G. “Export License” means the document issued by SE in a given Export Limit Period (containing the information described in Appendix 22) that authorizes an exporter in Mexico to export a certain quantity of Mexican Cement during a given 90 day period specified in the Export License and to a given Sub-region.
- H. “Export Limit” means the quantity of Mexican Cement permitted to be exported (based upon the Date of Export) under Section III of this Agreement from Mexico to a given Sub-region during a given Export Limit Period.
- I. “Export Limit Period” means one of the following periods:
- First Export Limit Period -- The period beginning on April 3, 2006 (the Effective Date) and ending on March 31, 2007.
- Second Export Limit Period -- The period beginning on April 1, 2007, and ending on March 31, 2008.
- Third Export Limit Period -- The period beginning on April 1, 2008, and ending on March 31, 2009.

J. “Export Rights” means the share of the Export Limit for a given Sub-region and Export Limit Period assigned by SE to a specific Mexican Cement Producer.

K. “Import License” means the number generated by the automatic import licensing system established by DOC (based on the information supplied by the U.S. importer of record as described in Appendix 20).

L. “Mexican Cement” means gray portland cement and clinker from Mexico. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than being ground into finished cement. Specifically included within the scope of this definition are pozzolanic blended cements and oil well cements. Specifically excluded are white cement and Type “S” masonry cement as defined in the DOC’s April 25, 1996, scope determination (61 FR 18381). Gray portland cement is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item number 2523.29 and cement clinker is currently classifiable under HTSUS item number 2523.10. Gray portland cement has also been entered under HTSUS item number 2523.90 as “other hydraulic cements.” These HTSUS subheadings are provided for convenience and USCBP purposes; the written definition is controlling for purposes of this Agreement.

M. “Mexican Cement Order” means the U.S. antidumping duty order on Mexican Cement issued on August 30, 1990 (55 FR 35443).

N. “Mexican Cement Producers” means the producers of Mexican Cement on the Effective Date or at any time while this Agreement is in force, including the Mexican Cement Producers Cementos Mexicanos of Mexico, S.A. de C.V. (“CEMEX”), GCC Cemento, S.A. de C.V. (and its predecessor-in-interest, Cementos de Chihuahua, S.A. de C.V. (“GCCC”), Holcim Apasco, S.A. de C.V. (“Apasco”), Cooperativa Cruz Azul, S.C.L. (“Cruz Azul”), Cementos Moctezuma, S.A. de C.V. (“Moctezuma”), and Lafarge Cementos, S.A. For purposes of this Agreement, CEMEX and GCCC are considered to be unrelated and unaffiliated entities.

O. “Southern Tier” means the region of the United States that is comprised of the following states: California, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, and Florida.

P. A “Sub-region” means one of the following regions:

“Alabama/Mississippi,” which comprises the state of Alabama and the state of Mississippi;

“Arizona,” which comprises the state of Arizona;

“California,” which comprises the state of California;

“Florida,” which comprises the state of Florida;

“New Mexico/El Paso,” which comprises the state of New Mexico and the following counties in the state of Texas: Cochran, Hockley, Lubbock, Yoakum, Terry, Lynn, Gaines, Dawson, Andrews, Martin, El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Midland, Ward, Crane, Upton, Jeff Davis, and Pecos;

“Texas,” which comprises all of the counties in the state of Texas not included in the “New Mexico/El Paso” Sub-region;

“New Orleans,” which comprises the state of Louisiana; and

“Rest of the United States,” which comprises all other states, territories, and regions of the United States.

Q. “Southern Tier Cement Committee” means the coalition currently comprised of the following companies (including their predecessors and successors in interest): Alamo Cement Co., Arizona Portland Cement, Ash Grove Cement Co., Inc., Ash Grove Texas LP, Buzzi Unicem USA Inc., California Portland Cement Co., Eagle Materials, Inc., Florida Crushed Stone Co., Giant Cement Holding Inc., Hanson Permanente Cement, Lafarge Building Materials, Inc., Lehigh Cement Co., Lafarge North America, Inc., Lehigh Southwest Cement Co., Lone Star Industries, Inc., National Cement Co. of Alabama, National Cement Co. of California, Rinker Materials Corp., Salt River Materials Group, Suwannee American Cement Company, Inc., Texas Industries, Inc., Texas-Lehigh Cement Co., and Titan America LLC.

R. The “Committee for Fairly Traded Mexican Cement” means the coalition currently comprised of the following companies (including their predecessors and successors in interest): TXI Riverside Cement Co. and all of the members of the STCC except Ash Grove Cement Co., Inc.; Buzzi Unicem USA Inc.; Eagle Materials, Inc.; Giant Cement Holding Inc.; and Lafarge North America, Inc. This Committee (rather than the STCC) is the party to the sunset proceedings involving the Mexican Cement Order before the DOC and the International Trade Commission (“ITC”) and the related NAFTA panel proceedings.

S. “United States” means the customs territory of the United States of America and all foreign trade zones located in the territory of the United States of America.

T. “USCBP” means United States Customs and Border Protection.

U. “1999 Sunset Review” means the five year review of the Mexican Cement Order under 19 U.S.C. §1675(c) initiated by DOC in August 1999.

V. “2005 Sunset Review” means the five year review of the Mexican Cement Order under 19 U.S.C. §1675(c) initiated by DOC on October 3, 2005.

II. General Provisions

A. This Agreement shall enter into force on the Effective Date, provided that all of the following events have occurred:

1. SE has established an Export License system for all exports of Mexican Cement to the United States.
2. The parties in the following NAFTA panel proceedings concerning DOC determinations have entered into a settlement agreement and, with the consent of the other parties, DOC has filed a Notice of Motion requesting termination of the Panel reviews, as of the Effective Date, pursuant to Rule 71(2) of the NAFTA Rules of Procedure for Article 1904 Panel Reviews:

In the Matter of Gray Portland Cement and Clinker from Mexico,
Secretariat File No. USA-MEX-1998-1904-02 (6th Administrative Review);

In the Matter of Gray Portland Cement and Clinker from Mexico,
Secretariat File No. USA-MEX 2000-1904-03 (8th Administrative Review);

In the Matter of Gray Portland Cement and Clinker from Mexico,
Secretariat File No. USA-MEX-2001-1904-04 (9th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico,
Secretariat File No. USA-MEX-2002-1904-05 (10th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico,
Secretariat File No. USA-MEX-2003-1904-01 (11th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico,
Secretariat File No. USA-MEX-2003-1904-03 (12th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico,
Secretariat File No. USA-MEX-2004-1904-03 (13th Administrative Review);

In the Matter of Gray Portland Cement and Clinker From Mexico,
Secretariat File No. USA-MEX-2006-1904-03 (14th Administrative Review); and

In the Matter of Gray Portland Cement and Clinker From Mexico,
Secretariate File No. USA-MEX-2000-1904-05 (DOC Final Results of the
1999 Sunset Review).

The settlement agreement and Notices of Motion are attached to this Agreement as
Appendix 1.

3. The ITC has filed, with the consent of CEMEX and GCCC, a Notice of Motion
requesting termination of the panel review below, as of the Effective Date,
pursuant to Rule 71(2) of the NAFTA Rules of Procedure for Article 1904 Panel
reviews:

ITC Dismissal of a Request to Institute a Section 751(b) Review
(USA-MEX 2002-1904-01).

The Notice of Motion is attached to this Agreement As Appendix 1.

4. DOC has taken each of the following actions:
 - a. Issued instructions to USCBP to liquidate entries of Mexican Cement produced by CEMEX or GCCC that were imported by CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande (listed on USCBP Form 4811 designating SunTrust Bank as the agent), at the rate of ten U.S. cents (\$0.10) per metric ton, and to refund to the Escrow Accounts the deposits of estimated duties in excess of that rate, with all accrued interest thereon. DOC shall work with USCBP, CEMEX, and GCCC to ensure that all of CEMEX's and GCCC's entries are liquidated pursuant to this provision. These instructions are attached to this Agreement as Appendix 2;
 - b. Issued instructions to USCBP, pursuant to the settlement of the NAFTA litigation arising from the 14th administrative review of the Mexican Cement Order (*Gray Portland Cement and Clinker from Mexico: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 2909 (January 18, 2006)), to change the estimated duty deposit rate for CEMEX and GCCC to three U.S. Dollars (\$3.00) per metric ton as of the Effective Date. Copies of these instructions are attached to this Agreement as Appendix 3. DOC shall publish a Notice in the *Federal Register* within 10 days of the Effective Date amending the final results of the 14th administrative review and announcing the new deposit rate. A copy of the Notice is attached to this Agreement as Appendix 4;
 - c. Signed a determination (the text of which is attached to this Agreement as Appendix 5), that will be published in the *Federal Register* within 10 days of the Effective Date, rescinding, pursuant to 19 C.F.R. § 351.213(d)(1), all administrative reviews of the Mexican Cement Order in progress on the Effective Date; and
 - d. Suspended the 2005 Sunset Review of the Mexican Cement Order.
5. CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have each executed an irrevocable power of attorney (all of which are attached to the Agreement in Appendix 6) appointing SunTrust Bank as its attorney-in-fact to take all actions required for receiving and depositing into the Escrow Accounts all refunds pursuant to this Agreement of estimated antidumping duties on Mexican Cement.

6. DOC, CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have entered into settlement agreements, pursuant to Section 617 of the Tariff Act of 1930, 19 U.S.C. §1617, that take effect on the Effective Date, providing for the liquidation of all entries of Mexican Cement produced by CEMEX and GCCC entered from August 1, 2004, through April 2, 2006, at the rate of ten U.S. cents (\$0.10) per metric ton. These settlement agreements are attached to this Agreement as Appendix 7.
7. The World Trade Organization (WTO) panel in *United States – Anti-Dumping Measures on Cement from Mexico* (WT/DS281) has granted the Government of Mexico’s request for suspension of the panel proceedings, pursuant to Article 12.12 of the WTO’s Understanding on Rules and Procedures Governing the Settlement of Disputes. The communication from the Chairman of the panel granting this request is attached to this Agreement as Appendix 8.
8. CEMEX, GCCC, and the STCC and its members have filed documents, as appropriate, through their counsel, with DOC (attached to this Agreement as Appendix 9):
 - a. Withdrawing all outstanding requests for administrative reviews of the Mexican Cement Order under Section 751 of the Act and requesting DOC to rescind all administrative reviews in progress as of the Effective Date;
 - b. Requesting DOC to lift any suspension of liquidation under 19 U.S.C. §1516a(g)(5)(C)(i) and 19 C.F.R. §356.8 in connection with NAFTA panel reviews of DOC administrative reviews concerning all entries of Mexican Cement that entered the United States before the Effective Date; and
 - c. Requesting DOC to lift the suspension of liquidation instituted by DOC under 19 U.S.C. §1516a(g)(5)(C)(i) and 19 C.F.R. §356.8, pursuant to the NAFTA litigation covering the 1999 Sunset Review:
 1. of all entries of Mexican Cement that entered the United States before the Effective Date; and

2. of all entries of Mexican Cement covered by any administrative review of such entries during an administrative review period ending after the Effective Date (following the end of the period for requesting that administrative review), so that those entries can be liquidated in accordance with this Agreement (provided that this Agreement remains in force at the time liquidation is ordered).
9. CEMEX, GCCC, and Apasco have each filed an irrevocable letter with DOC (attached to this Agreement as Appendix 10) agreeing, in the event the submitter of the letter has been found to have engaged in Circumvention, to participate in any accelerated changed circumstances review conducted by DOC (pursuant to Paragraph VII.C) to establish a new estimated antidumping duty deposit rate, by:
 - a. Filing with DOC, within two weeks of receiving a written request, a submission with sufficient information to enable DOC to calculate a weighted-average dumping margin, based on the company's sales in the two most recent quarters;
 - b. Permitting DOC to verify the submission in Paragraph II.A.9.a;
 - c. Waiving the company's right to participate in the changed circumstances review, other than by filing with DOC the submission described in Paragraph II.A.9.a and one administrative brief two weeks before DOC's final determination is scheduled to be issued; and
 - d. Accepting that, if it does not make the submission described in Paragraph II.A.9.a, DOC shall determine the new estimated duty deposit rate on the basis of the facts available to be \$42.63 per metric ton (the average of the calculated rates for the 12th and 13th administrative review periods).
10. CEMEX, GCCC, the Committee for Fairly Traded Mexican Cement, and the ITC have obtained from the NAFTA panel reviewing the determination of the ITC in the 1999 Sunset Review a Notice of Suspension of Panel Review, and the ITC has filed a Notice of Motion of Termination of Panel Review (*ITC Sunset Review of the Antidumping Duty Order*, USA-MEX-2000-1904-10) (attached to this Agreement as Appendix 11) that, respectively, will:
 - a. suspend the Panel proceeding for as long as this Agreement remains in force; and

- b. terminate the Panel proceeding upon notification by DOC to the NAFTA Secretariat that DOC has revoked the Mexican Cement Order as to CEMEX and GCCC, or DOC has determined not to revoke the Mexican Cement Order as to CEMEX or GCCC pursuant to Section XI.B. of this Agreement.
- 11. The Committee for Fairly Traded Mexican Cement, CEMEX, GCCC, and Apasco have filed with the DOC, through their counsel, a letter (attached to this Agreement as Appendix 12):
 - a. expressing their shared view that, while this Agreement remains in force, the 2005 Sunset Review is neither required nor permitted, and should be suspended; and
 - b. requesting DOC, if this Agreement has not been terminated before March 31, 2009, to terminate the 2005 Sunset Review on that date.
- 12. The STCC members, Capitol Aggregates, Holcim, CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have entered into the Escrow Agreement attached to this Agreement as Appendix 13.
- 13. The STCC and its members, Holcim, Capitol Aggregates, CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have each filed with DOC, either themselves or through their counsel, an irrevocable letter (attached to this Agreement as Appendix 14), effective on the Effective Date, stating, as appropriate, that:
 - a. While this Agreement remains in force, the party submitting the letter will not request any review under Section 751 of the Act of any Mexican Cement Producer that has not engaged in Circumvention. In the event that a Mexican Cement Producer engages in Circumvention, the party submitting the letter reserves the right to request an administrative review and a changed circumstances review only of exports by that Mexican Cement Producer;
 - b. Provided that this Agreement has not been terminated before March 31, 2009, the party submitting the letter has “no interest” in maintaining the Mexican Cement Order after the expiration of this Agreement, except with respect to any Mexican Cement Producer that has substantially exceeded the Export Rights allocated to it by SE for any Sub-region for the Third Export Limit Period; and

- c. The party shall not file a petition requesting remedies with respect to Mexican Cement under the Act, the U.S. countervailing duty law, Sections 201-204 of the Trade Act of 1974, as amended, or Sections 301-305 of the Trade Act of 1974, as amended, for the duration of this Agreement and for a period of nine (9) months after this Agreement expires and will oppose any such petition filed by any other person or enterprise during that period.
14. Representatives of SunTrust Bank, the institution responsible for the Escrow Accounts, have completed two copies of Form 5106, and CEMEX Cement, Gulf Coast Portland Cement and GCC Rio Grande have filed such copies of Form 5106 with USCBP, providing Suntrust Bank's addresses for purposes of receipt of refunds and interest payments from USCBP. One copy of Form 5106 will provide an agent's number for the account used by CEMEX Cement and Gulf Coast Portland Cement. The second copy will provide an agent's number for the account used by GCC Rio Grande. These copies are attached to this Agreement as part of Appendix 15.
15. CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande have each filed with USCBP:
 - a. A Form 4811 for each U.S. port of entry having entries of Mexican Cement that will be covered by a settlement under this Agreement, directing USCBP to send all refunds of estimated antidumping duty deposits pursuant to such a settlement to the importers of record in care of SunTrust Bank (also attached to this Agreement as Appendix 15);
 - b. A blanket statement of non-reimbursement, pursuant to 19 CFR § 351.402(f)(2), certifying that it has not entered into any agreement or understanding for the payment of all or any part of antidumping duties by the manufacturer, producer, seller or exporter of the subject merchandise (attached to this Agreement as Appendix 16); and
 - c. A waiver (attached to this Agreement as Appendix 17) of the right under 19 U.S.C. §1514 to protest the liquidation of the entries subject to this Agreement, other than to contest and correct:
 1. the rate at which the entry was liquidated if the rate is other than the rate contained in the DOC instructions;

2. the calculation of the refund; or
 3. clerical errors and mistakes of fact, following consultation with both DOC and SE, and agreement by both DOC and SE that the error or mistake is, indeed, clerical in nature or, indeed, a mistake of fact.
16. CEMEX Cement, Gulf Coast Portland Cement and GCCC Rio Grande have each certified to DOC that they have supplied a complete list of all entries covered by the settlement in connection with this Agreement (attached to this Agreement as Appendix 18).
- B. The Parties undertake the following obligations once this Agreement has entered into force (provided that this Agreement remains in force):
1. SE shall not issue an Export License to any Mexican Cement Producer that has not filed the letter described in Paragraph II.A.9 of this Agreement.
 2. DOC shall publish in the *Federal Register*, within 10 days of the Effective Date, the notice (attached to this Agreement as Appendix 19) describing this Agreement.
 3. DOC shall notify SunTrust Bank in writing, within 10 days of the Effective Date, that this Agreement has become effective.
 4. DOC shall publish in the *Federal Register*, within 10 days of the Effective Date, the notice (attached to this Agreement as Appendix 5) announcing the termination of all ongoing annual administrative reviews of the Mexican Cement Order.
 5. To the extent that DOC does not receive a request for an administrative review of entries subject to the Mexican Cement Order at the close of each period for requesting such an administrative review, DOC shall order liquidation of all entries under the Mexican Cement Order at the deposit rate in effect upon the date of entry, pursuant to 19 CFR § 351.212. If, while this Agreement is in force, DOC receives a request for an administrative review of entries of Mexican Cement produced or exported by a Mexican Cement Producer, DOC shall conduct that review as required by 19 U.S.C. Section 1675(a). However, DOC intends to settle, under 19 U.S.C. §1617, the claim for the antidumping duties on the entries covered by the request at the estimated duty deposit rate in effect on the date of entry. In

deciding whether to reach such a settlement, DOC shall take into account whether Circumvention has occurred and whether SE has compensated for the Circumvention.

6. Upon request, DOC shall conduct an expedited changed circumstances review to establish a new estimated duty deposit rate for any Mexican Cement exporter (and its affiliated parties) that:
 - a. had an estimated duty deposit rate under the Mexican Cement Order;
 - b. did not receive the new estimated duty deposit rate of three U.S. dollars (\$3.00) per metric ton referenced in Section II.A.4.b of this Agreement; and
 - c. exported Mexican Cement to the United States in the year preceding the Effective Date or exports Mexican Cement to the United States while this Agreement remains in force.

7. DOC shall conduct an expedited new shipper review, upon request, of each Mexican exporter and its affiliated parties that:
 - a. did not have an estimated duty deposit rate established under the Mexican Cement Order;
 - b. exports Mexican Cement to the United States while this Agreement remains in force; and
 - c. has satisfied all of the applicable certification requirements of 19 CFR § 351.214(b).

8. DOC shall establish an automatic Import License system for Mexican Cement for the purpose of monitoring the level of imports of Mexican Cement. Once this Import License system is in operation, each importer of record of Mexican Cement will be required to include the U.S. Import License number on the entry summary (or its electronic equivalent) provided to USCBP upon entry into the United States. The list of information required on each Import License application is attached as Appendix 20.

9. DOC shall rely on the representations contained in the letters submitted by STCC, CEMEX, GCCC, Capitol Aggregates, and Holcim, through counsel, referenced in

Section II.A.13.b of this Agreement, as the basis for the commitments made by DOC in Sections IX and XI of this Agreement.

10. If this Agreement remains in force on January 2, 2007, SE and USTR shall ensure that their respective governments notify the WTO Dispute Settlement Body, pursuant to Article 3.6 of the WTO Dispute Settlement Understanding, that they have arrived at a mutually agreed solution to the dispute *United States - Anti-Dumping Measures on Cement from Mexico* (WT/DS281).
11. If this Agreement terminates before March 31, 2009, DOC promptly shall resume the 2005 Sunset Review and inform the ITC of the new circumstances.

C. This Agreement is without prejudice to the position of any Party regarding the validity of the Mexican Cement Order or the merits of any litigation related to the Mexican Cement Order.

III. Export Limits and Export Licensing

A. SE shall ensure that no Mexican Cement is exported (based on the Date of Export) from Mexico to the United States in a quantity that exceeds the Export Limits set forth below. SE shall ensure that no Mexican Cement is exported (based on the Date of Export) from Mexico to the United States without an Export License.

1. The Export Limits for Mexican Cement for the First Export Limit Period for each Sub-region shall be:

a.	Alabama/Mississippi	55,000 metric tons
b.	Arizona	1,250,000 metric tons
c.	California	150,000 metric tons
d.	Florida	200,000 metric tons
e.	New Mexico/El Paso	725,000 metric tons
f.	New Orleans	280,000 metric tons
g.	Texas	215,000 metric tons
h.	<u>Rest of United States</u>	<u>125,000 metric tons</u>
	Total	3,000,000 metric tons

2. DOC shall adjust the Export Limit for each Sub-region for the Second and Third Export Limit Periods as follows:
 - a. Export Limit calculation: DOC shall increase or decrease the Export Limit for the previous Export Limit Period by the percent change (up to 4.5 percent) in apparent consumption of cement in that Sub-region during the most recent 12 months for which data is available at the time DOC makes this calculation, as compared to the previous 12 months (as described in Appendix 21). DOC shall provide to SE, STCC, Holcim, and Capitol Aggregates, no later than 60 days before the beginning of the Second and Third Export Limit Periods, the Export Limits for that period.
 - b. Adjustment for New Orleans: DOC shall increase the base Export Limit calculated under Paragraph III.A.2.a for New Orleans by 25,000 metric tons and decrease the base Export Limit for the Rest of the United States by 25,000 metric tons. This one-time adjustment to the base Export Limit shall apply to both the Second and Third Export Limit Periods.
3. DOC and SE shall consult, as necessary, regarding whether any of the Export Limits should be increased (after all other adjustments provided for by this Agreement) by a combined total for all Sub-regions of up to 200,000 metric tons in any Export Limit Period, in order to respond to increased U.S. demand for cement in connection with a declaration of a state of emergency as the result of a disaster. DOC shall only accept an application for an Import License from a U.S. importer of record of such additional Mexican Cement that states that the imports will be used for the purpose of disaster relief.
4. SE may carry over to the next Export Limit Period or carry back to the current Export Limit Period up to 8 percent of the Export Limit for each Sub-region (except for Arizona, for which the allowed carry-over or carry-back is 5 per cent). The quantity permitted to be carried over or carried back under this paragraph shall be calculated on the basis of the Export Limit before any adjustment under Paragraph III.A.2.a (for changes in apparent consumption) or adjustments under Paragraph III.A.2.b (for New Orleans and the Rest of the United States), or any increase under Paragraph III.A.3 with respect to a state of emergency.

B. SE shall allocate Export Rights to Mexican Cement Producers in accordance with the Export Limits specified or calculated under Section III.A., taking into consideration each producer's exports to the United States during the previous five year period. SE shall reserve at least 6 percent by volume of the Export Limit for exports of Mexican Cement Producers which have not previously shipped Mexican Cement to the United States during the last five years.

C. SE shall not issue Export Licenses authorizing the export of a quantity of Mexican Cement to any Sub-region in any half of any Export Limit Period that exceeds 60 percent of the Export Limit for that Sub-region for that Export Limit Period (before any carry forward or carry back adjustments provided for in this Agreement). This provision shall not apply to exports to the Sub-regions of Alabama/Mississippi and the Rest of the United States.

D. SE shall enforce the Export Limits under the Mexican Foreign Trade Law ("Ley de Comercio Exterior") by establishing an Export License system in accordance with Articles 4III, 5V, 15II, 21, 23 and 24 of that law, and the relevant provisions of the Foreign Trade Law Regulations.

IV. Implementation

A. Under the Export License system, SE shall permit exports (based upon the Date of Export) of Mexican Cement to the United States only when the shipment is accompanied by a valid Export License.

B. Each Export License shall:

1. Contain all of the information set out in Appendix 22 to this Agreement (an official translation in English) and identify the time period for which the Export License is effective. Additional information may be included on the Export License or, if necessary, on a separate page attached to the Export License.
2. Be issued sequentially by each regional office of SE in Mexico and counted against the Export Limit and Export Rights for the relevant Export Limit Period for each Sub-region. Export Licenses shall remain valid for entry into the United States for 90 days. DOC and SE may agree to an extension of the validity of the Export License in extraordinary circumstances.

3. Be issued in the Spanish language.

C. DOC shall require that each importer submit to USCBP, with its entry summary package, a valid Export License. For multiple shipments at multiple ports or multiple entries at one port, the original license shall be presented with the first entry and a copy of the Export License shall be presented with each subsequent entry.

D. DOC shall deduct from the amount authorized on each Export License the quantity of each shipment reported on corresponding Import Licenses for the appropriate Export Limit for the given Sub-region for the Export Limit Period, based on the Date of Export. The validity of an Export License shall not be affected by any subsequent change of an HTSUS number.

E. SE shall take the following measures to ensure compliance with the Export Limits:

1. Ensure that no Mexican Cement is exported from Mexico (based on the Date of Export) for entry into the United States that exceeds the applicable Export Limit for each applicable Sub-region or Export Rights for each Mexican Cement Producer.
2. Ensure that each Mexican Cement Producer certifies, when applying for an Export License, that it will deliver Mexican Cement only to the specified Sub-region for which the Export License is being requested.
3. _____ Ensure that each Mexican Cement Producer that exports Mexican Cement to the United States certifies, when applying for an Export License, that it will provide to SE and DOC a monthly report specifying the date of sale, quantity, the complete name and address (including county) of each affiliated and unaffiliated purchaser to whom Mexican Cement was sold, and the Export License numbers pursuant to which the Mexican Cement that was sold during that month was imported into the United States. This monthly report shall be due 30 days after the end of each month (or the next business day).
4. Permit verification by DOC of all information concerning the enforcement of the Export Limits on an annual basis, to the extent not prohibited by Mexican Law.

V. Market Access

A. SE and DOC are committed to identifying and addressing any barriers to market access that may prevent open and stable trade in cement between the United States and Mexico. SE and DOC promptly and completely shall investigate, as appropriate, any specific allegation, based on evidence, of a market access barrier or an unfair trade or business practice that may prevent cement from the other country from entering its market.

B. SE and DOC, shall, with the support of the Mexican and U.S. cement industries, establish a North American Cement Committee in order to facilitate cement trade between Mexico and the United States. The Parties shall hold the first meeting of the new cement committee within six months of the Effective Date. The committee will analyze possible mechanisms that could promote cement trade between the United States and Mexico, such as:

1. International buyer delegations: Encourage delegations of Mexican buyers/end-users of cement and cement products to participate in major trade shows in the United States, and U.S. buyers/end-users of cement and cement products to participate in major trade shows in Mexico.
2. Technical seminars: Co-host technical seminars at relevant trade shows in Mexico and the United States to discuss new products and to present U.S. producers to the Mexican industry, and Mexican producers to the U.S. industry, respectively.
3. Trade missions: Co-host trade missions to Mexico and the United States of U.S. cement (and related products) producers and Mexican cement (and related products) producers, respectively.
4. Market research and trade leads: Facilitate the collection and dissemination of information on market opportunities for U.S. cement products in Mexico, and Mexican cement products in the United States, including specific trade leads and project opportunities.

C. SE and DOC shall monitor these activities and how they influence the evolution of trade in cement between Mexico and the United States. SE and DOC shall consult on a quarterly basis and discuss any areas where improvement may be made. SE and DOC intend to invite Canada to join the North American Cement Committee.

D. SE shall ensure that any Mexican importer of cement designated by a U.S. cement producer or exporter is permitted to be registered into the Mexican Importers' Registry ("Padron de Importadores") and the Mexican Importers' Registry for Specific Sectors (Padron de Importadores para Sectores Especificos"), provided that the importer fully complies with the requirements set out under Mexican law. These registration requirements are set forth in Appendix 23 to this Agreement. In the event that an application for any of these registries is denied, the Mexican importer may request SE to consult with the competent authority. In such case, SE shall inform the importer in writing, within 45 days of the request, of the reasons for which the application was denied.

E. SE shall ensure that the Camara Nacional del Cemento de Mexico ("CANACEM"), CEMEX, GCCC and Apasco each submit a letter to SE (attached to this Agreement as Appendix 24) stating that:

1. It will not interpose an objection with the competent authority in Mexico to an application by any Mexican importer designated by a U.S. cement producer or exporter to be registered into the Mexican Importers' Registry or the Mexican Importers' Registry for Specific Sectors to import U.S. - produced cement.
2. If it files an objection with the competent authority in Mexico to an application for inclusion on either registry filed by a Mexican importer, designated by a U.S. cement producer or exporter to register to import cement produced in a third country, the writer of the letter will provide a copy of the objection to SE.

SE shall ensure that, if CANACEM, CEMEX, GCCC, or Apasco should object to an application for inclusion on either registry as described in subparagraphs (E) (1) and (2), it shall provide DOC with a copy of the objection within 45 days.

F. To the extent that an objection described in Paragraph E above contains confidential information, SE shall ensure that the companies will consult with SE to explain the nature of the confidential information. If possible, SE shall obtain a non-confidential summary of the information and provide that summary to DOC.

VI. Monitoring and Notifications

A. As is necessary and appropriate to monitor the implementation of, and compliance with, this Agreement, SE shall:

1. Within thirty days following the allocation of Export Rights for any Export Limit Period, notify DOC of the quantity allocated to each recipient for each applicable Sub-region. SE also shall inform DOC of any changes in the allocation of Export Rights within 30 days of the date on which such changes become effective, including the allocation of Export Rights for Mexican Cement carry-over or carry-back pursuant to paragraph III.A.4.
2.
 - a. Monitor all exports of Mexican Cement to the United States and deduct the quantity of each such export from the Export Limit identified on the Export License; and
 - b. Prevent, in coordination with the Mexican General Customs Administration, the exportation of any Mexican Cement not accompanied by an Export License or in a quantity exceeding the quantity shown on the Export License.
3. Collect and provide to DOC information on Export Licenses issued in the format specified in Appendix 25 to this Agreement, including a copy of each Export License issued. This information shall be collected for the six-month period beginning on the Effective Date and each subsequent six-month period and will be provided no later than 60 days following the end of each such six-month period.
4. Collect and provide to DOC information identifying each shipment of Mexican Cement made pursuant to each Export License in the format specified in Appendix 25. This information shall be collected for the six-month period beginning on the Effective Date and each subsequent six-month period and will be provided to DOC no later than 60 days following the end of each such six-month period.
5. Permit DOC to verify all information furnished by SE to DOC under this Agreement to the extent not prohibited by Mexican Law.

B. DOC shall monitor and collect the following information to determine whether there have been imports of Mexican Cement into the United States that may be inconsistent with this Agreement and, to the extent not prohibited by U.S. law, provide this information to representatives of all interested parties to this segment of the DOC proceedings on Mexican Cement (as defined by Section 771(9) of the Act) upon request:

1. U.S. Bureau of the Census data, and other publicly-available data, on a quarterly basis.
2. U.S. Bureau of the Census computerized records that include the quantity and value of each entry. DOC may also request USCBP to provide other specific entry information, such as the identity of the producer/exporter which may be responsible for such sales.
3. Information from the Import License system established under this Agreement.

C. DOC shall release to counsel for the interested parties to this segment of the DOC proceedings on Mexican Cement (as defined by Section 771(9) of the Act) and to counsel for SE all business proprietary information submitted to DOC:

1. under this Agreement, pursuant to this Agreement for Disclosure of, and Access to, Business Proprietary Information (attached to this Agreement as Appendix 26); and
2. during the course of any administrative proceedings relating to Mexican Cement conducted by DOC following the entry into force of this Agreement, pursuant to DOC's regulations and standard procedures governing the release of business proprietary information.

VII. Circumvention

A. The Parties shall take the following measures to address Circumvention:

1. DOC shall investigate any alleged Circumvention that is brought to its attention, both by asking SE to investigate such allegations and by itself gathering relevant information. In such case, DOC shall provide to SE all relevant information, provided that this is not prohibited by U.S. law. DOC shall notify SE of the results of the inquiry within 15 days after the conclusion of the inquiry.

2. SE shall investigate any alleged Circumvention that is brought to its attention. SE shall promptly initiate an inquiry into the alleged Circumvention, and normally complete the inquiry within 45 days. SE shall notify DOC of the results of the inquiry within 15 days after its conclusion.

B. If a Mexican person or enterprise has engaged in Circumvention that results in an Export Limit being exceeded, DOC and SE shall deduct from the Export Limit for the Sub-region and Export Limit Period for which the Export Limit was exceeded (or, if the Export Limit for that Sub-region and Export Limit Period has been filled, the following Export Limit Period) 150 percent of the quantity of Mexican Cement involved. DOC and SE shall notify the other Party of any penalties imposed under this Section within 15 days of their imposition.

C. If there has been Circumvention for which SE has not compensated by reducing the Export Limit for the applicable Sub-region consistent with Paragraph VII.B, DOC may self-initiate an accelerated changed circumstances review (to be completed within 90 days of initiation) of the producer of the Mexican Cement involved in the Circumvention, in order to change the deposit rate applicable to that Mexican Cement Producer. In the event that DOC receives a petition requesting a changed circumstances review of a Mexican Cement Producer as a result of Circumvention by that producer for which SE has compensated under Paragraph VII.B of this Agreement, DOC will consider the compensation (and penalties imposed upon that producer) material to its decision whether to initiate such a review, and will reflect its consideration of that material factor in its written decision on whether to initiate the review. Should a changed circumstances review be initiated under this provision, SE shall require the Mexican Cement Producer in question to provide to DOC, within two weeks after the date of initiation of the review, all cost and sales data for the two most recently completed quarters, or accept a new deposit rate based on the facts available, in the amount of \$42.63 per metric ton (the average of the rates for the 12th and 13th administrative reviews of Mexican Cement).

D. DOC shall require all importers of Mexican Cement into the United States to submit to DOC a written statement, 30 days after the end of every quarter (or on the next business day), listing all entries of such merchandise and certifying that the Mexican Cement imported during that quarter was not obtained under any arrangement in Circumvention. Where DOC has reason to believe that such a certification has been made falsely, DOC shall refer the matter to the United States Department of Homeland Security or the United States Department of Justice for further action, as appropriate.

VIII. Consultations

The Parties shall hold consultations concerning the implementation, operation and enforcement of this Agreement at least once each year during the anniversary month of the Effective Date and upon request by SE, DOC, or USTR. Within six months of the Effective Date, SE and DOC shall consult regarding the information exchanged under this Agreement.

IX. Intentions of the Parties with Respect to Future Unfair Trade Actions and Challenges to this Agreement

For the duration of this Agreement and for nine (9) months after the expiration of this Agreement:

- A. DOC shall not self-initiate an investigation under Title VII of the Act, or any successor law, with respect to imports of Mexican Cement. If a petition for such an investigation is filed by a member of the STCC, Holcim, or Capitol Aggregates, DOC shall dismiss the petition, based upon the letters submitted by those parties and referenced in Paragraph II.A.13 of this Agreement.
- B. USTR shall not self-initiate an action under Sections 201-204 of the Trade Act of 1974, as amended, or any successor law, with respect to imports of Mexican Cement.
- C. USTR shall not self-initiate an investigation under Sections 301-305 of the Trade Act of 1974, as amended, or any successor law, with respect to imports of Mexican Cement.
- D. SE shall not initiate an investigation or take action under Titles V or VI of the Mexican Foreign Trade Law, or any successor law, with respect to imports of cement from the United States. If CEMEX, GCCC, or Apasco files with SE a petition for an investigation under Title V of the Mexican Foreign Trade Law, SE shall dismiss the petition, based upon the letter from that producer attached to this Agreement as Appendix 27 or submitted by that producer to SE after the date this Agreement is signed.

X. Violations of this Agreement

_____The Parties shall not consider a violation of this Agreement as being material unless corresponding to the definition of a material violation or breach contained in the Vienna Convention on the Law of Treaties.

XI. Duration of this Agreement and Revocation of the Order

- A. This Agreement shall expire on March 31, 2009, provided that it has not been terminated before that date.
- B. Provided that this Agreement has not been terminated before March 31, 2009, DOC shall revoke the Mexican Cement Order on April 1, 2009, for all Mexican Cement Producers that have not exported any Mexican Cement to the United States since August 30, 1990, or that have not exported substantially more than the Export Limits allocated by SE to such producers for any Sub-region for the Third Export Limit Period. The revocation shall be based on the “no interest” statements submitted in the letters of Section II.A.13 of this Agreement.
- C. Any Party may terminate this Agreement upon 90 days written notice to the other Parties.
- D. If this Agreement terminates before March 31, 2009, for any reason, any amounts remaining in the Escrow Account shall be distributed in accordance with the specific provisions in the Escrow Agreement providing for that contingency.

XII. Other Provisions

- A. The English and Spanish language versions of this Agreement shall be equally authentic.
- B. For all purposes hereunder, the Parties shall be represented by, and all communications and notice shall be given and addressed to:

Office of the United States Trade Representative
Office of the Americas
600 17th St., N.W.
Washington, D.C. 20508

U.S. Department of Commerce
Assistant Secretary for Import Administration
International Trade Administration
Washington, D.C. 20230

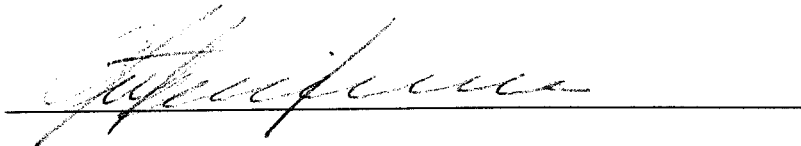
Secretaria de Economia
Subsecretaria de Negociaciones Comerciales Internacionales
Alfonso Reyes
30- 9th Floor, Col. Condesa
C.P. 06400
Mexico D.F.

Signed, at Washington, D.C., on this 6th day of March, 2006.

For the Office of the United States Trade Representative
of the United States of America:

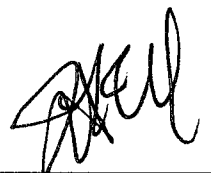


For the United States Department of Commerce
of the United States of America:



For the Ministry of Economy (Secretaria de Economia)
of the United Mexican States:





LIST OF APPENDICES

*The descriptions in this list are only general descriptions,
and do not affect the interpretation of this Agreement*

- Appendix 1 Settlement agreement and Draft Notices of Motion requesting termination of the NAFTA panel reviews of the DOC administrative reviews (II.A.2 and II.A.3)
- Appendix 2 Draft Instructions to USCBP to liquidate entries that entered the United States before the Effective Date (II.A.4.a)
- Appendix 3 Draft Instructions to USCBP to change the estimated duty deposit rate for CEMEX and GCCC (II.A.4.b)
- Appendix 4 Draft *Federal Register* Notice amending the final results of the 6th and 8th through 14th administrative reviews and announcing the change in the estimated duty deposit rate (II.A.4.b)
- Appendix 5 Draft *Federal Register* Notice rescinding the 15th administrative review and compromising the claims to antidumping duties in the 16th administrative review period (II.A.4.c)
- Appendix 6 Powers of attorney providing that all refunds of duties delivered to importers in care of SunTrust Bank be deposited in the Escrow Account and distributed in accordance with the Escrow Agreement (II.A.5)
- Appendix 7 Section 617 compromise of claims for AD duties (II.A.6)
- Appendix 8 WTO Panel Notice of suspension of panel proceeding (II.A.7)
- Appendix 9 Letters from CEMEX, GCCC, and STCC withdrawing all requests for administrative reviews and requesting DOC to terminate all ongoing reviews and lift the suspension of liquidation in connection with all NAFTA panel reviews (II.A.8)

- Appendix 10 Letters from CEMEX, GCCC, and Apasco to DOC agreeing, *inter alia*, that, in the event they circumvent the Export Limits, they will participate in a changed circumstances review to establish a new deposit rate (II.A.9)
- Appendix 11 Draft Notice of Suspension and Termination of ITC 1999 Sunset Review Panel (II.A.10)
- Appendix 12 Letter to DOC from CFTMC, CEMEX, GCCC, and Apasco stating that the 2005 Sunset Review should be suspended (II.A.11)
- Appendix 13 Escrow Agreement (II.A.12)
- Appendix 14 Letters from STCC, Holcim, CEMEX and GCCC stating that they will not request any review of a Mexican Cement Producer that is not in Circumvention that they have no interest in the Order after the expiration of this Agreement and that they will not file a petition requesting trade remedies against Mexican Cement before nine months after this Agreement expires (II.A.13)
- Appendix 15 Copies of USCBP Form 5106 indicating a change of address to SunTrust Bank, as well as a USCBP Form 4811 for each U.S. Port of Entry from Cemex Cement, Gulf Coast Portland Cement, and GCC Rio Grande directing all refunds to be sent to importers of record in care of SunTrust Bank (II.A.15.a)
- Appendix 16 Statement from CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande certifying that they have not entered into any agreement for the reimbursement of AD duties. (II.A.15.b)
- Appendix 17 Waivers from CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande of the Right to Protest the liquidation of the entries (II.A.15.c)
- Appendix 18 Certifications from CEMEX Cement, Gulf Coast Portland Cement, and GCC Rio Grande that the lists of all entries under the Cement Order provided to USCBP with the form 4811 are complete to the

	best of their knowledge (II.A.16)
Appendix 19	<i>Federal Register</i> notice describing this Agreement (II.B.2)
Appendix 20	Import License requirements (II.B.8)
Appendix 21	Description of methodology to adjust Export Limits based on changes in apparent consumption of cement (III.A.2.a)
Appendix 22	Export License requirements (IV.B.1)
Appendix 23	Registration requirements for the Mexican Importers' Registries (V.D)
Appendix 24	Letters to SE from CANACEM, CEMEX and GCCC stating that they will not object to an application by a Mexican importer of US produced Cement for inclusion on an importer's registry (V.E)
Appendix 25	Format of information to be supplied by SE to DOC on exports to the United States and format of information to be supplied by Mexican cement producers on sales of cement in the United States (VI.A.3)
Appendix 26	Agreement for Disclosure and Access to Business Proprietary Information (VI.C)
Appendix 27	Letters from CEMEX, GCCC and Apasco stating that they have "no interest" in a Mexican antidumping duty investigation covering United States Cement for the life of this Agreement (IX.D)