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THE BENEFITS OF THE NORTH AMERICAN FREE TRADE AGREEMENT

LLOYD DAY*

The North American Free Trade Agreement (NAFTA) has benefited the United States and Mexico.¹ Two-way agricultural trade between the United States and Mexico has increased more than 100% since 1994, when NAFTA went into effect, reaching U.S. \$12.8 billion in 2002.² I want to put that U.S. \$12.8 billion in agricultural trade into perspective. NAFTA trade between all three countries has risen from U.S. \$297 billion to U.S. \$614 billion.³ There is much discussion in both the Mexican and U.S. press about how U.S. policies are affecting Mexican corn growers. U.S.-Mexico agricultural trade is U.S. \$12.8 billion out of U.S. \$614 billion.⁴ This is a very small fraction. NAFTA was created to benefit the member countries in all economic sectors. When disputes start affecting individual sectors, like the pork, corn, or poultry sectors, those disputes begin to unravel something that benefits much more than the U.S. \$12 billion in trade.

U.S. agricultural exports to Mexico have increased since 1993, reaching U.S. \$7.3 billion.⁵ Mexico is now our third largest agricultural market.⁶ We sell more to Mexico than we sell to the entire European Union.⁷ NAFTA trade, including Canada, is responsible for 85% of U.S. agricultural export growth in the past decade.⁸ Total agricultural export in the United States since NAFTA came into effect in 1994 grew by about U.S. \$7 billion.⁹ Trade to Canada and Mexico

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This speech appears substantially as delivered by Mr. Day. Footnotes have been added to aid the reader in some areas.

1. The NAFTA is a trade agreement among Canada, Mexico and the United States, implemented on January 1, 1994, with a 15-year transition period. The major agricultural provisions of NAFTA include: 1) the elimination of nontariff barriers immediately upon implementation, generally through their conversion to tariff-rate quotas or ordinary quotas; 2) elimination of tariffs - many immediately, most within 10 years, and on some sensitive products gradually over 15 years; 3) special safeguard provision; and 4) country-of-origin rules to ensure that Mexico does not serve as a platform for exports from third countries to the U.S. North American Free Trade Agreement, Dec. 17, 1992, U.S.-Can.-Mex., 32 I.L.M. 605, available at <http://www.nppc.org/resources/glossary.html#n> (last visited April 5, 2004).

2. U.S. Census Bureau, Foreign Trade Statistics, available at <http://www.census.gov/foreign-trade/balance/c0005.html> (last visited April 5, 2004).

3. U.S. Census Bureau, Foreign Trade Statistics, available at <http://www.census.gov/foreign-trade/balance/index.html> (last visited April 5, 2004).

4. *Id.*

5. U.S. Census Bureau, Foreign Trade Statistics, available at <http://www.census.gov/foreign-trade/balance/c0005.html> (last visited April 5, 2004).

6. U.S. Census Bureau, Foreign Trade Statistics, available at <http://www.census.gov/foreign-trade/statistics/index.html> (last visited April 5, 2004).

7. *Id.*

8. *Id.*

9. *Id.*

accounted for U.S. \$6 of that U.S. \$7 billion.¹⁰ This growth shows that NAFTA worked for agriculture. There are complaints in the United States about how NAFTA affects specific agricultural commodities, both in Canada and in Mexico. However, free trade—the opening of the market—has worked. NAFTA is important for U.S. agriculture because U.S. agriculture increases in terms of capacity about 20% a decade.¹¹ The population of the United States increases by about 8% a decade.¹² That's a 12% difference. That market has to find an outlet, and through trade liberalization we have the ability to export our product, and that is real important for the United States.

In the NAFTA sector there has been a huge shift toward processed foods and towards value-added foods.¹³ The United States still does a great deal of bulk commodity trade in grains, and in livestock as well, but it is in the consumer-ready and the intermediate goods where there has been significant growth under NAFTA.¹⁴

Mexican agriculture also exports to the United States. Mexico has doubled export growth reaching U.S. \$5.5 billion in 2002.¹⁵ There was concern that NAFTA meant the *end* of Mexican agriculture. The *Reforma* headlines read, "Danger, Protection—We're going to be flooded by pork!"¹⁶ That has not been the case. Mexican agriculture has actually become more competitive and has grown tremendously. Mexico even had a trade surplus in agriculture in the first part of this year.¹⁷ The fruit and vegetable sector has a U.S. \$4 billion trade surplus.¹⁸ The bulk of this export increase is in the fruit and vegetable sector; but it is also in the number one export of Mexico to the United States: beer. The bulk of what Mexico sells the United States is "consumer-ready." "Consumer-ready" means mostly perishable fruits and vegetables, but also beer, wine, and other things.

Investment by the United States into the Mexican food and agricultural sector has been about U.S. \$5.1 billion.¹⁹ However, due to NAFTA disputes, there has been no investment since 2003.²⁰ These political tensions, resulting in less capital investment, harm Mexico by limiting the creation of jobs there. The disputes erect barriers to trade by isolating and trying to protect small segments of the Mexican countryside, making them less competitive. This inhibits the opportunity for capital mobilization to come into Mexico, which is what really creates jobs.

The United States is concerned with some of the NAFTA trade remedy issues. These include anti-dumping cases and safeguards that Mexico has taken, or is threatening to take, against U.S. products, including beef, pork, rice, poultry, and

10. *Id.*

11. *Id.*

12. U.S. Census Bureau, Foreign Trade Statistics, available at <http://www.census.gov/cgi-bin/ipc/idbsum?city=US> (last visited April 5, 2004).

13. NAFTA Center, Trade Stats and Market Trends, available at <http://www.txed.state.tx.us/nafta/subpage.cfm?page=TRADESTATS.htm> (last visited April 5, 2004).

14. *Id.*

15. *Id.*

16. The *Reforma* is printed in Mexico City, see *Reforma.com*, available at <http://www.theworldpress.com/ru/newspap/mexiq/reforma.htm> (last visited April 5, 2004).

17. NAFTA Center, Trade Stats and Market Trends, available at <http://www.txed.state.tx.us/nafta/subpage.cfm?page=TRADESTATS.htm> (last visited April 5, 2004).

18. *Id.*

19. *Id.*

20. *Id.*

apples.²¹ Recently, the United States has taken Mexico to the World Trade Organization (WTO) on beef and rice disputes.²² In the pork sector, the United States is offering technical assistance to attempt to integrate our sectors more aggressively.²³ The United States hopes that Mexico accepts that challenge and does not file anti-dumping or safeguard measures. If that were to happen, the politics could frustrate NAFTA's goals. For example, if Mexico continues its unfair tax against high-fructose corn syrup, in which the United States invested nearly a billion dollars in production in Mexico, the U.S. Senate will take action.²⁴ The U.S. and Mexican Governments and industries must resolve disputes before the U.S. Senate acts. The United States hopes we are able to resolve our disputes with Mexico because, clearly, the trade is benefiting both countries.

Biotechnology is an important issue around the world. Mexico has been a very cooperative partner in trying to ensure the safe and free flow of biotechnology crops. Mexico benefits from biotechnology in terms of increasing its yields, protecting its crops from disease and from pests, as well as from using biotechnology for things like medicines. The United States views Mexico as a strong partner in biotechnology. The United States wants to protect the rich biodiversity in Mexico, as the Mexican Government does, and they will continue to work closely together in that matter.

The sanitary and phyto-sanitary arena (SPS arena) is the real frontier of agricultural trade disputes.²⁵ The whole world often uses SPS issues to block trade. If a country sees the potential of their own market being damaged by imports, or prices possibly declining because of competition, those countries may use SPS barriers to block products from coming in.²⁶ We need to resolve these SPS issues by working bilaterally with Mexico.

Food safety is important for all countries but there are certain ways in which the United States feels the government in Mexico is using food safety standards against our products. These food safety standards do not apply in their own market place, which is very troublesome for the United States. The food safety standards are mainly impacting the exports of beef, poultry, and pork. The United States is

21. See U.S. Customs and Border Protection, NAFTA Trilateral Websites, available at http://www.customs.gov/nafta/nafta_new.htm (last visited April 5, 2004).

22. The World Trade Organization (WTO) is an international organization established by the Uruguay Round of multilateral trade negotiations to oversee implementation of the General Agreement on Tariffs and Trade and the agreements arising from the Uruguay Round, including the Uruguay Round Agreement on Agriculture, see National Pork Producers Council, Glossary, available at <http://www.nppc.org/resources/glossary.html#w> (last visited April 5, 2004).

23. See National Pork Producers Council Website, available at <http://www.nppc.org/> (last visited April 5, 2004).

24. Forbes.com, *U.S. Senator aims 'Tequila' Tariff at Mexico* (Nov. 25, 2003), available at http://www.forbes.com/home_europe/newswire/2003/11/25/rtr1160499.html (last visited April 5, 2004).

25. Sanitary and Phytosanitary Measures: The NAFTA imposes "disciplines" on the development, adoption, and enforcement of sanitary and phytosanitary (SPS) measures. These are measures taken to protect human, animal, or plant life or health from risks that may arise from animal or plant pests or diseases, or from food additives or contaminants. Disciplines contained in NAFTA are designed to prevent the use of SPS measures as disguised restrictions on trade, while still safeguarding each country's right to protect consumers from unsafe products, or to protect domestic crops and livestock from the introduction of imported pests and diseases. FAS Online Fact Sheet, North American Free Trade Agreement (July 2001), available at <http://www.fas.usda.gov/info/factsheets/NAFTA.html> (last visited April 5, 2004).

26. Forbes.com, *U.S. Senator aims 'Tequila' Tariff at Mexico* (Nov. 25, 2003), available at http://www.forbes.com/home_europe/newswire/2003/11/25/rtr1160499.html (last visited April 5, 2004).

proposing some kind of harmonization with the Mexican and Canadian governments so we all work according to the same rules of the game. The rules would protect food safety for our consumers, but also eliminate testing that has nothing to do with food safety, but is used to block U.S. exports of beef, pork and poultry.

NAFTA has benefited U.S. agriculture. U.S. beef exports have increased to U.S. \$129 million in 2003.²⁷ The tonnage of beef exports is massive.²⁸ Mexico is our second largest export market for beef, just as it is for pork.²⁹ This does not mean that the United States is displacing Mexican beef production. U.S. beef is complementing Mexican beef production. Under NAFTA, Mexican incomes have risen, creating a demand for more protein as it is more affordable. Because of that demand, Mexico is importing more U.S. products like beef, pork and poultry. U.S. exports are not flooding the Mexican market, as many producers will say.

Mexico is the United States' number one rice export market.³⁰ In the 1990's, Mexico imposed an antidumping duty on our milled rice, effectively shutting us out of the market.³¹ Milled rice has seen no growth since 1995, whereas our rough rice production has grown tremendously.³² The real reason for that measure against our milled rice was to protect the Mexican domestic milling industry. The United States feels this barrier is inappropriate. When Mexico did an injury determination of the effects of U.S. rice exports, no injury was found.³³ Mexico then applied anti-dumping duties regardless of finding no injury in their initial investigation. Because of that, the United States has asked for a WTO dispute settlement panel.³⁴

Poultry is another sector where the United States has seen tremendous export growth. Mexico is our third largest export market for poultry.³⁵ In the United States, we consume white meat: skinless, boneless, chicken breasts. Mexico favors darker meat: the chicken legs and quarters. There should be great opportunity for complementing each other's production where the demand is different. However, there has not been a lot of poultry exports of white meat to the United States. The United States has been very successful in selling our dark meat, like chicken leg quarters, to Mexico. In fact, the United States entered into a poultry safeguard agreement with Mexico as a result of each country's industries discussing how tariffs came down from a very high level and the Mexican poultry sector could not compete at a zero tariff. The U.S. pork industry understood the problem and agreed to work with Mexico to find a way to phase tariffs out and allow Mexico's industry to adjust in the next five years to create total free trade in poultry.

27. See Total U.S. Beef Exports, available at http://www.usmef.org/Statistics2003/04_0218_BeefGlanceStats.pdf (last visited April 5, 2004).

28. *Id.*

29. Minnesota Beef Council, Mexico Market (May 2003), available at <http://www.mnbeef.org/MayBeefMonth.press%20releases.Mexico%20Market.htm> (last visited April 5, 2004).

30. *Unfulfilled Promise: Mexican Barriers to U.S. Agricultural Exports*, Hearing Before the Senate Finance Comm., 108th Cong. (2003) (testimony of Travis Satterfield, Chairman of Rice Committee, Delta Council), available at <http://finance.senate.gov/hearings/testimony/2003test/092303tstest.pdf> (last visited April 5, 2004).

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

35. National Pork Producers Council, *U.S. Livestock Industry in 2003* (Jan. 28, 2003), available at <http://www.nppc.org/news/stories/2003/030128livestock.html> (last visited April 5, 2004).

Apple exports to Mexico have also grown tremendously. Mexico is the single largest export destination for U.S. apples.³⁶ But in 2002, exports dropped precipitously. This happened because Mexico ended a suspension agreement and applied exaggerated tariffs on U.S. apples.³⁷ Again, this is an area where the United States and Mexico are trying to find a resolution of this dispute expeditiously, but it certainly has not been solved expeditiously. If the United States does not see some resolution to this very soon, it is probably going to be another dispute taken to the WTO.

What are Mexico's issues with the United States? Mexico is concerned that U.S. bio-terrorism laws are going to halt the shipment of fresh fruits and vegetables across the border. Bio-terrorism law requires prior notice of 24 hours.³⁸ However, much of the Mexican fruit is picked, shipped, and on a U.S. grocery shelf in less than 24 hours. The United States is working closely with the Mexican Government on that issue.

Country-of-origin labeling is a big concern for Mexico as well. Mexico views country-of-origin labeling as a non-tariff trade barrier. However, when most consumers go to the grocery store, they are looking for the freshest products at the cheapest price. This means that country-of-origin labeling will not be as bad a barrier as Mexico thinks.

The United States is working with the Mexican Government on an access request that Mexico has made for potatoes, avocados and other products. Because of the importance the United States places on the NAFTA relationship, we expedited most of that request, much to the chagrin of the rest of the world. The United States has limited resources to expedite Mexico's request, but we are doing as much as possible to ensure two-way trade with one of our most import trading partners.

Mexican cantaloupes are also a big deal. Prior to last year, there were three consecutive years of salmonella outbreaks in Mexican cantaloupes.³⁹ It is a particular type of salmonella called *Salmonella poona*, which has been traced directly back to Mexico.⁴⁰ When the Food and Drug Administration put a ban on Mexican cantaloupes, the Mexican Government felt the ban was illegal since the entire country was banned and not simply the individual firms involved, some of whom were alleged to be U.S. packers. Recently, the Mexican Government came to Washington to work together on these issues. Due to this collaboration, several Mexican production plants are now able to export cantaloupes to the United States.

There is an area of collaboration that we have with Mexico called a Consultative Committee on Agriculture.⁴¹ The Committee meets frequently to discuss trade

36. The Fruit Growers News, *Apple Industry Needs Michigan to Rejoin its Partners*, available at http://www.fruitgrowersnews.com/pages/2003/issue03_03/03_03_rice.html (last visited April 5, 2004).

37. The Fruit Growers News, *Mexico Imposes 40% Tariff*, available at http://www.fruitgrowersnews.com/pages/2002/news02_08/news_tariff.html (last visited April 5, 2004).

38. Public Health Security and Bioterrorism Preparedness and Response Act of 2002, 42 USCA § 201 (2002), available at <http://www.fda.gov/oc/bioterrorism/bioact.html> (last visited April 5, 2004).

39. CIDRAP News, *FDA Bars All Mexican Cantaloupe Over Risk of Salmonella Contamination* (Oct. 30, 2002), available at <http://www.cidrap.umn.edu/cidrap/content/fs/food-disease/news/cantaloupe.html> (last visited April 5, 2004).

40. *Id.*

41. U.S. Department of State Washington File, *U.S., Mexico Will Establish Consultative Committee on Agriculture* (April 3, 2002), available at <http://usinfo.state.gov/regional/ar/mexico/agriculture3.htm> (last visited April 5, 2004).

disputes. Sometimes, trade disputes are resolved in these fora. The United States and Mexico also have the Partnership for Prosperity, which receives a lot of press here in Mexico and the United States.⁴² The Partnership's goal is to help link Mexican production with U.S. markets and to find non-competitive crops that can easily find access into our market place. This includes both crops from large, productive firms in the north of Mexico, and some producers of cacao or floral palms.⁴³ The United States and Mexico are working on a palm project for Palm Sunday and floral decorations, which would get palm products into the United States from Mexico instead of having the United States going to some third country for that product. The United States also works closely with Mexico on science and technology as well as on a whole host of environmental issues related to forestry, biotechnology, watershed management, and rural development.⁴⁴

Finally, Mexico really needs to make structural reforms for their agricultural sector to be productive rather than engaging in protection, which does not help anyone. Mexico is against U.S. subsidies to agriculture, but my fear is that Mexico will end up investing more into subsidization of their own products rather than tackling the real issues of structural reform needed to make Mexico's agricultural sector more productive.

42. U.S. Department of State Fact Sheet, U.S.-Mexico Partnership for Prosperity, *available at* <http://www.state.gov/p/wha/rls/fs/8919.htm> (last visited April 5, 2004).

43. *Id.*

44. *Id.*