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TRADE POLICY REVIEW OF MEXICO: 19-20 APRIL 1993

GATT Council's evaluation

The GATT Council conducted its first review of Mexico under the trade policy review mechanism (TPRM) on 19-20 April. The text of the Chairman's concluding remarks is attached as a summary of the salient points which emerged during the 2-day discussion of the Council.

The TPRM enables the Council to conduct a collective review of the full range of trade policies and practices of each GATT member at regular periodic intervals to monitor significant trends and developments which may have an impact on the global trading system.

The review is based on two reports which are prepared respectively by the GATT Secretariat and the government under review and which cover all aspects of the country's trade policies, including its domestic laws and regulations; the institutional framework; bilateral, regional and other preferential agreements; the wider economic needs; and the external environment.

A record of the Council's discussions and of the Chairman's summing-up, together with these two reports, will be published in Summer 1993 as the complete trade policy review of Mexico and will be available from the GATT Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21.

Since December 1989, the following reviews have been completed: Argentina (1992), Australia (1989), Austria (1992), Bangladesh (1992), Bolivia (1993), Brazil (1992), Canada (1990 and 1992), Chile (1991), Colombia (1990), Egypt (1992), the European Communities (1991), Finland (1992), Ghana (1992), Hong Kong (1990), Hungary (1991), Indonesia (1991), Japan (1990 and 1992), Korea, Rep. of (1992), Morocco (1989), New Zealand (1990), Nigeria (1991), Norway (1991), the Philippines (1993), Poland (1993), Romania (1992), Singapore (1992), Sweden (1990), Switzerland (1991), Thailand (1991), the United States (1989 and 1992), and Uruguay (1992).

CONCLUDING REMARKS BY THE CHAIRMAN OF THE COUNCIL

Review of Mexico

19-20 April 1993

1. I would like to conclude this first Trade Policy Review of Mexico with my understanding of the salient points emerging from the discussion. These closing remarks are made on my own responsibility.
2. In his opening statement, the representative of Mexico said that, since the deep crisis of the early 1980s, his country had transformed its highly protected and over-regulated economy into an open, market-oriented system. Main elements in the macroeconomic reform process were sound fiscal management, foreign debt restructuring and divestment of public enterprises, supported by a social consensus. As a result, real economic growth had been resumed and inflation substantially reduced.
3. Since 1983, a programme of trade liberalization had been pursued with the aim of promoting greater efficiency in Mexican industry and larger participation in world markets. Exports had been substantially diversified from petroleum into manufactures. Since 1989, the balance of trade had been negative; however, this had been financed by capital inflows. In the trade liberalization programme, quantitative restrictions had been virtually eliminated; tariffs had been reduced to a weighted average of 11 per cent; customs administration and valuation had been rationalized; a new law on standards and technical regulations had been introduced; and greater use had been made of anti-dumping and countervailing measures. Other important microeconomic changes undertaken to reduce costs and increase supply included deregulation and liberalization of foreign investment policies.
4. Mexico attached great importance to its participation in GATT. It had also concluded regional agreements under the Latin American Integration Association (LAIA), and other trade-related agreements with countries in Europe and the Pacific Rim. The North American Free Trade Agreement - which was yet to be ratified - was seen as fully compatible with GATT rules; it formed part of the extensive programme of economic and social policy changes undertaken by Mexico.
5. Agricultural policy in Mexico was aimed at reducing distorting forms of support, such as production or input subsidies, and at replacing them with direct payments to farmers.
6. A number of overseas trade barriers affected Mexican exporters, such as unjustified anti-dumping and countervailing measures, and the abuse of sanitary and phytosanitary measures. He hoped that a successful conclusion to the Uruguay Round could significantly reduce these problems.

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7. All participants praised Mexico for its far-reaching economic reforms, which had been conducted with notable success. Stable macroeconomic policy, with fiscal and monetary discipline, had been supported by measures to achieve a broad social consensus and alleviate the burden of adjustment, including wage and price pacts. This had enabled Mexico to stabilize and transform its economy and to resume economic growth.

8. The trend of major policy changes in Mexico was towards the consolidation of an open, market-oriented economy. Liberalization of the trade régime, privatization of most state enterprises, and deregulation of economic activities were showing impressive results. Mexico's business environment for domestic and foreign suppliers had been transformed by these changes. Some participants also welcomed the liberalization of foreign investment statutes and improvements in the rules governing intellectual property protection. Some members queried, however, whether the pace of macroeconomic and trade policy reforms could be sustained, given the increasing trade deficits and the slowdown in economic activity which had occurred in the second half of 1992. A question was also raised concerning changes in the structure of Mexico's foreign debt from public to private.

9. Participants welcomed Mexico's binding of all tariffs upon accession to GATT in 1986, reduction and rationalization of tariffs, modernization of customs procedures, virtual elimination of quantitative restrictions, and the considerable reduction in the scope of import licensing requirements. Participants strongly encouraged the Mexican Government to continue on its reform path.

10. A number of delegations raised questions about Mexico's anti-dumping and countervailing legislation. Main areas of concern included the 5-day rule for establishing provisional measures, the "chilling" effect on imports of the initiation of investigations, the rôle of the dumping margin in considering determination of injury, the possibilities for upward revision of duty rates recommended by SECOFI, the lack of a sunset clause, and the extent to which procedures took into account public interest criteria. Participants were also interested in knowing the exact conditions under which final duties could be revoked, and whether extensions to the time-limit for filing responses to questionnaires could be accepted by Mexico when requested by the interested parties. Participants welcomed Mexico's stated commitment not to use anti-dumping or countervailing measures as a protectionist device.

11. Participants asked Mexico to elaborate a consolidated list of remaining products subject to import licensing. They questioned the reasons for retaining such a requirement. They also sought information on conditions under which licence applications could be rejected and the number of such rejections over the past three years.

12. Some participants asked if Mexico had any plans to change its ad valorem customs service fee into a specific fee, more linked to the cost of the service rendered. In this connection, it was asserted that the

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customs fee, which was unrelated to the cost of processing import documents, could contravene Mexico's obligations under Article VIII of the GATT.

13. Many participants expressed serious concern about Mexico's use of sanitary, phytosanitary and other standards-related measures to limit imports. In some cases, it appeared that licensing requirements had been replaced by sanitary, phytosanitary or administrative obstacles. Reference was also made to a lack of transparency in Mexican procedures.

14. Some delegations asked about preferences for national suppliers in government procurement, as well as about the terms under which national or international tenders were called. Another area of concern related to the short period of time available to submit offers. Mexico was encouraged to accede to the Government Procurement Code.

15. One participant noted that there was no independent statutory body with a mandate to publicly and regularly review and assess Mexico's economic policies, and asked if Mexico had any intention to establish such a body in the future.

16. A number of participants sought further elaboration on the experience of maquiladoras, including their future in the light of general trade liberalization. Concern was expressed that incentives for existing maquiladoras were likely to be eroded by provisions of the NAFTA agreement, including rules of origin.

17. Clarification was also sought and comments made on the following specific issues:

- the gap between bound and currently applied tariff rates;
- tariff escalation;
- a recent increase in tariffs on imports of live animals and bovine meat;
- variable levies applied on sugar imports; it was noted that the domestic reference price for sugar was significantly higher than prices from both subsidizing and non-subsidizing exporting countries;
- possibilities for creation of mechanisms to improve communication between importers, customs and other administrative bodies;
- any plans to rationalize the structure of protection in the agricultural sector;
- any plans to reform the State import monopoly with respect to milk powder;
- any plans to join further Tokyo Round Codes;
- the existence of export-import balancing requirements, as well as local content requirements, in the motor vehicle sector;
- conditions applied in export financing;
- the effects on trade of monopolies and State corporations and plans for further divestment; and
- any plans to deregulate the petroleum sector and privatize the state-owned oil company, PEMEX.

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18. While it must be recognized that questions such as investment and intellectual property are not under review, some participants noted that certain stringent conditions, such as trade-related performance requirements, were still imposed in connection with approval of foreign direct investment. They asked if Mexico's new investment law would eliminate local content, export performance and trade balancing requirements. Other participants made favourable comments about the recent evolution of Mexico's competition and intellectual property laws.

19. Many members of the Council welcomed the proposed North American Free Trade Agreement (NAFTA). It was recognized that this meeting was not the forum for a full discussion of NAFTA, which was not yet ratified; in this context, participants looked forward to a complete examination of the Agreement under Article XXIV of the GATT. Some members noted that NAFTA offered the chance to reinforce Mexico's integration into the global economy, and consolidate its autonomous liberalization efforts. Others expressed concern about the possible diversion of trade from external trading partners and the length of the transitional period for the abolition of tariffs. Questions were also raised concerning the compatibility with GATT of the proposed exemption of NAFTA partners from Article XIX safeguard measures and the preference to be given to NAFTA over GATT procedures in dispute settlement. Certain delegations also referred to specific issues of concern arising in sensitive sectors, such as rules of origin in the textiles sector. The question of the compatibility of intellectual property provisions in NAFTA with the draft Uruguay Round TRIPs agreement was also raised.

20. In his reply, the representative of Mexico emphasized that the macroeconomic reforms undertaken had led to a marked improvement in public finances and thus encouraged new domestic and foreign investment which was necessary for future growth. Mexico's exports were adversely affected by the downturn in the world economy (although recent signs of renewed growth in exports were apparent), while imports remained largely unchanged. The social costs of adjustment had been mitigated by the National Solidarity Programme.

21. With respect to tariffs, the differential between bound and applied rates was a reflection of the pace of liberalization; tariff escalation was being progressively reduced and the tariff structure simplified. Customs procedures had been modernized, and the process was continuing; in the southern part of the country, much needed improvements in infrastructure were being implemented. The customs charge of 0.8 per cent was being used to finance the modernization process. Communication with exporters and importers had been improved to explain the changes and to resolve operational problems arising from them.

22. He said that, under the Foreign Trade Law, the Commission on Tariffs and Foreign Trade Controls (CACCE) had been established as the principal consultative body for the formulation and implementation of trade policy. The public could and did present proposals on foreign trade to this Council. The Coordinating Council of Foreign Trade Enterprises (COECE) had actively advised the Government in the NAFTA negotiations and,

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because of its effectiveness in this specific area, had acquired a permanent advisory rôle on overall trade policy. Another consultative committee acted as a channel for the views of consumers, suppliers and higher education establishments concerning consumer protection. There were also advisory committees on standards.

23. Mexico's adherence to further GATT Codes was not presently contemplated, principally because of Mexico's expectations for the single undertaking under the Uruguay Round, which should rectify the present fragmentation of rights and obligations.

24. Turning to questions on specific sectors, the representative described plans for the deregulation and liberalization of the automotive and pharmaceutical sectors; it was expected that prior import licensing in pharmaceuticals would disappear very soon. The Automotive Decree was justified under Mexico's Protocol of Accession; Mexico was committed to, and carrying out, a gradual liberalization in the sector. Aspects of the sugar régime were explained; it was stressed that no disruption to m.f.n. supplies had occurred. With respect to beef and live animals, tariffs had recently been increased within the framework of Mexico's GATT bindings, because of difficulties in the sector stemming from oversupply on world markets. Concerning tariffication in agriculture, Mexico had offered in the framework of the Uruguay Round to convert virtually all its non-tariff measures into tariffs; there were, however, a limited number of exceptions on which Mexico could not agree to tariffication and for which it sought an equitable, pragmatic solution in the negotiations. In this connection, he regretted that the Draft Final Act proposals on internal and export subsidies for agriculture were so weak. Concerning the outcome of the Panel on tuna, Mexico was working in a framework of regional cooperation to seek a durable solution to this difficult problem.

25. The Mexican representative gave a detailed description of procedures for the establishment of sanitary and phytosanitary regulations and their implementation, as well as for other standards. He noted that while in 1986, all farm, forestry and fishery products were subject to such regulations, these now applied only to high-risk products. Mexico was working in international organizations on the harmonization of SPS norms.

26. Regarding government procurement, Mexico had no price preferences or local content requirements. Tenders could be called nationally or internationally. Purchases with funding from international organizations fell under the rules of such organizations, which were normally based on the principles of national treatment and non-discrimination. Mexico hoped the current Government Procurement negotiations would lead to a strengthening of the Code, making it more attractive for outsiders to join. Concerning divestment of State enterprises, he confirmed that the process was continuing.

27. Mexico was continually evaluating its foreign investment laws with a view to putting modifications to Congress, aimed at increasing Mexico's competitiveness. The petroleum sector was designated as a state activity under the Constitution and no change was envisaged. International

prices were the basis of domestic prices in this sector. Coal imports were not subject to prior import licensing. The Federal Council on Competition would start its work, under the new Law on Competition in July 1993.

28. The representative gave detailed replies to questions on Mexico's anti-dumping laws and procedures. The time limit for responses to questionnaires went beyond limits fixed under the Code, and extensions were granted if justified. The linkage between dumping margins and injury took account of adjustment to domestic prices prompted by the dumping. Procedures for suspension of anti-dumping duties gave the same results as a sunset clause; cases were closed when domestic producers no longer demonstrated any interest in their continuation, or when an exporter could show absence of dumping for two or three consecutive years. Duties could only be maintained or reduced on review, not increased. The imposition of provisional duties at the inception of an investigation was exceptional. Unification of dumping and injury investigations under one authority gave a greater degree of flexibility and coordination. Mexico intended to establish an International Trade Tribunal to hear appeals in relation to anti-dumping cases.

29. In conclusion, he noted that Mexico was now one of the most open economies. It was thus also vulnerable to cases of unfair competition. This was why anti-dumping investigations had increased, although their trade coverage was still small. The general liberalization of the economy was the best guarantee against abuse of the anti-dumping system. The appropriateness of further legislative reforms was being evaluated.

30. The Council recognized Mexico's commitment to an open multilateral trading system, and its active participation in the Uruguay Round negotiations. It also noted that the continuation of the liberalization and reform process in Mexico would be greatly facilitated by a supportive external economic environment, and particularly by a successful and prompt conclusion to the Round.