

PROPOSAL BY THE MEXICAN CONFEDERATION OF MEXICAN PORK PRODUCERS FOR NATIONAL PORK PRODUCERS COUNCIL IN RESPONSE TO THE REPEATED DEMAND BY MEXICAN PRODUCERS TO ESTABLISH A REGULATORY MECHANISM FOR HAM IMPORTS COMING FROM THE UNITED STATES

Des Moines, IA August 29, 2008

Background:

In 1991, Mexican pork producers expressed their position during NAFTA negotiations. Faced with structural issues and an asymmetry with the U.S. market, they pointed out the lack of access in cost and availability of the main supplies (grains, oil pastes and financial costs). No access to the pork meat market due to “non tariff” barriers (health reasons) resulted from disloyal competition (trade flowing only from North to South) given the structural differences of the market in both countries and that still prevail: The U.S. market pays a much higher price for prime cuts: as loin and belly, while the prices of hams and shoulders are residual; a different situation in the Mexican market. This situation has made the import of hams and shoulders extremely profitable (TIGIE: 0203.1201 y 0203.2201) for Mexican importers of these products. The amounts of imports were exponential, as were the numbers of importers who obtained great profits with no benefit to the Mexican consumer, and affecting marketing Mexican production.

Mexican pork producers, through various negotiations with the International Business Practices Unit (SE), have been unsuccessful in requesting the correction of disloyal competition against imports that clearly qualificate for disloyal practices. The most recent one results from an official investigation initiated by SE on May 31, 2004 and resolved negatively 17 months later, published in the Official Federal Gazette (DOF) on December 21, 2005. On this Resolution had begin as a result of a failure to attend to a Request for Investigation submitted by pork producers and published in the DOF on January 7, 2003.

The Cámara de Diputados (Mexican Chamber of Representatives), with the support of Parliamentary Groups of the main political parties has submitted

to the Federal Executive Power on four occasions, and once by the Senate, the application of a safeguard or procedure that will regulate the imports of hams from United States.

Finally, on June 3 of this year, the Office of the Presidency has responded to the petition for a hearing by the Mexican Confederation of Pork Producers with the Federal Executive Power, who has directly instructed Minister of SE respond to the demand of the Mexican pork producers.

Considering:

FIRST:

That Mexican pork production is one of the production activities and as an active economic and social development activity, it provides jobs and wellbeing directly to over 35,000 families and indirectly to 750,000, and contributes close to 1.2 million tons to domestic pork consumption. That domestic pork production is the consumer of 4.2 million tons of grains produced by our farmers, which results in a multiplying effect for investment and jobs in industries such as transportation, balanced feed facilities, premixing, veterinary drugs, machinery and equipment, technical personnel and slaughter, processing and distribution facilities, as well as meat plants, to mention just a few.

SECOND:

That pork imports, and particularly, ham imports, have affected pork producers in Mexico by displacing domestic production with products that are of residual value in their countries of origin and whose imports compromise the current and future feasibility of this traditional activity in our country; and,

THIRD:

That under the direction of the Federal Executive Power and as part of the National Development Plan, there is a commitment to support the development and wellbeing of Mexican population, particularly low-income

population, and therefore we propose the following lines of action to correct and remedy the negative situation and that can be included favorably under this meeting and retake the negotiation proposal presented by the Mexican Pork Producer Confederation through the Economy Attaché to the Mexican Embassy in the U.S., submitted to NPPC (and AMI, USMEF, USDA) in Washington, D.C. on January 14, 2003 in the USTR offices. Updated proposal:

U.S. Delegation Wash 14 Enero '03

Dave Roper – pork producer from Idaho and President of NPPC
Jon Caspers – pork producer from Iowa and President-Elect of NPPC
Keith Berry – pork producer from Indiana and Vice President of NPPC
Nick Giordano – NPPC staff
Josh Snead – NPPC staff
Patrick Boyle - CEO AMI (Dinner Monday)
John Reddington – AMI staff
Stan Miller – packer representative with Excel
Alex Sune – packer representative with Excel
David Ross – packer representative with Smithfield
Charles Griffith – packer representative with Smithfield
Homero Recio – USMEF staff
Tom Lipitsky – USMEF staff

There will be some people from U.S. government. Probably Todd Drennan from USDA and maybe someone from USTR.

by: Nicholas D. Giordano

**PROPOSAL BY MEXICAN PORK PRODUCERS AS AN ALTERNATIVE TO THE LEGAL
PROCEEDINGS AGAINST PORK IMPORTS FROM THE U.S.**

Background:

Pork imports from the U.S. increased exponentially in the years following NAFTA in the past five years. These imports were encouraged by the extraordinary profits for meat importers, at prices below US production costs and sold in the Mexican market.

The average amount of pork imports per customs section determined by the Mexican authorities for the past five years was 185,609 tons and for the past three, 196,851 metric tons.

TABLE 1

DIFFERENCES BETWEEN MEXICO AND U.S. FOREIGN TRADE

0203 PORK IN 6 DIGITS

| MEXICO | IMPORTS FROM THE U.S. | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|--|--------------------------------|----------------|----------------|----------------|----------------|----------------|----------------|
| 02031201 | Ham shoulder w/o scraps Fr Ref | 96,664 | 135,991 | 183,889 | 180,126 | 193,355 | 191,437 |
| 02032201 | Ham shoulder w/o scraps Cg | 23,886 | 7,568 | 10,044 | 8,427 | 10,176 | 7,033 |
| TOTAL | | 120,550 | 143,559 | 193,933 | 188,553 | 203,531 | 198,470 |
| USA | EXPORTS TO MEXICO | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
| 020312 | SWINE HAMS, FR/CH | 28,630 | 45,869 | 99,342 | 103,981 | 119,538 | 95,639 |
| 020322 | SWINE HAMS, FROZ | 10,722 | 5,670 | 12,421 | 9,300 | 14,053 | 12,609 |
| TOTAL | | 39,351 | 51,539 | 111,763 | 113,281 | 133,591 | 108,248 |
| DIFFERENCE = MX (-) US STATISTICS | | 81,199 | 92,021 | 82,170 | 75,272 | 69,940 | 90,222 |

Commercial opening has created an unequal, one-way business. Imports under conditions of disloyal practices have resulted in the displacement of

Mexican pork production, and in demanding corrective legal actions would necessarily cause an interruption of commercial flow, thus damaging both U.S. suppliers and the Mexican industry that depends on these supplies. Thus, any action in this regard would place third-party countries in a position of comparative advantage against U.S. suppliers that have fought for the market in the past 10 years.

Mexican pork producers have proposed the possibility of establishing a quota-tariff to guarantee the timely supply to the Mexican importing industry and to guarantee the commercialization of pork from the U.S. under conditions that don't affect Mexican pork production and particularly that prevent commercial interruptions:

FIRST:

A specific equivalent import tariff should be imposed on pork pursuant to the customs tariff determined by the Mexican authorities for supply pork under the February 1999 Resolution.

SECOND:

Likewise, based on the volumes determined by the official statistics, a minimum import quota should be established per pork customs fraction, considering an average for the past five years.

THIRD:

By common agreement, the actions required would be determined to prevent the U.S. industry from losing competitiveness to third-party countries under this proposal.

FOURTH:

This proposal should be in effect for at least 5 years, and should be revisable upon its expiration, based both on market conditions and regional integration.

FIFTH:

During its effectivity, no legal procedures shall be exercised that modify the terms of this Agreement.

Once agreed, the legal bases shall be established, pursuant to the law in each country and to the appropriate agreements, to protect the industry in both countries. (SPECIAL SAFEGUARD?)

The specific terms and support of the first points are attached to this document:

1. Determining the customs tariff level: The customs tariff established for swine hams covered by customs tariff sections 02031201 and 02032201 would be one dollar per kilo imported. This rate is based on the Mexican market for hams compared to the price of live pigs. Likewise for the specific recovery differential weight between hams in the Mexican market and in the U.S. market. (See tables 2 and 3).
2. The figures of the Mexican market according to USTR shall prevail over those published by FAS-USDA as a reference suggested by the authorities themselves. The import quota volumes free of customs tariffs shall be estimated based on the average of the past 5 years in order to respect the seasonality of each of the above mentioned customs tariffs. The import quota volumes free of customs tariffs shall be estimated based on the average of the past 5 years in order to respect the seasonality of each of the above mentioned customs tariffs.
3. Canada and Chile are the most important suppliers after the U.S. Once the terms of this proposal have been set, the Mexican authorities would determine the actions needed to create equal conditions for these countries and others that, as a result of the agreement, may have an additional advantage that would affect the U.S. suppliers.

4. Faced with no commercial integration in the North American region, resulting from lack of access to Mexican pork, it is imperative to revise the health protocol between Mexico and United States in order to remove “non-tariff” barriers.
5. This initial agreement should ensure a constructive, ongoing relationship that will guarantee the integration of the US-MEX market and with Canada. While there is a differential agricultural policy in the region for each NAFTA country, there should be offsetting mechanisms to ensure a fair trade relationship to benefit the region’s producers. Thus, the first phase would take at least five years.
6. In order to provide greater certainty to those who undersign this understanding, both parties agree not to use any other type of revision or legal action during the life of this agreement.
7. Both parties shall demand from their respective governments, either directly or through their legal representatives, the institutionalization of this agreement once executed by the authorized representatives.