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		R 3/13/2020 STATE GUIDELINES/DEPT. OF STATE WAIVER			
248806	CABLE	STATE 162247; SEC OF STATE TO AM EMB MEXICO RE: FRAMEWORK AGREEMENT DISCUSSIONS WITH MEXICO	3	5/28/1987	B1
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DOC NO	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
1	PAPER	U.S.-MEXICO FRAMEWORK AGREEMENT, 3 P., PARTIAL	3	8/18/1987	B5 open KB 12/9/00

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OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

TPSC

UNCLASSIFIED with
~~CONFIDENTIAL~~ Attachment

August 17, 1987

TO : Members of the Trade Policy Staff Committee

FROM : Donald M. Phillips DMP, Chairman

SUBJECT: Apples and Pears

Attached is TPSC Draft Document 87-125 concerning Swedish and Norwegian restriction on apple and pear imports. The paper has been reviewed and approved by an interagency working group on this issue.

Please phone your clearance to Carolyn Frank (395-7210) by close-of-business, Wednesday, August 19. Substantive questions or comment should be phoned to Ellen Terpstra (395-5006).

Attachment

UNCLASSIFIED with
~~CONFIDENTIAL~~ Attachment

MTT

CONFIDENTIAL

248805

TRADE POLICY STAFF COMMITTEE

DRAFT Document 87-125

SUBJECT:

Swedish and Norwegian Restrictions
on Apple and Pear Imports

SUBMITTED BY:

Office of the United States
Trade Representative

DATE: August 17, 1987

CONFIDENTIAL

~~CONFIDENTIAL~~

SWEDISH AND NORWEGIAN RESTRICTIONS ON APPLE AND PEAR IMPORTS

ISSUE

Sweden and Norway do not allow imports of apples and pears until their domestic crops are exhausted, usually in January or February. U.S. growers would like to expand their exports to both countries, particularly in advance of the Christmas season. We believe these import restraints are GATT-illegal.

For three years we have urged Swedish and Norwegian officials to eliminate these restrictions, or, at least move the entry dates to mid October. Domestic growers are becoming increasingly impatient with the lack of any progress on this issue in either country. On July 24, Senator Packwood and five other members of Congress wrote Ambassador Yeutter supporting the Northwest Horticultural Council's request that we initiate GATT Article XXIII consultations with Sweden and Norway.

Norway and Sweden together are the fourth largest market for U.S. apple and pear exports. (Separately, they respectively represent the fifth and sixth largest markets.) Total current U.S. exports of these products to these markets are valued at about $7 million. The industry anticipates that exports could increase to $16 million if the entry date restrictions were eliminated. The weakening of the U.S. dollar should make U.S. apples and pears more competitive as compared with EC apples and pears. EC exports to these markets are subsidized in an amount equivalent to 6 percent of the value of a U.S. box of apples.

RECOMMENDATION

As soon as possible, USTR should request consultations under GATT Article XXIII:1 and thereafter request consultations under the Uruguay Round rollback exercise. Our Embassies in Sweden and Norway should be given advance notification of these actions.

Timing: The request for GATT Article XXIII:1 consultations should be made as soon as possible. The issue should be raised to the formal level before Swedish Prime Minister Carlsson's visit to the United States September 8-11. We should aim for action in time for this year's Christmas season. The Northwest Horticultural Council says that in order to redirect their marketing and deliveries to Sweden and Norway for the Christmas market, they seek an entry date of October 15. Initiation of Article XXIII consultations as soon as possible will maximize the likelihood that the Swedes and the Norwegians will change their entry date system in time to benefit this year's harvest which runs from late September through October. US growers inform us that there will be a bumper crop this year.

The next meeting of the Uruguay Round standstill/rollback surveillance body will be in early October. Notification of these

measures prior to that meeting will intensify pressure on Sweden and Norway to eliminate these GATT inconsistent restraints.

OPTIONS

1. Continue to press this issue through informal bilateral consultations.

PRO:

-- Does not raise the level of discussion.

CON:

-- Continues actions which have not resolved the problem after three years of bilateral complaints.

-- Not responsive to the requests from the Northwest Horticultural Council and six members of Congress to initiate an Article XXIII case. Our lack of action on this complaint may lead them to adopt a more protectionist stance against apples entering the U.S. market. This problem is particularly pressing this year, when U.S. growers expect a record crop.

2. Initiate a section 301 action.

PRO:

-- Gives the issue additional visibility.

-- Demonstrates direct Administration action on an issue which has appeared three years in a row in the National Trade Estimates and has been discussed in all bilateral contacts without effect.

-- Creates additional leverage. Under Section 301, the President has authority to take retaliatory actions.

CON:

-- Is more confrontational. May cause Norwegian and Swedish authorities to react unfavorably. Swedish authorities dug in their heels during the specialty steel 301 investigation. However, the Swedish negative reaction in the steel case may have been based on their view that they had been unfairly accused. The Swedes might not react as strongly to initiation of a 301 on apples and pears because our legal case here is much stronger.

-- Initiation of a 301 case now may lead the Norwegians and Swedes to put off action until the 301 deadline, at least a year after initiation.

-- If we, the industry, and the Norwegians and Swedes all want to expand import access now, rather than fight a GATT case to the finish, it may be hard to achieve this result in the glare of a 301 action.

3. Initiate Article XXII consultations.

PRO:

-- Allows us to emphasize the GATT aspects of our concerns.

-- Draws in other interested apple exporters (such as Chile).

CON:

-- Procedural requirements (GATT Secretariat invitation to other Contracting Parties to participate) for Article XXII mean a 45-day delay in the start of the consultations.

-- Unlikely to produce results. We have consulted with both the Swedes and the Norwegians for the last three years without effect.

-- May make it more difficult to achieve a bilateral solution that benefits us in particular since other Contracting Parties will be invited to participate.

4. Initiate an Article XXIII action.

PRO:

-- Allows us to emphasize the GATT aspects of our concerns.

-- Allows us to raise the issue to a higher level of visibility. Under Article XXIII, we can refer our concerns to a panel, if we are unable to resolve the issue through consultations with the Swedes and the Norwegians.

-- Gives us access to formal dispute settlement resolution through a panel decision.

CON:

-- Could be seen as confrontational by the Swedes and Norwegians, convincing them to take no action until we have fully exhausted the dispute settlement procedures.

5. Request consultations under the Uruguay Round rollback exercise.

PRO:

-- Puts Sweden and Norway on notice that we consider these measures GATT illegal and provides an opportunity for other countries to support our complaint.

-- Provides wider awareness and discussion of these trade barriers.

CON:

-- If pursued alone, there is no guarantee that the Swedes and Norwegians will respond in a positive manner.

-- Could be seen as confrontational if rollback consultations are requested before Article XXIII consultations.

BACKGROUND

I. Legal basis for Swedish and Norwegian Import Restrictions

Summary

Sweden and Norway both restrict imports of apples and pears during certain seasons of the year. In Sweden, imports are completely prohibited during part of the year, completely free during part of the year, and subject to automatic licensing during the rest of the year.

In Norway, such imports are unrestricted for about four months, but are otherwise prohibited, except for (1) a quota for "supplementary imports" where demand exceeds domestic supply, or (2) when domestic prices exceed a pre-set level. Norway may be giving preferential treatment to imports from EFTA and/or the EC. (The industry reports that a small tariff preference is given to apples and pears from the EC.)

A. Swedish Law

The Swedish restrictions on imports of apples and pears grew out

of extensive regulations governing all imports and exports during WWII. After the war, the law remained in effect during the period when Sweden was short of hard currency. When Sweden joined the GATT, most restraints were dismantled, with certain exceptions, such as apple and pears. These residual restrictions were largely glossed over by the GOS in GATT fora.

The general authority to license imports remains on the books and was recently updated in 1984[1]. This general authority is exercised in this case by two detailed regulations issued each year (one on apples and one on pears). The regulations define the period when the licensing law applies. The restrictions apply to imports from all sources.[2] There is no law restricting apple and pear imports, per se.

The restrictions are applied in three phases:

1. Surveillance, when licenses are required and granted to import apples and pears.

2. Ban, when licenses are required and not granted.

3. Free import, when apples and pears may be imported without a license. The crossover date from free import to surveillance is always June 30.

The Agricultural Marketing Board has the authority to grant or deny licenses. In consultation with the Swedish apple and pear growers and the fruit importers, it establishes the dates for the end of the surveillance phase and the end of the ban (beginning of the free import phase.) The following table summarizes the beginning date for the three phases of the Swedish program for the last five harvest years.

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[1]The law is entitled: Decree on Import and Export Licenses, SFS, (the Swedish Book on Statutes) 1984:54.

[2]A copy of this 1984 law has been obtained by the U.S. Embassy in Stockholm (translation attached).

Harvest Yr	Ban	Free Import	Surveillance
Apples			
82	8/18/82	2/22/83	6/30/83
83	8/3/83	2/7/84	6/30/84
84	8/3/84	1/17/85	6/30/85
85	7/16/85	2/17/86	6/30/86
86	7/16/86	1/23/87	6/30/87
Pears			
82	9/1/82	11/18/82	6/30/83
83	9/1/83	11/9/83	6/30/84
84	9/1/84	11/21/84	6/30/85
85	9/3/85	11/8/85	6/30/86
86	9/1/86	11/5/86	6/30/87

B. Norwegian Law

Norwegian restraints on apple and pear imports are based on the Provisional Act on Prohibition of Imports of June 22, 1934. The Act authorizes the Ministry of Agriculture to issue and implement regulations restricting the entry of agricultural products.

In 1950, the government and the agricultural organizations concluded an agreement to formalize the set of measures already applied. This agreement is periodically renewed. In recent years, Parliament has adopted a renewed agreement on an annual basis.

Regulating measures on imports are implemented pursuant to the 1934 Act; the Act of March 22, 1918; and Royal Decrees of April 29, 1932 and June 2, 1960. Later amendments take the form of royal decrees. Decrees were issued on June 8, 1973; February 25, 1977; and August 20, 1982.[3] Our Embassy in Oslo has provided a copy of the 1977 text which the GON informs our Embassy is the version currently in effect.

The Norwegian import licensing system divides the calendar year into at least two and possibly three parts. During the first part

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[3]More recent decrees may also have been issued. Our source for the decrees listed above is GATT document L/5374, dated October 22, 1982.

of the year (usually from January to April), apples and pears may be freely imported. During the remainder of the year, imports of apples and pears are prohibited from entry, with two exceptions which are described below. The U.S. Agricultural Attache for Norway notes that these exceptions are probably not granted during the period when the Norwegian domestic harvest is on the market. This would mean that there is a third period when no exceptions are granted.

Norway's trade agreement with the European Community established that apples and pears may be freely imported during the following periods:

Apples	February 1 through April 30[4]
Pears	December 20 through August 10

During the past few years, the seasonal opening for imports has been set at a date somewhat earlier, as summarized in the following tables.

Product	Entry Date	Close Date
Apples	1/18/81	4/30/81
Apples	-/-/82	4/30/82
Apples	12/13/82[5]	4/30/83
Apples	1/3/84[6]	4/30/84
Apples	1/16/85	4/30/85
Apples	1/27/86	4/30/86
Pears	12/20/81	8/10/82
Pears	11/25/82	8/10/83
Pears	11/29/83	8/10/84
Pears	12/13/84	8/10/85
Pears	12/20/85	8/10/86
Pears	10/20/86	8/17/87

The import seasons are established by the Import Council which was established under the Agricultural Agreement. The Council has 14

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[4]In addition, a global quota (in 1983 10,000 MT) is distributed for import until June 30. Additional licenses may be issued if needed.

[5]Despite the earlier opening dates, which ordinarily favor imports from the United States, the lower European prices (down to one-half of the U.S.) to some extent discouraged sales U.S. apples.

[6]A special quota of 1,000 MT of apples was distributed for the pre-Christmas trade. Very few importers had anticipated this and the bulk of the quota was taken up by the European fruit.

members drawn from government and agriculture, including representatives from the fruit and vegetable industry. The Garnerhallen (an association of fruit coops) appoints one member. The Norwegian Fruit Wholesalers Association (Norges Fruktgrossisters Forbund) is represented in the Council for questions involving fruit.

Two exceptions are provided to import restraints during the rest of the year. The first is a fixed quota for "supplementary imports" when domestic production is insufficient to meet demand. This discretionary licensing does not apply to some species of apples and pears, namely quinces, cydonia oblonga, and chaenonides japonica. The quota is based on estimates of demand, and licenses are issued to importers for an announced period of time by the Ministry of Agriculture.

Import restrictions are also suspended when domestic prices for two consecutive weeks exceed 12 percent above the agreed average price. When the weekly quotation reaches or falls below the upper price limit, then import restrictions are reintroduced within nine days. Prices are fixed according to the Royal Decree of July 9, 1980 and the Agricultural Agreement between the Norwegian Government and two agricultural organizations (the Norwegian Farmer's Union (NBL) and the Small-holders Union (NBSL)).

The import restrictions described above are applied equally to imports of apples and pears from all countries. Information about these quotas is submitted to importers, trade organizations, interested countries, and the GATT, which notifies all GATT members.

Norway states that the quantitative regulation of imports is intended "to provide a necessary and reasonable protection against competition from imports for the agricultural and horticultural industries."[7]

The status of imports from the EFTA countries is not clear. One report from the U.S. Embassy dating from the 60's suggests that the GON has allowed imports from the EFTA countries to enter at an earlier date than other imports, and that during the period when only EFTA imports are allowed to enter, a special quota was established to control imports from EFTA. Bjorn Liborg, a Norwegian national working at the U.S. Embassy in Oslo, believes there are no longer any special privileges for imports of apples from EFTA.

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[7] Replies to Questionnaire on Import Licensing Procedures: Norway. GATT L/5374, October 22, 1982.

III. GATT Status of Swedish and Norwegian Restraint Programs

A. U.S. Position

1. Violation of Article XI

GATT Article XI states that "no prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses, 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..." Article XI 2(c) provides an exception to this general prohibition for import restrictions on agricultural products which are necessary to the operation of domestic supply management schemes or domestic schemes which remove a temporary surplus of the like domestic products.

Both the Swedish and the Norwegian restrictions are in clear violation of Article XI. They are quantitative restrictions on imports, and the exceptions in Article XI:2 do not apply.

-- Article XI:2 (c) does not apply in the case of a prohibition.

-- Neither Sweden nor Norway has any domestic program to control production or marketing of apples or pears.

-- Reduction of a temporary surplus is out of the question here --- these restrictions are chronic, not temporary.

-- There is no appreciable Article XX exception.

2. Violation of Article XIII

If either Norway or Sweden give special treatment to imports of apples from EFTA or EC member states, this might be a violation of MFN. The EFTA and EC tariff agreements only extend to industrial products; they do not cover agricultural products.

We need to explore this possibility in our Article XXIII:1 consultations.

3. Impairment of Tariff Bindings

GATT Article II:1 (a) requires that "each contracting party accord to the commerce of the other contracting parties treatment

no less favorable than that provided for in the appropriate Schedule (of bound tariff rates)."

The Swedish and Norwegian seasonal import bans violate Article II:1 (a) because both countries have bound tariff rates applicable during the period when imported apples and pears are not allowed to enter.

Trade Impact: U.S. shipments of apples and pears to Sweden and Norway are small relative to other suppliers. However, this does not indicate we are uncompetitive; rather, its shows the disproportionate impact on us of the timing of the ban during the height of the U.S. harvest.

Norwegian Imports

metric tons (percent of total)

APPLES

Source	1985		1984		1983	
U.S.	2,277	(6.1)	3,699	(9.3)	4,110	(10.6)
Argentina	13,227	(35.6)	14,643	(36.7)	12,530	(32.4)
France	11,761	(31.6)	11,523	(28.9)	12,105	(31.3)
Chile	2,018,	(5.4)	1,369	(3.4)	1,353	(3.5)
Denmark	1,631		1,984		2,008	
Italy	1,551		390		404	
New Zealand	1,165		1,637		1,890	
Australia	1,126		926		1,046	
Belgium and Lux	1,081		NL		NL	
Spain	551		699		624	
FRG	331		1,278		1,279	
All Others	445		1,796		1,333	
Total	37,164		39,944		38,682	

PEARS[8]

Source	1985		1984		1983	
U.S.	222	(1.9)	389	(3.3)	510	(3.9)
Belgium & Lux	7,323	(62.4)	4,899	(42.0)	5,066	(38.8)
Netherlands	2,131	(18.2)	4,150	(36.6)	5,028	(38.5)
Argentina	698	(5.9)	461	(4.0)	429	(3.3)
FRG	289		362		417	
Australia	199		189		113	
France	156		376		275	
Chile	101		113		108	
Italy	NL		289		529	
South Africa	NL		217		304	
All Others	629		215		291	
Total	11,743		11,660		13,070	

[8] U.S. sales of d'anjou pears have been declining in recent years, while sales of European pears have increased. This may be due to relative exchange rates and some consumer preference for European conference pears.

Swedish Apple and Pear Imports, 1983-1985
metric tons (percent of total)

FRESH APPLES

	1985		1984		1983
United States	1549	(2.2)	1591	(2.3)	1700 (2.7)
Argentina	21735	(30.8)	19412	(28.3)	na
France	11776	(16.7)	11767	(17.1)	10400 (16.7)
Netherlands	6896	(9.8)	6889	(10.0)	4200 (6.7)
West Germany	6530	(9.3)	6524	(9.5)	4500 (7.2)
New Zealand	5633		5854		na
Italy	4859		5054		6600
Chile	3572		3554		na
South Africa	3360		3744		na
Spain	1731		1736		na
Australia	1374		1040		na
Hungary	na		na		500
Denmark	na		na		200
Others	1485		1410		34200
TOTAL	70500		68625		62300

FRESH PEARS

Source	1985		1984		1983
United States	3152	(14.5)	2507	(11.6)	1600 (7.7)
Argentina	4662	(21.5)	4278	(19.7)	na
Netherlands	3178	(14.7)	3127	(14.4)	1700 (8.2)
Italy	3167	(14.6)	4850	(22.4)	6900 (33.2)
France	2616	(12.1)	2327	(10.7)	1600 (7.7)
West Germany	1846		1454		700
Chile	649		649		na
Australia	513		452		na
Belgium & Lux	466		444		na
South Africa	1240		1160		na
UK	111		na		na
Others	73		226		8300
TOTAL	21673		21676		20800

na=not. available. These imports are included in total for "Others."
Source: Government of Sweden. Fresh Deciduous Fruit Annual. Stockholm, Sweden 1984-6.

4. Licensing Code

We need to further investigate whether there are violations of the Licensing Code.

5. Grandfather Clause

The Protocol of Provisional Applications of the GATT and the various accession protocols permit maintenance of measures mandated by legislation inconsistent with the GATT which was existing on the date of the Protocol. The Swedish and Norwegian restrictions both date back to well before the GATT. However, these restrictions are not "grandfathered" under the Protocol (and neither Sweden nor Norway has claimed they are).

It is well-settled GATT law that the "grandfather clause" exceptions apply only to legislation that is mandatory - that does not permit the executive to act in a GATT-consistent manner (BISD/II/31). The Swedish and Norwegian laws at issue here are discretionary. They do not mandate quotas, prohibitions or licensing at all. Sweden and Norway could act in a GATT-consistent manner, within these laws---they simply choose not to.

B. Swedish and Norwegian Positions

1. Sweden

Internally, the Swedish government recognizes that the restrictions on apple and pear imports are GATT-illegal and have been so since the lapse of any balance-of-payments defense. Sweden's defense now seems to be that:

-- Sweden has already eliminated most of its quantitative restrictions, so why worry about the remaining ones.

-- Others have worse restrictions on farm imports (especially Norway and Finland) and thus Sweden cannot be expected to give up theirs unless everybody does so at the same time, in a multilateral forum;

-- The restrictions have been around for a very long time, and have been discussed numerous times both in the GATT and the OECD; and,

-- Eliminating the restrictions would do serious harm to Swedish producers during certain times of the year, and thus restrictions are justified under Article XIX of GATT.

(Comment: Article XIX is irrelevant; these restrictions are chronic, not temporary. Sweden has never formally invoked Article XIX. If it did, it would owe substantial compensation to all apple and pear suppliers.)

Although the Swedes appear to be aware of the weakness of their GATT arguments, the GOS continues to be sensitive to domestic pressures for protection. Swedish Agriculture Minister Mats Hellstrom, during a mid-July visit to the Swedish apple growing region, promised that the import calendar for apples and pears would continue as long as he is permitted to make the decision.

2. Norway

In GATT document L/3212/Add.6, Norway notified its seasonal restrictions on apples and pears, along with other restraints on agricultural products, in response to a GATT secretariat request for "Notifications of Import Restrictions Applied Inconsistently with the Provisions of GATT and not Covered by Waivers." The Norwegian submission noted that it covered all commodities which on January 1, 1969 were subject to import restrictions in Norway, without reference to the question of consistency with GATT.

The GON has claimed, in general terms, that its restrictions are GATT-consistent. However, the Norwegians have never made any specific defense.

IV. Trade of the Swedish and Norwegian Restraints on U.S. Exports

A. Current U.S. Exports

The following chart summarizes U.S. export data on shipments of apples and pears to Norway and Sweden over the last five years, in millions of dollars:

Country/Fruit	82	83	84	85	86	1-4/86	1-4/87
Sweden/Apples	2.3	1.5	1.5	0.3	2.0	1.0	1.4
Norway/Apples	3.2	2.6	1.3	0.3	3.1[9]	1.1	0.4
Sweden/Pears	1.7	1.4	1.4	1.1	4.0	1.3	0.6
Norway/Pears	0.4	0.3	0.1	0.1	0.2[10]	Neg	Neg

B. U.S. Fruit Growers' Estimate of the Impact of these Restrictions

U.S. fruit growers estimate that they could double their shipments to Sweden and Norway if the restrictions were lifted. This would have the following effect:

Market/Product	Current Sales	Anticipated Sales Without Restrictions
Sweden/Apples	$2 million	$3.5-4 million
Sweden/Pears	$4 million	$8 million
Norway/Apples	$1.1 million	$3.5-4 million
Norway/Pears	$0.2 million	$0.4 million

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[9]Cold weather in Norway during pollination and fruit setting reduced the outlook for this year's apple and pear production to less than 60 percent of the 1985 crops. However, the fruit was of good quality and opening date of Dec. 20.

[10]See Footnote 8.

NORTHWEST HORTICULTURAL COUNCIL
P.O. BOX 570
YAKIMA, WASHINGTON 98907
(509) 453-3193

July 8, 1987

Ambassador Clayton Yeutter
U.S. Special Trade Representative
600 17th St., N.E.
Winder Bldg.
Washington, D.C. 20506

Dear Ambassador Yeutter:

On behalf of the Northwest tree fruit industry, the Northwest Horticultural Council requests that GATT Article 23-1 consultations with Sweden and Norway begin regarding their opening date systems on fresh apples and pears.

As is outlined in the 1986 Report on Foreign Trade Barriers, U.S. apples and pears are kept out of the Scandanavian markets until their domestic crop is depleted. In terms of apples, this often means exports cannot begin until mid-February for Sweden and early January for Norway. It is very likely that if this opening date system were eliminated our apple and pear shipments to these countries would double. Even though this issue has appeared in the foreign trade barriers report, there has been no real progress toward resolving this dispute. Expeditious action must be taken to eliminate this barrier.

In early June, Ellen Terpstra and Catherine Curtiss from your office and myself met in Washington, D.C. with the agricultural attaches at the Swedish and Norwegian embassies. Both attaches understood the problem but were unprepared to discuss elimination of the system or even a fixed October 15 opening date. At the same time these countries are unwilling to remove their barriers on our apple and pear exports, apple and pear imports into the United States are increasing dramatically. In 1985, 250,000 boxes of pears were imported into the United States. In 1986, that volume had increased to 425,000 boxes, and it is estimated that this year 2.5 million boxes of pears will be imported. While imports are increasing, so is domestic production. The 1987 apple crop is likely to increase by over 20 million boxes, from 50 to 70 million. Winter pear production is likely to increase from 9.2 to 10.5 million boxes.

Clearly, if we are to allow unrestricted imports into this country, the only way our industry can remain financially solvent is to increase our exports. This can only be done if we act immediately to remove barriers which are placed on our products.

In our opinion, this opening date system is in violation of the General Agreement on Tariffs and Trade. Although recently given the opportunity,

neither the Swedes nor the Norwegians ever produced a document suggesting their system is in any way GATT legal. For this reason, our industry is requesting the U.S. Trade Representative's office initiate 23-1 consultations and also include the Scandanavian opening date systems on the list of those trade barriers subject to rollback considerations under the new Round. In keeping with the intent of Article 23, since we are dealing with perishable commodities, and since our export season begins in October, the Northwest Horticultural Council also requests these negotiations begin promptly.

I look forward to working closely with you on this issue over the next months. Thank you for your time and attention.

Sincerely yours,

NORTHWEST HORTICULTURAL COUNCIL

William L. Bryant
Vice President

WLB/cl

cc: Senator Robert Packwood
Senator Brock Adams
Senator Mark Hatfield
Senator Dan Evans
Congressman Sid Morrison
Congressman Bob Smith
Congressman Don Bonker
Ken Howland, USDA, Trade Policy
Rich Schroeter, USDA/FAS
Trustees & Member Secretaries

bcc: CATHERINE CORTISS

United States Senate

WASHINGTON, DC 20510-6200

July 24, 1987

The Honorable Clayton Yeutter
Ambassador
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th St., N.W., Room 209
Washington, D.C. 20506

Dear Ambassador Yeutter:

It has been brought to our attention that the Northwest Horticultural Council has requested your office to initiate GATT Article 23-1 consultations with Sweden and Norway regarding apple and pear imports. We support their case to eliminate the trade barrier which is currently in place on these commodities.

The Northwest apple and pear industry has had to increase its sales through exports. This situation is attributed to the increase in U.S. production of these commodities. There has also been a dramatic increase in the amount of apples and pears imported into the U.S. Thus, access to foreign markets has become vital to our growers.

Oregon and Washington are the principal U.S. exporters of apples and pears to Norway and Sweden. This market represents some $7 million in sales annually. However, access to their market is restricted. Both governments protect domestic producers by prohibiting imports until their domestic supply of these crops is exhausted. This policy is a substantial barrier to increased trade. The 1986 USTR report on foreign trade barriers cited that apple and pear exports to both countries could double if this restriction were removed.

We urge your immediate attention to the Northwest Horticultural Council's request.

Thank you for your consideration.

Sincerely,

Mark O. Hatfield, U.S.S.

Bob Packwood, U.S.S.

Dan Evans, U.S.S.

Brock Adams, U.S.S.

Bob Smith, M.C.

Sid Morrison, M.C.

JUL 17 1987

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CLASS: UNCLASSIFIED
CHRGE: AGR 07/16/87
APPRV: AGR: SPITCHER
DRFTD: AGR: SPITCHER:BA
CLEAR: N/A
DISTR: AMB DCM AGR-2

FOR SINDELAR/H&TPD FROM AGATT

E.O. 12356: N/A

SUBJECT: APPLES AND PEARS - AGMINISTER SAYS NO PLANS TO REMOVE IMPORT STOP

TOFAS 99

1. IN MID-JULY, MINISTER OF AGRICULTURE HELLSTROM WHILE VISITING THE SWEDISH APPLE GROWING REGION OF KIVIK, PROMISED THAT THE IMPORT CALENDAR FOR APPLES AND PEARS WILL CONTINUE IN PLACE AS LONG AS HE IS PERMITTED TO MAKE THE DECISION. HELLSTROM STATED THAT THE GOVERNMENT HAS NO PLANS TO CHANGE THE PRESENT SYSTEM.

2. THE MINISTER WAS MAKING A TRIP THROUGH SOUTHERN SWEDEN AND WITH HIM IN KIVIK WAS ONE OF THE MEMBERS OF PARLIAMENT'S AGRICULTURAL COMMITTEE. DURING THE VISIT, A GROWERS REPRESENTATIVE STATED THAT THE WORST THING FOR THEM WOULD BE TO LOSE IMPORT PROTECTION AND FOR SWEDEN TO JOIN THE EC. MINISTER HELLSTROM WARNED THE GROWERS ABOUT THEIR RIGHTS AND STATED THAT THE SITUATION COULD NOT CONTINUE AS BEFORE CHRISTMAS 1986 WHEN THERE WERE CERTAIN QUALITY PROBLEMS. THE CURRENT SYSTEM FOR DETERMINING WHEN IMPORTS SEOULD BE ALLOWED IS HANDLED JOINTLY BY THE GROWERS, THE FRUIT TRADE AND THE AGRICULTURAL MARKETING BOARD. THE MINISTER ALSO REMINDED GROWERS THAT THE SWEDISH RESTRICTIONS ARE NOT SEEN WITH CLOSED EYES EVERYWHERE. HE POINTED OUT THAT ESPECIALLY THE UNITED STATES IS PUTTING PRESSURE ON SWEDEN IN THE ONGOING GATT NEGOTIATIONS. ACCORDING TO NEWSPAPER REPORTS, THE MINISTER PROMISED TO STAND UP AGAINST THIS PRESSURE.
NEWELL
BT
#5237

NNNN

DEPARTMENT OF STATE
DIVISION OF LANGUAGE SERVICES

(TRANSLATION)

LS NO. 122775
PH/
Swedish

STATUTE BOOK OF THE NATIONAL AGRICULTURAL MARKETING BOARD [JNFS]

National Agricultural Marketing Board [JN]
551 82 Jönköping
tel.: 036-16 94 80
telex: 703 58 sjn s

ISSN 0348-0321

[logo] JN

JNFS 1986:157
I 8
Published
October 30, 1986

Proclamation by the Agricultural Marketing Board of regulations about the import of pears without a license;

issued on October 29, 1986

Based on the Ordinance (1984:54) on Import and Export Licenses, the National Agricultural Marketing Board has decided that fresh pears (from Tariff No. 08.06) which are declared for customs clearance during the period November 5, 1986-June 30, 1987, may be brought in without an import license.

This proclamation becomes effective on November 5, 1986. Prohibitions on disposal based on the obligation to obtain a license for pears which have been submitted for taking home before November 5, 1986, shall, without prejudice to the provisions of Sec. 6 of the Board's Proclamation (1984:38) on Importation of Foodstuffs, etc., cease to be in force at the conclusion of November 4, 1986.

NILS AAGREN

Gunnar Aakerblom
(the International Bureau)

-x-1a

122775, cont.
PH/
Swedish

STATUTE BOOK OF THE NATIONAL AGRICULTURAL MARKETING BOARD [JNFS]
National Agricultural Marketing Board [JN]
551 82 Jönköping
tel.: 036-16 94 80
telex: 703 58 sjn s

ISSN 0348-0321

[logo] JN

JNFS 1987:4
I 1
Published
January 15, 1987

Proclamation by the Agricultural Marketing Board of regulations about the import of apples without a license;

issued on January 13, 1987

Based on the Ordinance (1984:54) on Import and Export Licenses, the National Agricultural Marketing Board has decided that fresh apples (from Tariff No. 08.06) which are declared for customs clearance during the period from and including January 23, 1987, up to and including June 30, 1987, may be brought in without an import license.

This proclamation becomes effective on January 23, 1987. Prohibitions on disposal based on the obligation to obtain a license for apples which have been submitted for taking home before January 23, 1987, shall, without prejudice to the provisions of Sec. 6 of the Board's Proclamation (1984:38) on Importation of Foodstuffs, etc., cease to be in force at the conclusion of January 22, 1987.

INGVAR LINDSTROEM

Nils Aagren
(the International Bureau)

* * * * * * *

[from]
SFS [Swedish Statute Book]
1984:53

[references to two items involving starch, from the end of a list]

[Appendix 3, of goods covered in Sec. 5--various types of printed matter]

SFS [Swedish Statute Book] 1984:54
Published on February 18, 1984

Ordinance on Import and Export Licenses; issued on February 9, 1984.

Introductory Provisions

Sec. 1. This ordinance furnishes regulations about licenses and limitation levels in the import and export of such goods as are listed in the ordinance or its appendixes.

Additional provisions about import and export are found in the Ordinance (1984:53) on Control of Import and Export.

On Import

[Secs. 2 to 5 deal with types of goods not related to apples or pears.]

Sec. 6. The National Agricultural Marketing Board may impose the obligation to obtain a license for such goods as are listed in Appendix 8, regardless of the country of origin of the goods.

On Export

[Secs. 7 and 8 deal with types of goods not related to apples or pears.]

Sec. 9. The National Agricultural Marketing Board may impose the obligation to obtain a license for such cocoa products as are listed in Appendix 8, regardless of the country of destination of the goods.

[Translator's note: It appears from Appendix 8 that these cocoa products are types of goods not related to apples or pears.]

This ordinance becomes effective on April 1, 1984.

For the Government:

MATS HELLSTROEM

Jörgen Holgersson
(Ministry of Foreign Affairs)

[Appendix 1, of goods covered by Sec. 3--cements, certain chemicals, fibers, and fabrics]

Appendix 8

Goods for which the obligation to obtain a license may be imposed in accordance with Secs. 6 and 9

Tariff No.	Type of Goods
[Items from 02 and 07 are meats and mushrooms, respectively.]	
from 08.06	Apples and pears, fresh
[Items from 18 are various cocoa products.]	

[Appendix 9, of goods covered in Sec. 7; items shown here are various types of metal scrap and waste.]

RED-2-9

UNITED STATES GOVERNMENT

memorandum

DATE: July 21, 1987

REPLY TO ATTN OF: Alex Bernitz, AgCounselor, Copenhagen AB

SUBJECT: Apple Import Season

TO: Catherine Curtis, Europe Group, USTR

Attached is a copy of the Law of June 22, 1934 as amended (Law of January 26, 1973). According to a Royal Decree dated June 8, 1973 the apple import season was set at February 1 through April 30 at the latest. Depending on domestic crop supplies, the import season may be earlier as was the case last year (1986) when it opened November 29, 1986.

CALLED FOR PICK-UP
DATE: 8/7
TIME: 10.45
BY: Steve

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114
☆ GPO : 1985 O - 461-275 (428)

22 juni. Nr. 5. 1934

Lov om midlertidige innførselsforbud m.v.[1]

[1] Jfr. lov 13 des. 1946 nr. 29. Jfr. tidligere lover 27 mars 1918 nr. 5 og 24 juni 1933 nr. 9

§ 1.[1] Kongen kan bestemme at det inntil videre skal være forbudt å innføre fra utlandet en eller flere av ham angitte sorter av gjenstander og varer, derunder levende dyr og planter, medmindre der ved innførselen forelegges tollvesenet skriftlig erklæring fra den myndighet eller institusjon som Kongen bestemmer, om at denne samtykker i innførselen.

Kongen kan fastsette gebyr for utferdigelse av dispensasjon fra innførselsforbud i henhold til 1. ledd. Likeledes kan Kongen eller den han bemyndiger dertil, fastsette betingelser for utferdigelse av sådan dispensasjon.

For så vidt det utskrives prisutjevningsbeløp til statskassen på importregulerte jordbruksvarer, fastsetter departementet[2] nærmere bestemmelser om beregning og oppkreving av utjevningsbeløp og om kontroll av ordningen. Kongen fastsetter nærmere hvilke jordbruksvarar som skal pålegges utjevningsbeløp.

De midler som kommer inn ved innkreving av utjevningsbeløp går til fond. Fondet styres av departementet i samsvar med de forskrifter som Kongen fastsetter for fondets forvaltning og bruk av midlene.

[1] Endret ved lov 19 des. 1980 nr. 67.
[2] Landbruksdep. ifølge res. s.d.

§ 2. Kongen kan bestemme som gjeldende inntil videre at innførselen fra utlandet av en eller flere av ham angitte sorter av gjenstander og varer som nevnt i § 1 ikke må overskride et av ham fastsatt kvantum i sådant tidsrum som han bestemmer.

§ 3. Kongen kan bestemme som gjeldende inntil videre at alle kjøp fra utlandet av en eller flere av ham angitte sorter av gjenstander og varer som nevnt i § 1, derunder kjøp på leveringskontrakter, innen en nærmere fastsatt frist, regnet fra det tidspunkt kjøpet blev avsluttet, skal innberettes til den myndighet som Kongen bestemmer, ledsaget av sådanne ytterligere opplysninger som Kongen fastsetter. Det kan bestemmes at innberetnings- og oplysningsplikten skal omfatte også kjøp som er avsluttet før Kongens bestemmelse trer i kraft, forutsatt at det gjelder varer som da ennu ikke er levert. Med de undtagelser som innberetningspliktens øiemed måtte nødvendiggjøre, påhviler der vedkommende myndighet taushetsplikt[1] med hensyn til de opplysninger som den mottar, forsåvidt ikke noget annet er særskilt bestemt ved lov.

[1] Se strl. § 121.

§ 4.[1] Den som forsettlig eller uaktsomt innfører eller søker å innføre gjenstander eller varer i strid med et i henhold til § 1 utferdiget innførselsforbud, eller som medvirker dertil, straffes med bøter eller fengsel i inntil 6 måneder.

Forsettlig eller uaktsom overtredelse av bestemmelser utferdiget i henhold til § 3 straffes med bøter.

§ 5. De nærmere bestemmelser til gjennemførelse av denne lov fastsettes av Kongen eller den som han bemyndiger dertil.

§ 6.[1] Denne lov trer i kraft straks. Fra samme tid opheves lov om midlertidig innførselsforbud av 22 mars 1918 og lov om innførsel av kull, koks og cinders av 24 juni 1933. De i henhold til disse lover utferdigede bestemmelser forblir i kraft inntil de opheves eller avløses av bestemmelser utferdiget i henhold til nærværende lov. For såvidt angår straff i anledning av overtredelse av slike bestemmelser, får bestemmelsene i § 4 tilsvarende anvendelse.

[1] Endret ved lov 26 jan. 1973 nr. 2.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON
20506

TPSC

UNCLASSIFIED with
~~LIMITED OFFICIAL USE~~ and
~~CONFIDENTIAL~~ Attachments

August 18, 1987

TO : Members of the Trade Policy Staff Committee

FROM : Donald M. Phillips, Chairman

SUBJECT: U.S.-Mexico Framework Agreement

Attached is TPSC Draft Document 87-126 concerning the U.S.-Mexico Framework Agreement. The paper has been reviewed and approved by the TPSC Subcommittee on Mexico.

Please phone your clearance to Carolyn Frank (395-7210) by close-of-business, Thursday, August 20. Substantive questions should be phoned to Peter Murphy (395-4866).

Attachment

3/13/2020

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~~LIMITED OFFICIAL USE AND CONFIDENTIAL~~ ATTACHMENTS

~~LIMITED OFFICIAL USE~~ WITH ~~CONFIDENTIAL~~ ATTACHMENT

TRADE POLICY STAFF COMMITTEE

DRAFT Document 87-126

SUBJECT:
U.S.-Mexico Framework Agreement

SUBMITTED BY:
TPSC Subcommittee on Mexico

DATE: August 18, 1987

~~LIMITED OFFICIAL USE WITH CONFIDENTIAL~~ ATTACHMENT

MJH 4/7/88

KS 11/9/00

ISSUE

The United States and Mexico completed on August 13-14 in Washington their third round of negotiations concerning a bilateral framework agreement. Significant progress was made toward obtaining bilateral agreement on a complete text, with bracket language remaining for only four sentences. The TPSC needs to approve or disapprove of the text as it now stands and provide guidance on the remaining bracketed language.

RECOMMENDATIONS

The TPSC Subcommittee on Mexico recommends:

1. Approval of all unbracketed language found in the text of the draft agreement in Attachment A;

2. That the U.S. seek Mexican approval of its suggested language in paragraphs 6, 11, 12 and 13 in the Statement of Principles;

3. That the U.S seek the following alternative language for the final clause of para 11 in the Statement of Principles should the GOM continue to reject the currently proposed language:

> ". . . and expressing their willingness to examine impediments to foreign investment;"

4. That the U.S. continue to reject any reference within para 11 to each country's legal framework;

5. That, should Mexico press for a reference to legal framework, the U.S. should propose the following language for para 3 in the Statement of Principles:

> "Recognizing the desirability of resolving all issues as soon as possible while bearing in mind the legal framework of both countries;"

6. That the U.S. seek the following alternative language for para 12 in the Statement of Principles should the GOM continue to reject the currently proposed language:

> "Recognizing that investors should receive fair and equitable treatment."

PRIVATE SECTOR ADVICE

TPSC Document 87-65 described the extensive private sector and congressional advice received on the concept of the framework agreement. No private sector advice is being sought on the remaining bracketed language.

BACKGROUND

TPSC Document 87-65 provided background information on the evolution of the framework agreement concept and the draft U.S. proposal. Since TPSC 87-65 was approved on April 29, 1987, the U.S. and Mexican negotiating teams have met twice: May 7-8 in Mexico and August 13-14 in Washington. The results of the May meeting are provided in the attached reporting cable (Attachment B).

During the recent August meeting, bilateral agreement was informally reached on all of the text except several sentences related to investment in the Statement of Principles. The GOM has agreed to inclusion of a principle which notes the important role of foreign investment, but has resisted so far including any principles which 1) state a willingness to reduce or eliminate foreign investment barriers or 2) refer to the treatment of foreign investors. Mexican negotiators explained that President de la Madrid has made it clear that Mexico is not going to change its foreign investment law and, thus, they cannot accept any language which explicitly or implicitly refers to the need for or a commitment to make any such changes. As a result any language promising national treatment to foreign investors or a commitment to reduce or eliminate foreign investment barriers is unacceptable.

The Mexican side also argued that the GOM has made substantial progress by agreeing that any trade and investment issue can be subject to bilateral consultations and by including principles on services and intellectual property protection. The GOM side asked that the U.S. not push for everything in the document itself, but instead acknowledge that the consultative mechanism-- the key to the whole agreement (the U.S. side does not disagree with this point) -- can be used over time to address specific foreign investment problems. The Mexican negotiator repeatedly pointed to the historical sensitivity in Mexico about Mexican sovereignty on this issue.

It is the belief of the U.S. negotiating team that the GOM side went as far as their mandate permitted for the August 13-14 meetings. The talks recessed with the Mexican side taking the bracketed language back to Mexico City for consultation. The Mexican side intends to respond by phone to USTR on August 21. The U.S. negotiating team believes the U.S. should hold firm for increased references to investment in the statement of principles. Specifically, the U.S. should continue to insist on its already proposed language, or the alternatives in the "Recommendations" section, for principles #6, 11 and 12.

With respect to para 13, the Mexicans have bracketed the clause referring to the Universal Copyright Convention. The GOM side wanted to confirm whether Mexico is indeed a member and, if so, whether they want a reference to the Convention included in the framework agreement.

It is still unclear as to when and by whom the agreement will be signed. The GOM continues to indicate a preference for a signing by the Presidents at their next meeting (currently unscheduled). If that meeting does not transpire for several months, we will need to consider whether to share the initialed document with the public.

AGREEMENT

Between the Government of the United Mexican States and the Government of the United States of America Concerning a Framework of Principles and Procedures Regarding Trade and Investment Relations

I. STATEMENT OF PRINCIPLES

The Government of the United Mexican States and the Government of the United States of America:

1. Desiring to enhance even further the friendship and spirit of cooperation between both countries;

2. Recognizing that continuing dialogue and frequent consultations concerning trade and investment matters are vital to the constructive and positive relationship between the United Mexican States and the United States of America;

3. Recognizing the desirability of resolving all issues as soon as possible;

4. Taking into account the participation of both countries in the General Agreement on Trade and Tariffs, and noting that each party reserves for itself the rights it may have under the terms of the General Agreement, together with its agreements, understandings, and other instruments;

5. Recognizing Mexico's present status as a developing country and the rights and obligations accorded to developing countries under the General Agreement on Tariffs and Trade and all other instruments applied therefrom;

PROPOSED BY U.S.

6. Recognizing the importance of promoting a more open and predictable environment for international trade [and investment];

7. Taking into account the need to eliminate non-tariff barriers in order to facilitate greater access to the markets of both countries;

8. Recognizing that export earnings are important to the ability to fulfill foreign debt obligations;

9. Recognizing the benefits that can result for each country from increased international trade, as well as the detrimental effects of protectionism;

 MM 4/15/88

10. Recognizing the increased role of services in their domestic economies and their bilateral relations, and taking into account the commitments undertaken by both countries in the Uruguay Round;

U.S. 11. [Recognizing the complementary role of direct foreign investment in furthering growth, creation of jobs, expansion of trade, technology transfer and economic development, and expressing their will to work toward the reduction or elimination of foreign investment barriers;]

MEXICO 11. [Recognizing the complementary role of direct foreign investment in furthering growth, creation of jobs, expansion of trade, technology transfer and economic development, and expressing their will to work towards the promotion of foreign investment flows within the legal framework of each country;]

U.S. 12. [Recognizing the mutual benefits to be achieved by affording each other's investors fair and equitable treatment;]

U.S. 13. Recognizing the importance of providing within the legal and regulatory framework of each country adequate protection and enforcement for intellectual property rights; and taking account of their commitments in GATT, in the World Intellectual Property Organization (WIPO), [and in the Universal Copyright Convention];

14. Recognizing the special role of commerce in the development of their border regions and the need for special cooperation on border commercial matters;

15. Taking note of the progress made in the current process of trade liberalization of the Mexican economy.

Intend to abide by the preceding principles of trade and investment and agree to the following:

II. Consultative Mechanism

1. Either party may request at any time consultations with the other party on any matter concerning bilateral trade and investment relations, including trade and investment opportunities and problems. Any such consultations shall be without prejudice to the requirements of domestic law.

2. Requests for consultations shall be accompanied by a written explanation of the subject to be discussed and consultations shall be held within 30 days of the request, unless the requesting party agrees to a later date. Consultations will take place initially in the country whose measure or practice is the subject of discussion.

3. In the event that consultations involve a dispute concerning a trade measure or practice, every effort will be made to resolve the dispute at the working level. Either party may request

review of the issue at a higher level. If resolution is not reached within 30 days following the first meeting, either party may seek other means of settlement, including referral of the dispute to the dispute resolution procedures applicable to the General Agreement on Tariffs and Trade (GATT), to which both countries are a party. If a measure is referred to the GATT, consultations under this agreement shall be considered to have constituted consultations under Article XXIII(1) of the GATT or any preliminary bilateral consultations required as part of any GATT code dispute settlement procedures.

4. In the event that consultations involve an investment measure or practice, every effort will be made to resolve the issue at the working level. Either party may request review of the issue at a higher level. If agreement is not reached within 30 days following the first meeting, either party may seek other means of agreement.

5. Consultations should be held annually at the Cabinet or Subcabinet level to review the status of the bilateral trade and investment relationship.

6. All consultations under this Agreement will be jointly headed by the Secretariat of Commerce and Industrial Development (SECOFI) on the part of Mexico and by the Office of the United States Trade Representative on the part of the United States. SECOFI and USTR shall be assisted by officials of other governmental entities as circumstances require and may delegate their authority when appropriate.

III. Data Exchange

1. Both parties will examine the requirements and possibilities which arise concerning an improved exchange of statistical information. In addition, both parties will participate in the GATT Tariff Study.

By _____ By _____

for the United States of America

for the United Mexican States

SEPARATE NOTE

In relation to the Agreement Between the Government of the United Mexican States and the Government of the United States of America Concerning Principles and Procedures Regarding Trade and Investment, Mexico and the United States confirm the following:

1. To be ready to commence the holding of bilateral consultations, within 90 days of the signing of the aforementioned Agreement, on the following topics:

- textile products
- agricultural products
- steel products
- investment matters
- matters involving technology transfer and intellectual property
- electronics products
- exchange of information on the service sector geared towards improved analysis and towards the work being undertaken in the Uruguay Round of Multilateral Trade Negotiations.

2. Both parties recognize that the inclusion of the preceding topics in the immediate Agenda of Consultation does not limit the right of each country to include any other issue relating to trade and investment which might arise in the short term and require immediate bilateral consultations; neither does it prejudice the raising of new issues in the future.

By _____ By _____

for the United States of America

for the United Mexican States

MTN 4/7148

ATTACHMENT B
F T-4-2

~~CONFIDENTIAL~~
DEPARTMENT OF COMMERCE

INCOMING TELEGRAM

PAGE 01 OF 03 STATE 162247 045042 DCE989
ORIGIN EB-08 28/1743Z
----------28/1751Z

INFO CCEN-01 OPS-01 3358-01 3888-01 CECO-01 6588-01 184-01
2148-01 3818-01 6418-01 4128-01 5888-01 6488-01 4121-01
6248-01 6241-01 3138-01 3318-01 6242-01 4318-02 BES-01
6518-01 NTIS-01 4208-01 4212-02 5188-01 4328-01 4321-01
4322-01 AMAD-01 5128-01 6688-02 6318-01 PTO-01 6718-01
6728-01 186-01 5138-01 5288-01 6918-01 6928-02 4481-01
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OIL-01 6818-01 5228-01 5238-01 6288-01 MAW-01 6828-01
NBS-01 6448-01 CEN-01 DSEC-01 NOAA-01 4118-01 PSP-01
5121-01 6243-01 6338-01 6458-01 OPTI-01 AENA-01 6331-01
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INFO LOG-00 COPY-01 ADS-00 AID-00 INR-10 SS-00 CIAE-00
DODE-00 H-01 IO-10 EXIM-06 ARA-00 NSAE-00 COME-00
STRE-01 LAB-04 TRSE-00 ITC-01 OPIC-07 OMB-01 STR-10
INRE 00 AGRE-00 FRB-03 USIE-00 JUSE-00 SP-02 E-01
T-01 ECA-01 /084 R

DRAFTED BY: EB/IFD/OIA:SVILLAROSA/CCT, LABOR:DPARKER
APPROVED BY: USTR:PMURPHY
EB/IFD/OIA:CNELLIS EB/TDC/OT:AHOLLICK (INFO)
USTR:TBENNETT ARA/MEX:JLANDBERG
COMMERCE:AHUGHES/MCOYLE AGRICULTURE:RPETGES
EB/TDC/OT/ODC:TWHITE (INFO)
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TO AMEMBASSY MEXICO
INFO USMISSION GENEVA

~~C O N F I D E N T I A L~~ STATE 162247

GENEVA PASS TO USTR

E.O. 12356: DECL: OADR
TAGS: ECON, ETRD, EINV, MX
SUBJECT: FRAMEWORK AGREEMENT DISCUSSIONS WITH MEXICO MAY, 7-8, 1987

1. SUMMARY: U.S. AND MEXICO HELD TWO DAYS OF PRODUCTIVE MEETINGS ON BILATERAL TRADE AND INVESTMENT ISSUES IN IXTAPA, MEXICO, MAY 7-8. ALTHOUGH SPECIFIC ISSUES WERE NOT RESOLVED, MUTUAL UNDERSTANDING OF EACH COUNTRY'S POINT OF VIEW WAS INCREASED, AND THE STAGE WAS SET FOR FURTHER WORK ON THE FRAMEWORK AGREEMENT AND OTHER ISSUES. U.S. SIDE STRESSED CONGRESSIONAL PRESSURES TO RESTRICT TRADE AS FACTOR THAT MEXICO SHOULD CONSIDER.

THE MEXICANS APPEARED WELL-INFORMED ABOUT THE CURRENT SITUATION IN WASHINGTON AND PROMISED TO PROVIDE A LIST OF TRADE LIBERALIZATION MEASURES UNDERTAKEN.

2. FRAMEWORK DISCUSSIONS CENTERED ON U.S. PROPOSALS SENT TO MEXICO ON APRIL 30. MEXICO INSISTED ON RECOGNITION AS LDC IN THE AGREEMENT AND ON RECOGNITION OF LINKAGE BETWEEN TRADE AND DEBT SERVICE. U.S. QUESTIONED THE NEED FOR THIS. THE MEXICANS EXPRESSED RELUCTANCE TO INCLUDE

PRINCIPLES CONCERNING FOREIGN INVESTMENT, INTELLECTUAL PROPERTY PROTECTION AND SERVICES IN THE FRAMEWORK AGREEMENT; THE U.S. EMPHASIZED THAT AN AGREEMENT WITHOUT THOSE PRINCIPLES WOULD BE UNACCEPTABLE. MEXICO AGREED TO PROVIDE A COUNTERPROPOSAL BY MAY 31 WITH FOLLOW-UP DISCUSSIONS IN JUNE IN THE U.S.

3. MEXICO ALSO PRESENTED OVERVIEW AND DEFENSE OF ITS ELECTRONICS DECREE. U.S. QUESTIONED MEXICAN ASSERTION OF

GATT CONSISTENCY AND NOTED POSSIBLE ADVERSE AFFECT ON MEXICAN COMPETITIVENESS. MEXICO AGREED TO RESPOND IN WRITING TO SPECIFIC U.S. QUESTIONS SENT ON APRIL 30. ON SUBSIDIES, U.S. PRESSED MEXICO TO FULFILL ITS PREVIOUS COMMITMENTS ON PHARMACEUTICALS BEFORE SIGNING CODE. MEXICO WILL RE-EVALUATE TIMING OF JOINING CODE AFTER THE SHAPE OF U.S. TRADE LEGISLATION IS KNOWN. MEXICO DID NOT BRING UP SPECIFIC SUBSIDY AND DUMPING CASES.

4. U.S. DELEGATION WAS LED BY AMBASSADOR PETER MURPHY OF USTR AND ALSO INCLUDED REPRESENTATIVES FROM STATE, COMMERCE, AGRICULTURE, LABOR AND U.S. EMBASSY MEXICO. THE MEXICAN DELEGATION WAS LED BY SECOFI UNDERSECRETARY LUIS BRAVO WITH REPRESENTATIVES FROM THE SECRETARIATS OF

TREASURY, AGRICULTURE, FOREIGN RELATIONS, MINES AND PARASTATAL INDUSTRIES, AND THE NATIONAL FOREIGN TRADE BANK. END SUMMARY.

THURSDAY, MAY 7

FRAMEWORK AGREEMENT

5. OVERVIEW AND TONE: THE DISCUSSIONS CENTERED ON THE U.S. DRAFT AGREEMENT SENT TO MEXICO APRIL 30. BECAUSE OF INTERVENING HOLIDAYS, THE MEXICAN SIDE DID NOT HAVE TIME TO STUDY THE U'S. PROPOSAL IN DEPTH. THE DISCUSSIONS ENABLED BOTH SIDES TO CLARIFY THEIR OBJECTIVES FOR THE FRAMEWORK AGREEMENT. BRAVO PROMISED A COUNTER-PROPOSAL BY MAY 31 WITH FOLLOW-UP DISCUSSIONS IN JUNE IN THE U.S. HE WOULD LIKE TO HAVE THE AGREEMENT FINALIZED BEFORE THE JULY UNCTAD MEETINGS.

6. THE DISCUSSIONS WERE REMARKABLY LIGHT ON POLITICAL RHETORIC.
BRAVO MADE HIS PITCH FOR SPECIAL, MORE FAVORABLE TREATMENT FOR MEXICO BASED ON ITS DEVELOPING COUNTRY STATUS. BRAVO ALSO ARGUED THAT THE FRAMEWORK AGREEMENT

SHOULD RECOGNIZE MEXICO'S NEED TO ELIMINATE ITS DEBT BY INCORPORATING LANGUAGE REFERRING TO MEXICO'S NEED TO RUN A TRADE SURPLUS WITH COUNTRIES TO WHICH IT OWED MONEY. MURPHY BRIEFLY REJECTED THESE NOTIONS. AFTER THIS EXCHANGE, THE BALANCE OF THE DISCUSSIONS WERE RELATIVELY STRAIGHT-FORWARD INQUIRIES AND EXPLANATIONS TO CLARIFY AND UNDERSTAND THE POSITIONS OF THE OTHER SIDE. BOTH SIDES EVIDENCED POSITIVE ATTITUDES AND WILLINGNESS TO CONCLUDE THE AGREEMENT.

7. OVERALL OBJECTIVES: THE MEXICANS LED OFF THE

SUBSTANTIVE PORTION OF THE TALKS, AT U.S. REQUEST, WITH GOM OBJECTIVES FOR THE BILATERAL AGREEMENT. ACCORDING TO BRAVO THE FIRST TWO ARE A CONSULTATIVE MECHANISM AND A DISPUTE RESOLUTION PROCEDURE. HE ADDED THAT IT WAS IMPORTANT TO RECOGNIZE IN THE AGREEMENT MEXICO'S STATUS AS A DEVELOPING COUNTRY AND MEXICO'S NEED FOR A FAVORABLE BALANCE OF TRADE TO SERVICE ITS DEBT. MURPHY RESPONDED THAT THE FRAMEWORK AGREEMENT SHOULD SUPPLEMENT THE GATT AGREEMENT AND MUST INCLUDE A STATEMENT OF PRINCIPLES AND A SHORT-TERM WORK PROGRAM TO BUILD MOMENTUM. THE U.S. WANTED MUTUALLY BENEFICIAL HIGH STANDARDS AS OBJECTIVES TO WORK TOWARDS. THE WORK PROGRAM WOULD EVOLVE OVER TIME. ANY AGREEMENT WOULD HAVE TO BE BALANCED AND MUTUALLY ACCEPTABLE. EXPLICIT RECOGNITION OF MEXICO'S NEED FOR A TRADE SURPLUS AND ITS DEVELOPING STATUS WAS UNACCEPTABLE TO THE U.S. BECAUSE IT WOULD INDICATE AN UNBALANCED AGREEMENT. IN ADDITION, MEXICO'S CURRENT STATE OF DEVELOPMENT COULD WELL CHANGE. BOTH AGREED THAT

IT WAS IMPORTANT TO RESOLVE ISSUES BILATERALLY TO PREVENT SMALL PROBLEMS BECOMING BIG PROBLEMS.

8. TRADE: BRAVO DETAILED RECENT MEXICAN MOVES TO OPEN ITS ECONOMY TO INCREASED IMPORTS AND CONCLUDED THAT MEXICO IS MORE OPEN THAN THE U.S., BECAUSE THE U.S. HAS SOME HIGHER TARIFFS THAN MEXICO. MURPHY REMINDED HIM THAT U.S. TARIFFS ARE VERY LOW FOR MEXICAN PRODUCTS AND THAT THE RECORD SHOWS MEXICAN EXPORTS TO THE U.S. INCREASING. MURPHY OFFERED TO PRESENT ANY MEXICAN DOCUMENT OUTLINING RECENT TRADE LIBERALIZATION TO THE MILL. BRAVO STATED THAT MEXICO WANTED AN MFN CLAUSE IN THE FRAMEWORK AGREEMENT BECAUSE OF MEXICAN INTEREST IN RECEIVING BENEFITS FROM THE U.S.-CANADIAN FREE TRADE AGREEMENT UNDER NEGOTIATION. MURPHY RESPONDED THAT

MEXICO WOULD ALSO HAVE TO COMPLY WITH THE OBLIGATIONS OF THAT AGREEMENT AND PAY FOR ANY SUCH CONCESSIONS. (FYI: BRAVO LATER TOLD MURPHY THAT THE GOM REALIZES IT WOULD NEED TO PAY TO OBTAIN ANY OF THE U.S.-CANADA FTA CONCESSIONS.)

9. FOREIGN INVESTMENT: BRAVO WAS CONCERNED ABOUT U.S. INTENTIONS WITH REGARD TO THE PRINCIPLES REGARDING FOREIGN INVESTMENT, INTELLECTUAL PROPERTY, AND SERVICES. BRAVO EMPHASIZED THAT THE PRINCIPLES ON FOREIGN INVESTMENT SHOULD REFER TO NATIONAL LEGISLATION TO ENSURE UNDERSTANDING THAT NO LEGISLATIVE CHANGES WERE CONTEMPLATED. AS TO THE INDIVIDUAL INVESTMENT PRINCIPLES, HE STATED THAT: PROFIT REMITTANCES HAVE NEVER BEEN A PROBLEM; NATIONAL LAW REQUIRES LIMITATIONS ON FOREIGN INVESTMENT (NOTING U.S. LIMITATIONS IN THE CASES OF RADIO AND TELEVISION BROADCASTING AND THE FAIRCHILD/FUJITSU CASE); AND THE MEXICAN CONSTITUTION CONTAINS SUPERIOR STANDARDS ON EXPROPRIATION THAN INTERNATIONAL LAW. MURPHY REPLIED THAT THE U.S. WAS NOT LOOKING FOR CHANGES IN MEXICAN LAWS AND NOTED THAT THE U.S. DRAFT PROVIDED THAT CONSULTATIONS WOULD BE WITHOUT PREJUDICE TO NATIONAL LAW. INSTEAD, WE SOUGHT TO ESTABLISH GOALS TO WORK TOWARDS. HE ADDED THAT ESTABLISHING THE PRINCIPLE OF OPENNESS WITH THE MEXICANS WOULD ENABLE US TO RESIST EFFORTS TO RESTRICT FOREIGN INVESTMENT IN THE U.S. HE CONCLUDED THAT AN AGREEMENT WAS IMPOSSIBLE WITHOUT INCLUDING INVESTMENT.

10. SERVICES: MURPHY EXPLAINED THAT PROGRESS WAS IMPORTANT ON SERVICES BECAUSE THEY PLAY AN INCREASINGLY IMPORTANT ROLE IN THE U.S. ECONOMY. U.S. COULD NOT BE EXPECTED TO BE FORTHCOMING ON OTHER ISSUES, IF U.S. SERVICE SECTOR IS NOT PERMITTED TO COMPETE IN MEXICO. BRAVO LISTED A SERIES OF HYPOTHETICAL QUERIES ABOUT WHAT CONSTITUTES SERVICES AND CONCLUDED THAT IT WAS A COMPLEX

ISSUE MERITING FURTHER STUDY.

11. INTELLECTUAL PROPERTY: BRAVO ASKED SEVERAL TIMES IF THE PRINCIPLE ON INTELLECTUAL PROPERTY IMPLIED MEXICO PROVIDED INADEQUATE PROTECTION. HE CITED MEXICAN MEMBERSHIP IN WIPO AND ITS PATENT AND TRADEMARK LAW TO THE CONTRARY. MURPHY MENTIONED THAT WE HAD ALREADY MADE OUR OPINIONS KNOWN ON THAT SUBJECT IN PREVIOUS DISCUSSIONS AND WENT ON TO OTHER ISSUES.

12. WORK PROGRAM: BRAVO SOUGHT CLARIFICATION OF U.S. INTENTIONS WITH THE SHORT-TERM WORK PROGRAM. HE MENTIONED THAT AUTOS, STEEL, TEXTILES AND AGRICULTURAL NON-TARIFF BARRIERS MIGHT BE APPROPRIATE. MURPHY DEFINED THE WORK PROGRAM AS GIVING LIFE TO THE FRAMEWORK DOCUMENT. HE EMPHASIZED THAT IT WAS A TWO-WAY STREET AND

LATER POINTED OUT ISSUES RAISED BY THE MEXICANS THAT WERE APPROPRIATE FOR INCLUSION. MURPHY ADDED THAT THE U.S. DID NOT EXPECT RESOLUTION AT THE END OF 90 DAYS OF ANY OF THE ITEMS RAISED UNDER THE SHORT-TERM WORK PROGRAM.

13. CONSULTATIVE MECHANISM: BRAVO WAS UNCOMFORTABLE WITH SECOFI/USTR CHAIRING CONSULTATIONS. HE IMPLIED THAT THIS COULD CONFLICT WITH GATT OBLIGATIONS. MURPHY EXPLAINED THAT OUR INTENTION WAS TO RESOLVE PROBLEMS AT THE WORKING LEVEL AND AVOID GOING TO GATT. THE U.S. WAS LOOKING AT EASE OF SCHEDULING WORKING LEVEL MEETINGS UNDER THE MECHANISM, BUT AGREED THAT HIGHER LEVEL PARTICIPATION WOULD NOT BE PRECLUDED. DURING A PRIVATE CONVERSATION WITH MURPHY, BRAVO INDICATED HE COULD ACCEPT THE U.S. DRAFT ON THE CONSULTATIVE MECHANISM.

14. DATA EXCHANGE: SOME CONFUSION EXISTS ON BOTH SIDES. THE U.S. INCLUDED ITS PROVISION BECAUSE IT WAS MENTIONED IN THE MEXICAN NON-PAPER. MURPHY SAID WE WERE WILLING TO EXCHANGE, ALTHOUGH NOT TO RECONCILE, DATA. BRAVO SAID IT WAS APPROPRIATE TO INCLUDE A DATA SECTION IN THE FRAMEWORK AGREEMENT, BUT IT SHOULD BE MORE THAN JUST AN AGREEMENT TO PARTICIPATE IN THE GATT TARIFF STUDY. HE SUGGESTED THAT THE TWO COUNTRIES SHOULD LOOK AT ANY DATA PROBLEM THAT ARISES IN TRADE BETWEEN THE TWO COUNTRIES, SUCH AS THE ALLEGED MISCOUNTING OF MEXICAN PRODUCTS ENTERING THE U.S. FOR EXPORT TO THIRD COUNTRIES.

FRIDAY, MAY 8
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15. REFS A AND B ADDRESS THE DISCUSSIONS ON ELECTRONICS, STEEL AND TEXTILES. ADDITIONAL POINT RE REF B: BRAVO AGREED TO RESPOND IN WRITING TO THE SPECIFIC QUESTIONS ON ELECTRONICS RECEIVED FROM THE U.S. ON APRIL 30.

16. SUBSIDIES: BRAVO INDICATED MEXICO WOULD SIGN SUBSIDIES AGREEMENT IN JULY WHEN HECTOR HERNANDEZ IS IN GENEVA FOR THE UNCTAD MEETING. MEXICO'S MAIN CONCERN WAS TO MAKE SURE IT CONTINUED TO RECEIVE INJURY TEST UNDER U.S. COUNTERVAILING DUTY PROCEDURES. MURPHY NOTED CONGRESSIONAL CRITICISMS OF U.S. COMMITMENTS POLICY FOR DEVELOPING COUNTRIES, AND ADVISED MEXICO THAT PREMATURE SIGNING OF THE CODE (I.E., BEFORE THIS FALL) COULD PRECIPITATE TOUGHER U.S. TRADE LEGISLATION. MURPHY STATED THAT WE HAVE NO PROBLEM WITH THE BILATERAL SUBSIDY AGREEMENT PER SE, BUT THAT THE "SUBSIDIES AGREEMENT IN EXCHANGE FOR PHARMACEUTICALS CONCESSIONS DEAL" HAS BEEN

UNBALANCED BY MEXICO'S FAILURE TO COMPLY FULLY WITH ITS COMMITMENTS ON PHARMACEUTICALS. MURPHY STATED THAT IF THE PHARMACEUTICAL PROBLEMS ARE RESOLVED, THEN THE U.S.

COULD ACCEPT THE BILATERAL SUBSIDIES AGREEMENT AS IT NOW STANDS AS A CODE COMMITMENT. MURPHY ASSURED BRAVO THAT THE U.S. WAS SEEKING NO ADDITIONAL COMMITMENTS ON SUBSIDIES AND THAT, IN FACT, THE BILATERAL ARRANGEMENT APPEARED TO BE WORKING WELL. HOWEVER, MURPHY ASKED THAT THE PHARMACEUTICALS COMMITMENTS BE PUT IN WRITING, PERHAPS IN A LETTER, TO AVOID FUTURE MISUNDERSTANDINGS. ONCE THAT HAS BEEN DONE, THE U.S. COULD EXAMINE THE BEST WAY TO HANDLE, VIS-A-VIS THE U.S. CONGRESS, RECOGNITION OF MEXICO AS A CODE SIGNATORY. BRAVO ENDED BY SAYING HE WILL FOLLOW CONGRESSIONAL ACTION ON TRADE LEGISLATION AND PERHAPS MEXICO WILL DEFER SIGNING THE CODE UNTIL THE FALL TO AVOID A NEGATIVE REACTION. THE U.S. AGREED TO SEND MEXICO A LIST OF THE POINTS IN THE BROCK/HERNANDEZ UNDERSTANDING ON SUBSIDIES/PHARMACEUTICALS.

17. AGRICULTURE: BRAVO GAVE MURPHY A LIST OF 59 PRODUCTS ON WHICH MEXICO WOULD CONSIDER REMOVING IMPORT LICENSING REQUIREMENTS. (NOTE: EMBASSY SHOULD HAVE A COPY OF THE LIST.) BRAVO STATED THAT THE 59 ITEMS REPRESENT 3.1 PERCENT OF THE MEXICAN GNP. IN RETURN FOR LIFTING THE LICENSING REQUIREMENTS, BRAVO SOUGHT FAVORABLE CONSIDERATION OF PENDING MEXICAN REQUESTS ON STEEL, AVOCADOS, MEAT AND MEAT PRODUCT EXPORTS, BRANDING OF LIVE CATTLE, AND GSP TREATMENT OF WINTER VEGETABLES. HE THANKED U.S. AGENCIES FOR THEIR HELP IN THE PAST. MURPHY ACKNOWLEDGED THE PROGRESS AND MOVEMENT SHOWN BY MEXICO AND WOULD POINT THIS OUT DURING CONGRESSIONAL CONSULTATIONS. HE NOTED THAT MEXICO WAS SEEKING POSITIVE U.S. ACTIONS IN RETURN FOR THE ELIMINATION OF LICENSING ON THE 59 ITEMS AND STATED THAT HE WAS NOT OPPOSED TO THE CONCEPT OF BOTH COUNTRIES DOING SOMETHING TO IMPROVE THE TRADING ENVIRONMENT AND TO

PROMOTE THE BILATERAL RELATIONSHIP. HOWEVER, THE U.S. WOULD HAVE TO ANALYZE THE LIST TO DETERMINE ITS VALUE AND ALSO EXAMINE WHAT THE U.S. MIGHT BE ABLE TO DO. MURPHY MENTIONED U.S. INTEREST IN DISCUSSING RECENT MEXICAN AD HOC ACTIONS AFFECTING THE IMPORTATION OF SOYBEAN PRODUCTS AND MILK. HE CONCLUDED BY SUGGESTING, AND BRAVO AGREED, THAT AGRICULTURE BE ADDED TO THE FRAMEWORK AGREEMENT SHORT-TERM WORK PROGRAM.

18. CONCLUSION OF THE TALKS: THE FORMAL DISCUSSIONS ENDED ON A POSITIVE NOTE. BRAVO CITED THE DISCUSSIONS AS EVIDENCE OF GOODWILL. MURPHY THANKED THE MEXICANS FOR

THEIR COOPERATION. HE ADDED THAT A SOLUTION TO OUR ECONOMIC PROBLEMS IS MORE LIKELY IF WE CAN SIT DOWN AND SERIOUSLY DISCUSS ISSUES.

19. COMMENT: BASED ON THESE DISCUSSIONS WE EXPECT THE MEXICAN COUNTERPROPOSAL TO CONTAIN REVISED PRINCIPLES, PARTICULARLY CONCERNING FOREIGN INVESTMENT, INTELLECTUAL PROPERTY PROTECTION AND SERVICES. THE GENERAL PERCEPTION BY THE U.S. DELEGATES WAS THAT THE MEXICANS BELIEVED THE U.S. HAD A HIDDEN AGENDA TO OVERTURN THE 1973 FOREIGN INVESTMENT CODE. WE EXPECT THAT THE CONSULTATIVE MECHANISM AND SHORT-TERM PROGRAM WILL BE ACCEPTABLE TO THE MEXICANS WITH THE ADDITION OF ISSUES IMPORTANT TO MEXICO TO THE SHORT-TERM WORK PROGRAM. END COMMENT.

20. ACTION REQUESTED: PLEASE SEND EXPROPRIATION LANGUAGE AS IT APPEARS IN THE MEXICAN CONSTITUTION (SEE PARA 9 ABOVE) EMBASSY MAY WISH TO DISTRIBUTE THIS CABLE TO THE CONSULATES. SHULTZ