

## North American Free Trade Agreement

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During the next few minutes, I will address a subject our industry has been actively involved in for the last two years—the North American Free Trade Agreement, or "NAFTA" as it is more commonly known. After 16-plus months of negotiations, this past August former President Bush announced that the United States had reached an agreement in principle with Mexico and Canada to form a free trade area extending from the northern border of Canada to the southern tip of Mexico. As envisioned, NAFTA will create the largest free trade area world-wide, encompassing some 360 million consumers and eliminating tariffs and other barriers to trade among the three participating countries.

A final version of the NAFTA text negotiated by the Bush Administration was released to the public in December. It took from August, when the agreement in principle was reached, until December for the lawyers to review the agreement for its legal accuracy and consistency with the negotiated terms and release a final text.

The agreement includes over 1,000 pages of text and a similar volume of tariff schedules. It is this text, with proposed side agreements on the environment, worker rights, and safeguards against import surges that the Clinton Administration has said it will submit to Congress for final approval. Negotiations on the supplemental agreements on labor standards and safety, the environment, and import surges are scheduled to begin on March 17. Mickey Kantor, the new U.S. Trade representative, has said that

President Clinton will not submit NAFTA to Congress for a vote until the negotiations on the side agreements result in comprehensive, enforceable agreements in all three areas. With the text and tariff schedules of the agreement available, we have reviewed it carefully and analyzed it for its effect on the California avocado industry. Before turning to the specifics of the agreement, however, I would first like to comment briefly on what happens to the agreement from here, and what must occur legislatively in Congress before it is adopted as U.S. law. The agreement must also be ratified by the Mexican and Canadian legislatures before it goes into force. With Prime Minister Mulroney stepping down, there is concern that the agreement will face stiff opposition in Canada.

Last week, U.S. Trade Representative Mickey Kantor publicly reaffirmed the Clinton Administration's desire to keep the NAFTA on its original timetable of a January 1, 1994 implementation date. To do this, President Clinton will need to submit the agreement to Congress with implementing legislation in enough time to allow Congress to review and vote on it under the "fast track" timetable. As many of you know, "fast track" refers to the procedural process specifically approved by Congress for use in Congressional ratification of trade agreements, including the NAFTA. Under fast track authority, Congress can only vote up or down to ratify or reject the NAFTA in its entirety; Congressional amendments to the agreement are not permitted. Fast track authority is considered key to negotiating trade agreements since it assures our trading partners that the agreement struck internationally will be the same agreement voted on by Congress.

Because of the limits placed on Congressional amendments, the fast track process provides for consultation between the Administration and Congress prior to the President signing the agreement. Pursuant to this, there was a 90 calendar-day review of the agreement by Congress before it was signed by President Bush on December 17, 1992.

The agreement must now be sent back to Congress with implementing legislation for an additional 90 legislative day period. During this 90-day period, Congress must vote up or down to ratify or reject the agreement. Just when the agreement will be resubmitted to Congress is still an unknown and will depend on how quickly the three supplemental agreements on labor, environment, and import surges can be finalized. The 90 legislative days can consume up to 8 months. Congress, however, is not required to use the entire 90 legislative day period and, as was the case with the U.S.-Canada Free trade Agreement, can vote on the agreement by an earlier date.

The fate of the NAFTA is still in question. Recent sentiment on the Hill suggests that it will be difficult to get the necessary votes to ratify the agreement unless strict and enforceable side agreements are reached.

With that brief procedural overview, I would now like to talk about the specific terms of the NAFTA agreement relating to avocados.

From the outset, our industry had two major concerns with a potential NAFTA. The first dealt with the U.S. phytosanitary quarantine on fresh Mexican avocados with seeds. We wanted to make absolutely certain that our negotiators would not trade away our phytosanitary protection against seed weevil infestation and infestation of other plant pests, such as fruit flies, from Mexican avocados for market access concessions in

other areas. Our second concern involved tariff protection for fresh and processed avocados. Here, we wanted to make sure that U.S. tariffs were eliminated over the longest possible phase-in period to give our industry time to adjust to anticipated increases in imports from Mexico. Given Mexico's abundant supply of low-priced avocados, immediate duty free access for processed or sliced avocados that now enter the United States with no phytosanitary restrictions, we felt, would immediately open the door to Mexico's exporting significantly greater quantities to the United States. The economic effects of this development required some tempering by our government.

We are convinced that the time and effort our industry spent in consulting with our negotiators and Congress paid off in producing a sanitary and phytosanitary (S&P) agreement that will in and of itself not weaken the current U.S. phytosanitary quarantine on fresh Mexican avocados.

A significant accomplishment is that the S&P text does not address specific phytosanitary measures maintained within the NAFTA region, such as the U.S. quarantine on fresh Mexican avocados. Despite persistent efforts by Mexican officials to negotiate access for Mexican avocados and a lifting of the U.S. quarantine, U.S. negotiators stood firm that the NAFTA itself would only address general rules and dispute settlement procedures for the sanitary and phytosanitary area and would not negotiate or bargain away any specific U.S. phytosanitary measure.

In general, the S&P agreement requires that the rules and standards introduced and maintained by the three countries to protect human, animal, or plant life or health from pests, diseases, and risks posed by additives or contaminants be based on sound scientific principles. In doing this, it ensures the United States's ability to establish and enforce stringent S&P measures and ensures that S&P measures imposed by Mexico or Canada do not serve as disguised barriers to trade that could discriminate unfairly against U.S. agricultural exports.

The NAFTA unambiguously confirms that if one NAFTA country asserts that another NAFTA country's S&P measures are inconsistent with sound scientific principles, the country making the assertion has the burden of establishing the inconsistency. This means that if Mexico continues to challenge the U.S. quarantine on Mexican fresh avocados, Mexico will have the burden of establishing that there is no sound scientific reason for the quarantine.

The S&P text also requires that the three countries strive to develop uniform S&P standards based on internationally accepted standards. In the standards setting process, the North American Plant Protection Organization (NAPPO) is given a primary role as a recognized standards setting organization. Fortunately for our industry, we have been participating with NAPPO in the development of this organization, and we believe we are well positioned to track and participate with that organization as it seeks to establish S&P standards affecting our industry.

Separate from NAFTA, the Mexican government is working with the U.S. Animal and Plant Health Inspection Service on a working plan that would establish strict scientific procedures for Mexican growers that, if followed, could at some future date allow entry for Mexican avocados, at least from certain pest-free zones. U.S. plant protection and quarantine personnel believe it will take years, however, before Mexico could

adequately comply with legitimate pest and disease control and eradication measures.

In July of last year, a concerted effort was made by the Mexican government to convince the USDA to bypass U.S. phytosanitary requirements and allow Mexican fresh avocados into the United States regardless of the repeated quarantine concerns that have been expressed over such proposals by USDA historically. Again, the Mexicans relied on the desire of the U.S. to complete a NAFTA as leverage to accomplish their goal. "They held U.S. stone fruit and pear growers hostage" by denying access to their crops into Mexico until the avocado issue was resolved.

Our Commission took immediate action to thwart Mexico's attempt. First, we had our U.S. negotiators reiterate the U.S. position that this issue could not be resolved politically; but rather required sound, scientific data to substantiate any change in the quarantine prohibition. This was accomplished. In our meetings with the Secretary and his staff, it was made clear that science, and not politics, would determine any change in the quarantine prohibition.

Second, the Commission insisted that we be included in the review of the scientific data involving Mexican plant pests and avocados being conducted by the USDA and the Mexican government. We wanted to be certain that scientific shortcuts were not taken on this critical matter.

We were appointed as part of the USDA delegation which met with the Mexican regulatory authorities to review thoroughly the science to determine whether Mexican avocados constituted a significant risk to spread plant pests into the United States if allowed to be imported without treatment. The U.S. scientists participating in the meeting vigorously conducted a thorough review of the existing Mexican data. From that review, it became clear that fresh Mexican avocados continue to represent a significant risk to introduce plant pests into the United States. In short, substantial data development by the Mexicans would be necessary before a contrary conclusion was warranted.

The U.S. concluded, however, that based on existing data and regulatory procedures, Mexican avocados could be shipped into Alaska for consumption in that state, provided the avocados were not moved to the other 48 mainland states. Although the Mexicans did not appear to have great interest in such an approach. USDA nevertheless indicated it would proceed on such a course.

In that regard, a proposal by the U.S. Plant Protection and Quarantine Service (PPQ) to consider movement of Mexican fresh Hass avocados to Alaska was published for 30 day comment. Given the fact that a similar regulation for shipment of Onshu oranges from Japan to Alaska had to be rescinded, we question the soundness of such a suggested proposal, given the potential for transshipments. The Commission opposed the USDA proposal. Final action has not yet been taken on the proposal.

Concerning Mexico's suggested expansion to the northern tier United States, after our meeting in Mexico City, Mexico submitted a research protocol to the USDA Agricultural Research Service (ARS) regarding whether avocados were hosts to fruit flies. The ARS rejected the research protocol as inadequate. Mexico has since submitted a written response. APHIS is working on preparing a response. The Mexico-U.S. Phytosanitary

Technical Working Group met in February in Mexico City to review the issue.

At meetings in Mexico City on February 9 and 10 of the U.S.-Mexico Technical Working Group, Sanidad Vegetal presented draft work plans on how to deal with phytosanitary issues affecting various commodities including apples, pears, plums, apricots, peaches, nectarines, and cherries. However, Mexico did not provide any new protocols or work plans regarding the fresh avocado issue.

This Administration has given oral and written assurances that it will not take shortcuts around assuring that quarantine requirements be based upon the best available scientific information. However, Mexico continues to put pressure on our government on this issue, and we must be continually vigilant.

As to market access for agricultural goods, or the phase-out of tariffs and non-tariff barriers, the NAFTA negotiations proceeded on two bilateral tracks and produced two separate agreements—one between the United States and Mexico, which includes the complete elimination of all tariff and non-tariff barriers, and one between Mexico and Canada, which excludes poultry, dairy products, and eggs.

Under the agreement between the United States and Mexico, all non-tariff measures affecting agricultural trade, such as Mexico's import licenses, will be eliminated immediately. They will be converted to either tariff rate quotas or ordinary tariffs. All agricultural tariffs—both the newly converted tariffs and those currently existing—will be eliminated either immediately or over transition periods of 5, 10, or 15 years depending on the import sensitivity of the product.

For U.S. tariffs on avocado products, our 13.2C/kg or 8.7% ad valorem tariff on Mexican fresh or dried avocados will be reduced to zero in equal increments over 10 years; our 17% ad valorem duty on frozen avocados from Mexico will be reduced to zero over 5 years, and our 13.2C/kg or 8.7 % ad valorem tariff on prepared or preserved Mexican avocados will be reduced to zero over 10 years. The first reduction of the tariffs is slated to occur on January 1, 1994.

For Mexico's part, it will reduce its 20% tariff on U.S. fresh avocados to 13.2C/kg immediately and then to zero over 10 years, its 20% tariff on U.S. frozen avocados to zero immediately, and its 20% tariff on prepared or preserved avocados from the United States to zero over 5 years. Tariffs between the United States and Canada will continue to be phased-out using the time frames negotiated under the U.S.-Canada Free Trade Agreement.

In conclusion, although we would have liked to have negotiated better tariff protection, especially on fresh avocados, and a more iron-clad assurance that our phytosanitary ban will not be lifted over time, we believe that as long as there will be a NAFTA, the terms of the agreement do far less injury to our interests than could have occurred, especially in light of Mexico's all out effort—even at the highest levels—to persuade the U.S. government to lift the U.S. phytosanitary quarantine on fresh Mexican avocados in the NAFTA text.