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THE WHITE HOUSE
WASHINGTON

September 16, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

JIM CONNOR *JEB*

SUBJECT:

Australian Meat Processed in
the Puerto Rican Foreign Trade
Zone on the Island of Mayaguez

The President reviewed your memorandum of September 17
on the above subject and made the following notations:

"Very discouraging.

Legislation - can't it be done?

If no action why don't we lower the import quota
and the trigger point? "

Please follow-up with appropriate action,

cc: Dick Cheney
Bill Seidman

THE WHITE HOUSE
WASHINGTON

Phil Bucher)

- Very discouraging.
A. regulation - can't it
be done?
If not action why
don't we lower the
import quota + the
trigger point?


ADMINISTRATIVELY CONFIDENTIAL

THE WHITE HOUSE
WASHINGTON

September 17, 1976

THE PRESIDENT HAS SEEN....

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN 

SUBJECT: Australian Meat Processed in the Puerto Rican Foreign Trade Zone on the Island of Mayaguez

BACKGROUND

On September 1, I sent you the memorandum which appears at TAB A.

CURRENT SITUATION

James D. Keast, General Counsel, Department of Agriculture, has supplied me with an updated report on the situation which appears at TAB B.

The substance of this report is that all our efforts to deal with the situation through action by the Foreign Trade Zone Board, through regulations by the Department of Agriculture and through negotiations with Australia have been frustrated. These efforts are all tied up in court litigation, and it will be impossible to get the court action resolved in time to correct the situation for the few months remaining in this calendar year. However, the Department of Agriculture will make a final effort to get corrective legislation which will avoid a recurrence of this situation in the future.

Attachments

cc: Richard Cheney
William Seidman

THE WHITE HOUSE

WASHINGTON

INFORMATION

September 1, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: PHILIP W. BUCHEN

SUBJECT: Australian Meat Processed in the Puerto Rican Foreign Trade Zone on the Island of Mayaguez

BACKGROUND

Australia entered into an agreement with the United States to limit its meat exports to the United States for the calendar year 1976. The agreement was so worded that meat coming from Australia which was processed within the foreign trade zone of Puerto Rico could not be counted against the limits imposed by the Australian agreement even though the processed meat went into U. S. markets.

To overcome the consequences of the indirect imports into the U. S., the Administration requested the Foreign Trade Zones Board within the Department of Commerce to initiate a hearing which at its conclusion could have resulted in a prohibition or limitation on use of the Foreign Trade Zone Board for the purpose of processing meat. However, pending the notice of hearing, the affected parties went into Federal Court in Roanoke, Virginia to secure a temporary restraining order against having the Board proceed.

Subsequently, the Department of Agriculture proposed regulations under the Meat Import Act which would have the effect of requiring all indirect imports of Australian meat to be counted against both the statutory maximum quotas under the Meat Import Act and the voluntary quotas under trade agreements such as that with Australia.

With the publication of these proposed regulations, the concerned parties amended their complaint in the Roanoke case to seek injunctive relief also against the proposed Agriculture order. At a hearing of the Court on August 23, the Judge deferred making any further ruling until September 14 and urged the private parties and the government to try in the meantime to work out a settlement.

CURRENT DEVELOPMENTS

In the face of the delay imposed by the Court, the Department of Agriculture and the Department of State began negotiations anew with Australia to secure an amendment to its trade agreement. This amendment would have the effect of requiring that meat exported in the future by Australia into the Puerto Rican Trade Zone and then into the U.S. be counted against its present export limits under the trade agreement. Australia has indicated its willingness to accept such an amendment, but it is still arguing that the contents of 1 shipment already made to Mayaguez that arrived August 16 and two others scheduled to arrive respectively on September 15 and October 15 should not be counted.

Agriculture believes that an agreement is possible that will not exempt the third of such shipments, and representatives of the U.S. Cattlemen Industry have been so advised. These representatives did consult with Speaker Albert today to seek his assistance, and this visit resulted in the Speaker's call to you. Secretary Butz is meeting with the Cattlemen representatives tomorrow afternoon (September 2, 1976), and he hopes to get their concurrence in an agreement which would require counting all meat imported through Mayaguez starting with the shipment due to arrive October 15.

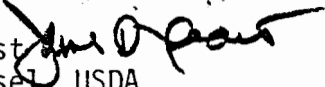
I will keep you advised of further developments.

cc: Jack Marsh
Bill Seidman

DEPARTMENT OF AGRICULTURE
OFFICE OF THE GENERAL COUNSEL
WASHINGTON, D.C. 20250

September 16, 1976

TO: Philip Buchen
Counsel to the President

FROM: James D. Keast 
General Counsel, USDA

Per your telephone request, this is an update on the matter involving processing of meat through Mayaguez, Puerto Rico. By way of review, the Secretary of Agriculture on July 13, 1976, wrote Secretary Elliot Richardson and asked that the Foreign Trade Zone Board (FTZB) be convened to consider excluding meat being processed in the Foreign Trade Zone (FTZ) at Mayaguez, Puerto Rico. Commonwealth Processing Corp., a licensee in the FTZ, filed suit in the Federal District Court, Roanoke, Virginia, asking the Court for a temporary restraining order (TRO) enjoining the FTZB hearing. The Court issued the TRO. The FTZ permittee, Puerto Rico Industrial Development Co., and El Ganadero, Inc., another licensee, moved to intervene and enjoin the implementation of the Secretary of Agriculture's August 17 proposed regulations, under which meat being processed in the FTZ would be counted against the voluntary restraint agreements -- an action primarily directed at Australia. The Court granted the motion to intervene and extended the TRO on the FTZB hearing. In addition, the Court ordered the taking of depositions to include Secretary Earl L. Butz, Assistant Secretary Richard E. Bell, a designee of Secretary William E. Simon, and a designee of Secretary Henry A. Kissinger (State Department having been joined as a defendant).

With agreement of the plaintiffs, the depositions, Court hearings and the FTZB hearings have been continued. Attempts have been made to renegotiate the voluntary restraint agreement with Australia to include provisions relative to the FTZB problem which would be satisfactory to USDA. Senator Carl Curtis, among several legislators, has introduced legislation which would count meat processed in FTZs against voluntary restraint agreements and under the Meat Import Act.

Satisfactory renegotiation of the voluntary restraint agreement with Australia has not come about. On September 15, at a meeting between representatives of the State Department, Justice and Agriculture, we reviewed various options, keeping in mind scheduled depositions of Cabinet and sub-Cabinet Officers commencing Monday, September 20. The options considered were:

- (1) Accept the Australian proposal.
- (2) Rely on legislation.
- (3) Imposing quotas under the Meat Import Act, as of October 1, assuming the trigger level would be reached.

Consultation with Senator Curtis' office indicated a high probability of satisfactory legislation. We had incomplete information on whether the estimates of meat being imported for the balance of the calendar year would reach the trigger level under the Meat Import Act, though it appeared quite close.

The lawsuit in Roanoke had all prospects of being drawn out through the end of the year, during which time the licensees in the FTZ would continue to process meat outside of the restraint agreement. Even if the FTZB was permitted to hold a hearing, the result would likely be to permit processing of meat under contract and would not satisfy our desired objectives. All these factors resulted in our conclusion that continued litigation would not provide the desired results. Therefore, on September 15, we took the following action:

- (1) Assistant Secretary Bell wrote Secretary Richardson withdrawing the request for the FTZB hearing.
- (2) USDA filed a notice for publication in the Federal Register, withdrawing its August 17 proposed regulations.
- (3) Filed a motion with the Court to dismiss the lawsuit on the basis it is now moot.

It was decided to:

- (1) Rely on legislation to prevent the processing of meat through Mayaguez.
- (2) Continue to monitor and review estimates of imports and be prepared to impose quotas under the Meat Import Act, if the estimates indicate such action is required.

Secretary Butz and Assistant Secretary Bell participated in these decisions and concur.