

ISSUES REVIEW

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A Special Report for Northwest Fruit Exporters and the Washington Apple Commission

ISSUES INVOLVING APPLES:

Overview

The Mexican anti-dumping issue has been changing so quickly, that it has been difficult to issue an update that would be current for more than a day or two. However, NFE and Economia are in the final stages of negotiations over Mexico's 46.58% duty.

The India wax issue has also been in a see-saw mode since meetings in Delhi last April.

Importantly, on July 19th, the United States requested permission of the WTO to retaliate against \$143 million dollars worth of imports from Japan, unless Japan changes its fireblight requirements on apples. That has affected U.S. negotiations to open Australia and South Africa.

This *Issues Review* summarizes the status of these market access issues.

Mexico Anti-Dumping

In April-May, Northwest Fruit Exporters reached an unofficial agreement with the Mexican Ministry of Economy (Economia) about how to resolve the 46.58% anti-dumping duty on U.S. red and golden delicious apples. The tentative agreement provided for a minimum reference price that was highest between September and January, and was lower or did not exist at all in certain months of the spring and summer. The agreement was to be announced in July.

On June 2nd, a Mexican district court issued a compliance order to the Ministry of Economia. This was based on previous court rulings favorable to NFE that the Ministry's original investigative procedure was conducted by official(s) lacking proper authority. Since the Court had also ruled that NFE's amparo covered all NFE members, the compliance order applies to all NFE's members.

In late June, Mexico's chief trade negotiator to the United States met with apple growers and shippers in Brewster, Wenatchee and Yakima and confirmed that the basic terms of an agreement had been reached and would be finalized the following month.

In July, before finalizing the agreement, Economia wanted to revisit the periods during which different prices would apply. After lengthy discussions in Washington DC on July 21st and 22nd, the agreement remained as it was, although both sides identified where there might be some flexibility, and still some changes.

Mexico Anti-Dumping *(continued)*

Economia then suggested that in order to come into compliance with the June 2nd court ruling it might be required to throw out the case and start a new anti-dumping investigation. That would take several months.

Instead, after extensive policy level discussions, it was decided that NFE and Economia together would ask the Mexican federal judge to accept the NFE and Economia negotiated agreement as compliance with his June 2nd ruling. On Monday, August 9th, the federal judge agreed.

On August 16th, Economia informed interested parties of the pending agreement. That notification began a ten working day comment period that closes on Monday, August 30th.

Everyone should be aware that U.S. Trade Representative Zoellick and the staff at USTR, as well as Agriculture Secretary Veneman and her staff at USDA have consistently provided and continue providing NFE with regular support and assistance.

India

On March 23rd, Bill Bryant and USDA/FAS Counselor to India, Chad Russell, met with India's Joint Secretary of Health and discussed India's wax regulations. After a serious and friendly discussion, the Indian Health Ministry agreed to call a special meeting of its standards committee specifically to review the information the U.S. provided on food grade wax. (If you would like a copy of NFE's letter summarizing the information, please contact either NFE or BCI.) At the conclusion of that meeting, it was expected India would change its wax regulation to permit the use of food grade waxes, in such a way that India's regulation would become consistent with Codex levels. Unfortunately on June 9th, an Indian official below the Joint Secretary sent a response to the United States insisting on a review independent of the Codex analysis.

NFE and FAS agreed that the issue needed to be raised once again to the Joint Secretary level. Efforts to do that in July and August have not been successful. On August 17th, both FAS and NFE considered various technical and higher profile political options. Both FAS and NFE are working to secure a workable arrangement prior to the export season. If you are likely to be exporting apples to India in the coming weeks and have any questions, please call Bill Bryant or Matt Lantz at BCI.

Japan

On November 26th, 2003, the WTO decided that Japan's fire blight regulations were inconsistent with the WTO's phytosanitary rules. Japan was given until June 30th, 2004, to implement the ruling. On the last possible day, Japan lowered its buffer zone requirement from 500 meters to 10 meters, and reduced the number of inspections from three a year to only one. The U.S. does not believe Japan has done enough to comply with the WTO decision, and has requested authority to retaliate against \$143.4 million worth of Japanese agricultural and textile products unless Japan eliminates field inspection and buffer zone requirements. It is hoped this issue will be resolved by early January.

Australia and South Africa

Both Australia and South Africa prohibit the importation of Northwest U.S. apples because of fireblight and other minor pests, including some mites.

As was previously reported, an agreement was reached several years ago that Australia would provide market access first to New Zealand, and would then amend the New Zealand pest risk analysis to accommodate apples from the Pacific Northwest USA. When that agreement was reached it was anticipated New Zealand would have secured access by 2002. Unfortunately, the Australian Senate launched an inquiry and demanded more public input, and the approval process for New Zealand apples slowed considerably.

Australia and South Africa *(continued)*

Northwest Fruit Exporters is working very closely and in coordination with New Zealand Pip Fruit Growers on issues related to both Australia and Japan. The U.S. understands that what it works out with Japan in the WTO will shape the terms Australia provides New Zealand apples. Both the U.S. and New Zealand understand that the terms Australia provides New Zealand will determine what Australia provides the Pacific Northwest USA. To this extent, the best way to secure commercially realistic market access agreements for both New Zealand and U.S. apples into Australia is for the U.S. to secure realistic terms into Japan.

It is for this reason that NFE and New Zealand Pip Fruit coordinated on how best to respond to Australia's request for comments on its import risk analysis. In June, USDA submitted comments requesting that Australia base its analysis on the Japan-WTO decision. NFE's comments also requested Australia change its proposed requirement to be more consistent with the WTO ruling. The New Zealand Government and apple industry submitted a single response that also referred to the U.S. v. Japan fireblight decision.

The U.S.-Japan WTO case on fireblight is also driving negotiations over market access for Pacific Northwest apples into South Africa. On August 3rd, the U.S. Department of Agriculture sent South African authorities a request that South Africa revise its import regulations to reflect the "negligible risk of possible transmission of fireblight through apple fruit" and that "scientific evidence does not support the view that apples are likely to serve as a pathway for the entry establishment or spread of fireblight..." The U.S. letter also indicated that data on a few of the remaining pests of concern to South Africa is also forthcoming. It is possible South Africa will not make a firm commitment on fireblight until after the WTO rules on Japanese compliance.

NFE appreciates the ongoing support APHIS's Phytosanitary Issues Management Team is providing on Australian and South African market access.