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NAFTA WATCH

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Tracking key North American business and legal developments

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The "Living Tree" of NAFTA

The North American Free Trade Agreement is a "living tree" planted in North America but capable of growing into Central and South America. It lives through the new institutional architecture found in commissions, committees, working groups, and dispute resolution panel systems.

CCH *NAFTA WATCH* will monitor the operation of the Agreement that has created the world's largest free trade area.

NAFTA's impact on trade and investment in goods and services will be enormous, directly or indirectly affecting every business, every producer, and every consumer in Canada, Mexico, and the United States.

Many of these effects will be positive: increased trade and investment, environmental improvement, rising standards of living. Many will seem negative: plant relocations and disputes resulting from the increased friction that flows from the occurrence of increased trade and investment.

Trade disputes will continue under NAFTA, particularly antidumping and countervailing duty actions. *NAFTA WATCH* will follow the work of the Chapter 19 panels and the progress of the working groups on subsidies and countervailing duties and antidumping duties that are scheduled to complete their work by December 1995.

Customs procedures and qualification for duty-free treatment are of significant importance to importers and exporters. *NAFTA WATCH* will report upon the operations of NAFTA's rules of origin and the Uniform Customs Regulations, as well as the inevitable border snags that will be experienced.

Four industries—agriculture, energy and basic petrochemicals, financial services, and telecommunications—are the subject of separate NAFTA chapters, reflecting both their political and economic importance. *NAFTA WATCH* will keep its readers informed of any important developments that affect these industries.

And, of course, *NAFTA WATCH* will report all newsworthy developments in the other formal areas of the Agreement, such as intellectual property, investment, government procurement, trade in services, competition policy, and state enterprises.

The NAFTA side agreements on the environment and labor are certain to be the focus of charges and countercharges as NAFTA generates increased economic activity among the three countries. Environmental and labor groups can be expected to be vigilant in ensuring compliance with these side deals. *NAFTA WATCH* will keep you informed.

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"Living Tree"

Continued from the front page

Through guest columns and interviews, we will also bring you views other than our own. Government and corporate officials, academics, lawyers, and economists will comment on where NAFTA is, how it is doing, and where it is going. You may not share all of their views; we might not, either. But we should all know them, and through *NAFTA WATCH* we will.

NAFTA is an economic agreement, but in a larger sense it is more than that. It is an historic coming together of the three nations of the North American continent. Our history is not the war-torn history of Europe, but neither is it totally benign. NAFTA reflects this history in its text and will reflect it in its operation as it colors the attitudes of the people of North America and the political leaders.

It remains to be seen whether NAFTA will create a new era in the economic life of North America (North America, Inc.?). How well and how quickly will Mexico adapt to life under NAFTA? Is NAFTA an "over-negotiated" commercial-like contract rather than an international trade treaty based on broad general principles?

Over time, *NAFTA WATCH* will provide the answers to these questions. Welcome!

Richard G. Dearden
David Palmeter

Acknowledgments: *NAFTA Watch was written with contributions from Randall Hofley, Weimin Wang, and Tracy Lyle in Ottawa, and Analisa Janda and Alice Slayton in Washington.*

Companies should keep eye on accelerated tariff elimination

Tariffs

Since negotiation of accelerated tariff elimination is imminent, companies should consider petitioning their governments for accelerated elimination of tariffs on goods or against a proposed acceleration. Three rounds of accelerated tariff elimination occurred under the Canada-U.S. Free Trade Agreement.

The U.S. will begin negotiations with Canada and Mexico on the first round of accelerated tariff reductions under the NAFTA by mid-February, according to the Office of the United States Trade Representative (USTR). The initial round of negotiations will be conducted on an expedited timetable and will focus specifically on items cited in the NAFTA Statement of Administrative Action. These items include wine, brandy, flat glass, home appliances, and bedding components. A subsequent round of negotiations will be conducted to review all other items.

Negotiations on accelerated tariff reductions will start by mid-February.

Petitions for products to be considered under the expedited round of negotiations must be submitted to USTR by January 21, 1994. Under the expedited review schedule, USTR will publish a preliminary list of the products to be presented to Mexico and/or Canada "on or about" February 7 and will request comments on that list by February 25.

Petitions for products to be considered under the non-expedited round of negotiations must be submitted by February 25. USTR generally will not act on a petition unless most U.S. producers of that particular product consider it to be noncontroversial. USTR also is not likely to consider petitions for products that already were considered during the three rounds of negotiations under the Canada-U.S. Free Trade Agreement.

Copies of the U.S. petition format and the *Federal Register* Notice may be obtained from the U.S. Government Printing Office or from the Office of the USTR, 600 17th Street N.W., Washington, DC 20506.

On January 6, 1994, the Canadian government invited proposals for early tariff removal as well as comments on proposals by industries in the three NAFTA countries.

Details of how to submit a proposal were published in the *Canada Gazette* on January 8, 1994. Comments on existing proposals are due by February 1, 1994, while new proposals are due by February 22, 1994. ▲

NAFTA WATCH

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U.S. Customs publishes NAFTA "marking rules"

Customs

Just when you thought you had mastered the approximately 11,000 different NAFTA rules of origin, U.S. Customs has published nearly 30 pages of NAFTA "marking rules" in the *Federal Register* of January 3.

These rules are issued in response to Annex 311 of NAFTA, which requires the parties to NAFTA to establish rules for country of origin marking, for textile and apparel quotas, and for tariff elimination purposes. Despite a confusing similarity, the "marking rules" differ from the rules of origin and have a different purpose.

Customs will use the marking rules as rules of origin for non-NAFTA purposes.

The rules of origin more accurately might be called "rules of preference." They determine only whether an article qualifies for NAFTA's preferential duty treatment, not whether it "originates" in a particular country for any other purposes. They are based on a complex system of change in tariff classification supplemented in some instances by a value-added requirement.

Thus, in deciding whether a product made in a NAFTA country from parts or materials originating outside NAFTA is eligible for NAFTA treatment, Customs authorities will determine whether the NAFTA operations have produced an article which is included in a tariff classification sufficiently different from the classification applicable to the imported parts or materials. If so, the preference applies. If not, the article is subject to the regular rate of duty.

But even if the article is subject to the regular rate of duty, it still might "originate" in either Canada or Mexico for purpose of country of origin marking requirements.

These U.S. marking requirements (which have been in existence for decades) differ from the preference eligibility rules in NAFTA. In the past, these were based on case-by-case application of a "substantial transformation" test by U.S. Customs.

Now U.S. Customs proposes to change the nonspecific "substantial transformation" test for marking to a change in tariff classification system similar to NAFTA's. But here's the complicating factor: the tariff changes in the marking rules are not always the same as the tariff changes in the origin rules. Indeed, they appear to differ more often than not. U.S. importers bringing goods in from Canada or Mexico therefore must consult two sets of tariff classification rule: the first to determine origin for NAFTA purposes; the second to determine origin marking requirements.

The marking rules have been issued on an "interim" basis. U.S. Customs will consider public comments submitted by April 4, 1994. Write (in triplicate) to U.S. Customs Service, 1301 Constitution Ave. NW, Franklin Court, Washington, DC 20229.

Separately, on the same day, Customs announced its intention to use the NAFTA marking rules as the rules of origin for purposes other than NAFTA. ▲

Expanding NAFTA

Chile: Another NAFTA Party in 1994?

Roy MacLaren, Canada's Minister for International Trade, recently completed a visit to Mexico and Chile. Heading up the agenda for the trip was the possible accession of Chile to NAFTA in 1994.

MacLaren met with Mexican Trade Secretary Jaime Serra Puche between January 3 and 5 to discuss the state of trade and investment relations between the two nations. The two ministers also reviewed initial developments with regard to the establishment of the North American Commissions on Environmental and Labor Co-operation.

"Canada looks forward to working with Mexico in a variety of important areas, including the exploration of further trade opportunities," MacLaren said.

Following his stay in Mexico, MacLaren travelled to Santiago, Chile, on January 6 and 7 to meet Chilean Finance Minister Alejandro Foxley. Chile's accession into NAFTA was the focus of the meeting.

The three-country pact provides for accession of any country or group of countries under Article 2204. Only recently, Chile concluded a bilateral free trade agreement with Mexico, which became effective January 1, 1992. Most tariff and non-tariff barriers between Chile and Mexico are scheduled to be phased out by January 1, 1996. ▲

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GATT vs. NAFTA

Can Canada "tariffy" quotas on U.S. dairy, poultry, and eggs?

A major dispute between Canada and the U.S. is about to break out over eggs, dairy, and poultry products. The issue is whether Canada can "tariffy" current quotas on U.S. dairy, poultry, and eggs (at rates that in some cases are greater than 200%) as a result of the recently concluded GATT Uruguay Round negotiations. Canada says yes. The U.S. says no.

The Canadian government claims that Canada's supply management system for dairy and poultry products has been preserved. But U.S. Agriculture Secretary Mike Espy made a statement to the media in mid-December that Canada must eliminate all tariffs on U.S. exports of dairy, egg, and poultry products by 1998.

The issue arises because, under NAFTA, Canada has agreed not to increase customs duties on any goods that originate in the U.S. The U.S. argument, simply put, is that Canada would violate this provision of NAFTA if tariffs were raised on U.S. dairy, egg, and poultry products. NAFTA has incorporated Canada's ITT rights, which include GATT Article XI import quotas that are to be tariffed pursuant to the Uruguay Round negotiations.

Two interesting questions arise. First, are Uruguay Round tariffication rights negotiated after NAFTA also incorporated into NAFTA and therefore exempt from the NAFTA obligation not to increase tariffs? Second, assuming Canada can "tariffy" without breaching NAFTA, can Canada increase tariff's on "processed" dairy and poultry products such as ice cream and

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Canadian programs do not subsidize softwood lumber producers: panel

Trade Disputes

U.S. Department of Commerce findings that Canadian stumpage programs and log export regulations confer a subsidy on Canadian softwood lumber producers were rejected for a second time by a majority of a binational panel established under the Canada-U.S. Free Trade Agreement. The decision effectively directed Commerce to remove countervailing duties imposed on Canadian softwood lumber exports to the U.S.

Commerce complied, but does not consider the decision binding.

On January 6, 1994, Commerce grudgingly complied with the Majority's direction but repeatedly stated that the Department considers its own findings to be "reasonable" and "strongly" objects to the Panel's substitution of its interpretation of U.S. countervailing duty law for that of the Department.

Commerce gave notice that it did not consider the Panel's decision to be binding on future Departmental actions and that it "intend(ed) to continue applying our reasonable policy" for making the determinations which the majority of the panel found infirm.

The U.S. Trade Representative has until February to decide whether or not to institute "Extraordinary Challenge" proceedings in appealing the Panel's decision. At stake is the refund of more than $500 million in duties already collected by the U.S. and the future application of an 11.54% countervailing duty on Canadian exports of softwood lumber, that was estimated to reach Cdn $6 billion in 1993.

In the Panel's first decision on May 6, 1993, Commerce's *Final Determination* was rejected with several directions, including:

1. to reconsider all evidence relevant to a determination that the benefit accorded softwood lumber producers by stumpage and by log export restrictions was a benefit limited to a specific enterprise or industry or group thereof, as required by U.S. law;

2. to determine whether, on the specific facts in the case, the stumpage fees could and did have the effect of distorting the normal competitive market for softwood lumber and thus created "preferential" pricing subject to countervail duties under U.S. law; and

3. to clarify the legal standard applicable to its determination that B.C.'s log export restrictions had an effect on domestic log prices which benefited Canadian softwood lumber producers, and to demonstrate that such an effect is established by substantial evidence on the record, in accordance with U.S. law.

On September 17, 1993, Commerce affirmed *all* of its previous findings with respect to stumpage and log export restrictions and almost doubled the applicable duty rate (increasing the rate from 6.51% to 11.54% *ad valorem).*

In the Panel's second decision of December 17, 1993, the Majority, all nominated by the Canadian government, concluded that Commerce had failed to rationally support its conclusion that stumpage programs and log export restrictions benefit a specific enterprise or industry, or group thereof, and directed Commerce to find non-specificity on both counts. The Majority also rejected Commerce's conclusion that stumpage fees distort the normal competitive markets for softwood lumber and directed Commerce to find no market distortion, and thus no subsidy.

The Dissenting Panelists, nominated by the U.S. government, relied on the primary assertion that the Majority's "formulation of the standard of review is incorrect . . . and that it leads the Majority into a misconceived exercise that clearly exceeds its jurisdiction." In essence, the Dissenters claimed that the Majority failed to apply the appropriate standard for review of Commerce decisions to U.S. law, instead applying this standard to "what the Majority believes U.S. law should be." According to the Dissent, proper application of U.S. law results in the affirmation of all of Commerce's substantive decisions, as well as Commerce's calculation of the benefit conferred by log export regulations which resulted in the substantial duty rate increase.

The Majority decision was welcomed by Canada's Minister for International Trade, Roy MacLaren, who stated that the "result . . . reaffirms the Canadian position that there is no valid basis for the countervailing duty on softwood lumber." Minister MacLaren added that "[t]his ruling should convince the United States to finally bring this case to a close . . . ."

While the USTR's response has, to date, been guarded, the U.S. Coalition for Fair Lumber Imports, in a motion asking that the panel reconsider its December 17 decision, stated that it will ask the USTR to initiate an appeal of the panel decision to an Extraordinary Challenge Committee. The Panel unanimously rejected the motion for reconsideration. ▲

Joint ventures offer inroads to Mexican business

A number of U.S. companies have pursued business in Mexico through joint ventures, or asociaciones en participación.

From retailing to credit services to safety certification, joint ventures have allowed foreign companies in a number of sectors to combine their technological know-how with the marketing knowledge of successful Mexican companies.

One example of such melding is the venture between U.S. retailing giant Wal-Mart and Mexican retail and grocery colossus Cifra. The product of their efforts, Club Aurrerá, has been very successful, ringing up sales in excess of US $221 million in 1992. Price Co., Fleming Cos., and Kmart also have entered into successful retail joint ventures.

Service providers have taken advantage of the joint venture as well. Trans Union, Underwriters Laboratories, and Western Union all recently have announced joint ventures with Mexican companies.

"Tariffying" quotas

Continued from page 4

yogurt? The answers to these questions are by no means clear.

Where does the dispute go from here? Canada's Agriculture Minister Ralph Goodale has expressed a preference to resolve this dispute through consultations. The two countries could agree to resolve the dispute by granting U.S. exporters greater market access for raw and processed dairy and poultry products. Expect negotiations to begin sometime before the summer. ▲

Free Trade Zones

Mexican free trade expands to Latin America

With NAFTA in place, Mexico is looking to extend its free trade network southward into Latin America. Recent accords with Chile, Colombia, and Venezuela are expected to solidify Mexico's strong trade position.

The bulk of Mexico's foreign trade has been with the United States, in contrast to other Latin American nations, which tend to trade mostly with each other. If NAFTA and other trade agreements are successful, then Mexico will likely serve as a conduit for other Latin American nations to establish free trade practices with the United States. Chile already has asked to be included under the provisions of NAFTA, and many others are expected to follow.

The eventual goal is to establish a hemisphere-wide free trade zone that would compete with regional blocs in Europe and Asia. ▲

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Customs Briefs

Customs adjusts to NAFTA

□ **NAFTA help desk.** U.S. Customs has set up a NAFTA help desk at its headquarters in Washington, D.C., where importers and exporters can direct their questions about NAFTA implementation. The NAFTA help desk number is (202) 927-0066.

□ **Guide to new procedures.** U.S. Customs has published a report titled "The North American Free Trade Agreement: A Guide to Customs Procedures." The report discusses changes in customs procedures in all three countries regarding rules of origin, drawback, accumulation and fungible goods among other issues. The report can be purchased for $3.25 ($4.06 for foreign purchases) from the Government Printing Office by calling (202) 783-3238. The Customs Publication Number for the report is 571; the GPO stock number is 048-002-00118-4.

□ **New harmonization schedule.** The U.S. International Trade Commission has updated the Harmonized Tariff Schedule, including changes made by NAFTA. Any interested importer can obtain a copy of the new HTS and a subscription for the 1994 HTS for $50.00 ($62.50 for foreign purchasers) by calling the Government Printing Office at (202) 783-3238. The GPO stock number for this product is 949-010-00002-3.

The 1994 HTS also can be accessed through the Government Printing Office's Federal Bulletin Board. Questions about the Bulletin Board can be directed to GPO personnel at (202) 512-1265. ▲

Customs to accept interim documents for NAFTA certificates of origin

Customs

To facilitate a smooth transition to NAFTA rules, the Customs administrations of Canada, the U.S, and Mexico will accept other documentation in place of NAFTA Certificates of Origin on an interim basis. These transitional rules will apply to goods imported on or before May 1, 1994.

For goods from the U.S., Canada Customs will accept current valid Free Trade Agreement Certificates (including Blanket Certificates) for goods that continue to qualify as originating goods under NAFTA. Importers should contact the exporter to ensure that the goods continue to qualify as originating under NAFTA.

For NAFTA qualifying goods from Mexico, Canada Customs will accept signed letters on company letterhead. The letter must certifiy that the goods meet NAFTA rules and set out a description of the good, the tariff and classification number, the rule of origin under which the good qualifies for preferential tariff treatment, the signature of the appropriate company official, and the date of certification.

The U.S. Customs Service has announced a similar interim period for NAFTA origin documentation. For goods qualifying as originating goods under NAFTA, the Customs Service will accept valid Free Trade Agreement certificates or any other documentation that contains the same information required on the Free Trade Agreement or NAFTA Certificate. The interim period will expire on April 1.

The NAFTA Certificates of Origin provided by the three countries are identical. Companies will be able to use certificates produced in-house.

Both Canadian and U.S. Customs will accept the languages of either the exporting or the importing party. As a result, certificates issued from Mexico may be prepared in Spanish.

Copies of the NAFTA Certificate may be obtained from Revenue Canada's NAFTA Hotline (800-661-6121) or the U.S. Customs Service Flash Fax Hotline (202-927-1692, menu option 0450). ▲

Trade Balance

The U.S. bilateral trade balance for the first nine months of 1993 was in the red with Canada and in the black with Mexico. From January to September 1993, the U.S. imported $7.73 billion more from Canada than it exported north of the border, while it shipped $1.75 billion more to Mexico than it it imported. However, it is the overall balance that matters. For the U.S., that was a $35 billion deficit.

The Canadian bilateral trade balance for the first nine months of 1993 was in the black with the U.S. (as noted above), but in the red with Mexico. Canada imported $2.49 billion ($Can.) from Mexico and exported less than one-quarter of that amount ($.545 billion) to Mexico. The Canadian overall balance of trade for the January-September period, however, was a robust $8.79 billion, up $3.46 billion the same period last year.

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Views from the Field

Environmental side agreement ensures enforcement of domestic law

by: J.C. Thomas and M.L. Eriksson
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As an outgrowth of great controversy during the negotiation and adoption of NAFTA, the North American Agreement on Environmental Cooperation is an important development for North American governments, environmental groups, and the private sector.

Purpose of agreement. The Agreement is concerned with the establishment, maintenance, and enforcement of domestic environmental law. It increases public participation in the law-making and enforcement process, provides for government-to-government dispute settlement for patterns of failure to effectively enforce domestic environmental law, and creates mechanisms for collaboration among the NAFTA parties.

Trade sanctions may be imposed on only two of the parties—the United States and Mexico. With respect to Canada, monetary assessments enforceable by court order may be imposed.

From a business perspective, the three most significant areas of the agreement are the public complaints procedure, the prescription of action plans to remedy persistent patterns of non-enforcement, and, for businesses situated in the United States and Mexico, the potential for the imposition of trade sanctions.

Public complaints. Under the Agreement, any person or organization residing or established in the territory of a NAFTA party may file a submission with an independent tri-national Secretariat alleging that a party is failing to effectively enforce its environmental law. If the submission complies with certain criteria (e.g., it provides sufficient information regarding the allegation, is aimed at enforcement and not harassment, etc.), the Secretariat may determine that it merits a response from the party (which has, at most, 60 days to respond).

> **The side agreement increases public participation in law-making and enforcement.**

Factual record. After reviewing the response, the Secretariat may, on the agreement of two-thirds of the parties, prepare a factual record on the matter. In doing so, the Secretariat may consider, among other things, public submissions (including submissions from affected businesses, environmental groups, and other interested parties), and information developed by independent experts. On the agreement of two-thirds of the NAFTA parties, the factual record is to be made public.

This complaint process could lead to much greater public scrutiny of commercial activity. Although the process does not lead to any form of sanction, it could provide evidence of a "persistent pattern" of failure to effectively enforce environmental law that could lead a party to invoke the Agreement's formal dispute settlement process. Thus, business will want to ensure that any prejudicial allegations made in a complaint are appropriately responded to by the party or in the Secretariat's factual record (if one is prepared).

Action plan. Where there is evidence of a persistent pattern of failure of a party to enforce its environmental law, another party may request that the formal dispute settlement process set out in Part Five of the Agreement be invoked. Where a dispute settlement panel finds that a persistent pattern of failure to enforce exists, an action plan will be established to remedy the situation. Affected businesses will want to ensure that their interests are taken into account in the design and implementation of such plans.

Sanctions. If the party complained against fails to implement an action plan, the panel may impose a monetary assessment. If the assessment is not paid, in the case of the United States and Mexico, trade sanctions could be imposed. In imposing trade sanctions, the complaining party is obliged first to seek to suspend benefits in the same sector where there has been a persistent pattern of failure to enforce. In the case of Canada, the Commission established under the Agreement could apply for a court order to enforce the assessment.

While the requirement to take sectorial action will limit the scope of trade sanctions, a fully complying business may be "sideswiped" if a persistent pattern of a failure to enforce is found with respect to other businesses in its sector.

Remote possibility. The potential for the imposition of sanctions is, however, remote. Even if dispute settlement proceeds to an affirmative finding, it is likely that a party would choose to remedy a non-enforcement situation before allowing trade sanctions to be imposed. ▲

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NAFTA countries establish offices to monitor labor issues

Labor

The governments of Canada, Mexico, and the United States have each established a National Administrative Office (NAO) in order to ensure that labor laws are fully and fairly enforced within the NAFTA countries, according to Joreg Perez-Lopez, director of the U.S. Department of Labor's Office of International Economic Affairs.

The establishment of the NAOs is required by the North American Agreement on Labor Cooperation (NAALC). As stipulated by the NAALC, the NAOs will serve as contact points through which other government agencies and NAOs may access information and assistance on NAFTA-related labor matters.

NAOs will also:

- accept public submissions on labor law matters and publish a list of those submissions;
- consult periodically with one another about labor laws and market conditions in the NAFTA countries; and
- conduct reviews on whether the NAFTA countries are enforcing their labor laws.

The NAOs are currently working to develop further logistical and procedural guidelines and hope to publish a list of final rules and regulations by April 1, 1994. The Mexican and U.S. NAOs will operate from the same basic set of guidelines and procedures. The guidelines for the Canadian NAO will be somewhat different in order to allow for greater flexibility and coordination with the provinces.

All three NAOs are staffed and running with an interim staff of about five to 10 employees in each office.

The Canadian NAO has been established as a division of Labor Canada, with May Morpaw acting as the interim secretary. The Mexican NAO is located within the current Ministry of Labor. Ambassador Roberto Casellas has been appointed Secretary of the Mexican NAO. The U.S. NAO, under the direction of Acting Secretary Joreg Perez-Lopez, is operating out of the Department of Labor's Bureau of International Labor Affairs. ▲

U.S./Canada beer dispute

In a letter to U.S. Trade Representative Mickey Kantor, Anheuser-Busch Cos. Inc., G. Heileman Brewing Co. Inc., and Stroh Brewing Co. categorically stated that unless all "restrictive Canadian practices and the mind set against meaningful competition with imported beer are eliminated," the U.S. should close the border to Canadian beer from all provinces save Alberta. Ontario bears the brunt of the U.S. brewers attacks. Currently, record exports of Canadian beer are going to the U.S. but U.S. beer sales to Canada have diminished. The U.S. wine industry is also reportedly petitioning the USTR to address what it believes are discriminatory provincial practices directed at U.S. wine imports.

News & Notes

✓ **NAFTA Commission meeting.** The first NAFTA Commission meeting was scheduled for January 14 in Mexico City. Details of the meeting will appear in the next issue of *NAFTA WATCH*.

✓ **Environmental study nixed.** The U.S. Supreme Court refused to revive a NAFTA challenge in which environmental groups attempted to require the U.S. Trade Representative to prepare a study of the environmental impact of NAFTA. Last June, the federal district court in Washington, D.C., agreed with the environmental groups, ordering the immediate preparation of such a study. The decision was overturned by an appeals court two months later. On January 10, the Supreme Court denied the environmental groups' petition for review, without comment.

✓ **Vote-buying charges.** The Clinton Administration engaged in "blatant pork barrel trading" when it cut more than 21 deals with members of Congress in order to garner votes for NAFTA, according to a report issued by the consumer group Public Citizen. Among the deals chronicled by the 82-page report were textile and apparel concessions promised in a letter to U.S. Representative John Spratt (D-S.C.) and a promise to U.S. Representatives William Sarpalius (D-Tex.) and Glenn English (D-Okla.) to have the International Trade Commission investigate imports of durum wheat and peanut butter.

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NAFTA WATCH Part Two

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Panel Tracker

The Panel Tracker is published as a monthly feature of the CCH *NAFTA WATCH*. It reports the proceedings of all binational panels currently reviewing disputes subject to Chapter 19 of the Canada-U.S. Free Trad[redacted]greement and all future disputes subject to Chapter 19 of NAFTA. The Panel Tracker is published as a separate feature of the *NAFTA WATCH* newsletter for convenience and portability.

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NAFTA WATCH

PANEL TRACKER

January 19, 1994

The ***NAFTA WATCH*** "Panel Tracker" follows the proceedings of all binational panels currently active under Chapter 19 of FTA and under Chapter 19 of NAFTA. The first column of the "Panel Tracker" lists the panels in the order in which they were established. The second column highlights the agencies under review. The third column highlights the current status of the panels as well as their prospects for future action.

Product Under Review	Agency	Binational Panel Status
Certain Softwood Lumber Products from Canada (US-92-1904-01)	U.S. Department of Commerce	Panel affirmed determination in part and remanded in part, with two partial dissents, May 6, 1993. Determination on remand filed September 17, 1993. Panel again remanded Commerce's determination, December 17, 1993. Commerce accepted Panel decision, January 6, 1994. Extraordinary Challenge Committee requested by U.S. producers.
Certain Softwood Lumber Products from Canada (US-92-1904-02)	U.S. International Trade Commission	Canadian and provincial governments and Canadian producers requested a review of a U.S. International Trade Commission (ITC) final injury determination, August 5, 1992. Panel unanimously remanded the ITC determination for further action, July 26, 1993. Determination on remand filed October 25, 1993. Second Panel decision due January 24, 1994.
Pure and Alloy Magnesium from Canada (US-92-1904-03)	U.S. Department of Commerce	Government of Quebec and a Canadian producer appealed Department of Commerce final countervailing duty determination, August 10, 1992. Panel unanimously affirmed in part and remanded in part Commerce's determination, August 16, 1993. Determination on remand filed September 15, 1993. Panel affirmed in part and remanded in part Commerce's determination, December 14, 1993. Determination on remand due January 13, 1994.
Magnesium from Canada (US-92-1904-05/06)	U.S. International Trade Commission	Government of Quebec and a Canadian producer appealed final injury determinations in countervailing and antidumping duty cases, September 25, 1992. Panel review consolidated, January 22, 1993. Panel unanimously affirmed in part and remanded in part, August 27, 1993. Determination filed October 26, 1993. Panel decision due January 24, 1994, if determination on remand is challenged.
Certain Cold-Rolled Carbon Steel Flat Products from Canada (US-93-1904-01)	U.S. Department of Commerce	Canadian producers requested a review of final antidumping determination, July 9, 1993. Panel decision due July 12, 1994.
Certain Hot-Rolled Carbon Steel Flat Products from Canada (US-93-1904-02)	U.S. Department of Commerce	Canadian producers appealed final antidumping determination, July 9, 1993. Panel decision due July 12, 1994.
Certain Corrosion Resistant Carbon Steel Flat Products from Canada (US-93-1904-03)	U.S. Department of Commerce	Canadian producers appealed antidumping determination, July 9,1993. Panel review suspended, November 22, 1993.
Certain Cut-to-Length Carbon Steel Plate from Canada (US-93-1904-04)	U.S. Department of Commerce	Canadian producers appealed final antidumping determination, July 9, 1993. Panel review suspended, November 22, 1993.

Product Under Review	Agency	Binational Panel Status
Certain Corrosion-Resistant Carbon Steel Flat Products from Canada (US-93-1904-05)	U.S. International Trade Commission	U.S. producers appealed the ITC final injury determination, September 16, 1993. Panel decision due July 28, 1994.
Tufted Carpeting from the U.S. (CDA-92-1904-02)	Canadian International Trade Tribunal	U.S. producers appealed final injury determination. Panel affirmed determination in part and remanded in part, with two partial dissents, April 7, 1993. Panel review suspended July 22, 1993 due to withdrawal of panelist.
Gypsum Board from the U.S. (CDA-93-1904-01)	Revenue Canada	U.S. producers appealed final dumping determination. Panel unanimously remanded Revenue Canada's determination for further action, November 17, 1993. Determination due February 15, 1994.
Gypsum Board from the U.S. (CDA-93-1904-02)	Canadian International Trade Tribunal	U.S. producers appealed final injury determination. Panel review terminated by agreement, November 22, 1993.
Certain Hot-Rolled Steel Plate from the U.S. (CDA-93-1904-04/06)	Revenue Canada and Canadian International Trade Tribunal	U.S. producers appealed Revenue Canada's final dumping determination. Canadian producers appealed CITT's final negative injury determination. Panel reviews consolidated. Panel decision due April 19, 1994.
Certain Hot-Rolled Steel Sheet Products from the U.S. (CDA-93-1904-05/07)	Revenue Canada and Canadian International Trade Tribunal	U.S. producers appealed Revenue Canada's final dumping determination and CITT's final negative injury determination. Panel reviews consolidated. Panel decision due May 18, 1994.
Certain Cold-Rolled Steel Sheet Products from the U.S. (CDA-93-1904-08)	Revenue Canada	U.S. producers appealed final dumping determination. Panel decision due June 14, 1994.
Certain Cold-Rolled Steel Products from the U.S. (CDA-93-1904-09)	Canadian International Trade Tribunal	U.S. producers appealed final injury determination. Panel decision due July 13, 1994.
Certain Solder Joint Pip Fittings Originating in or Exported from the U.S. (CDA-93-1904-10)	Revenue Canada	U.S. producers appealed final affirmative dumping determination, October 19, 1993. Panel decision due August 30, 1994.
Certain Solder Joint Pressure Pipe Fittings and Solder Joint Drainage Waste and Vent Pipe Fittings from the U.S. (CDA-93-1904-11)	Canadian International Trade Tribunal	U.S. producers appealed final injury determination, November 24, 1993. Panel decision due October 5, 1994.
Preformed Fiberglass Pipe Insulation from the U.S. (CDA-93-1904-12)	Revenue Canada	U.S. producer appealed final dumping determination, December 3, 1993. Panel decision due October 14, 1994.

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