

September 8, 1997

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

MEMORANDUM TO THE COMMITTEE ON WAYS AND MEANS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES ON PROPOSED TARIFF LEGISLATION<sup>1</sup>

Bill no., sponsor, and sponsor's state: H.R. 1907 (105th Congress), Representative Tanner (TN)

Companion bill: None

Title as introduced: To amend the Harmonized Tariff Schedule of the United States to allow duty-free entry of an additional quantity of green peanuts that are the product of Mexico.

Summary of bill:<sup>2</sup>

The bill would allow duty-free entry, under a tariff-rate quota (TRQ) established to give effect to a concession under the North American Free Trade Agreement (NAFTA), of an additional 453,597 kilograms of green (immature) peanuts, expanding the maximum TRQ quantity of Mexican-harvested peanuts that can now be entered under HTS subheading 9906.12.01. To qualify under the proposed language, the green peanuts must be shipped refrigerated in 14.75 kilogram crates, and must be entered during January 1 to April 30 in any calendar year. In addition, they are required to be marketed for consumption as boiled peanuts.

Subheading 9906.12.01 now allows a quantity of in-shell, shelled, blanched or nonenumerated peanuts grown and harvested in Mexico to enter free of duty each year through 2007, while shipments in excess of that quantity are dutiable. During the transition period for NAFTA implementation, this figure increases annually under the terms of U.S. note 16 to subchapter VI of HTS chapter 99. In 1997, the TRQ quantity provided under the note is 3,690,000 kilograms, and in 2007 the quantity is 4,959,000 kilograms. Beginning on January 1, 2008, all such Mexican peanuts are eligible to enter the United States free of duty under the NAFTA.

Effective date: 15th day after enactment.

Retroactive effect: None.

Statement of purpose:

Representative Tanner made no statement in the Congressional Record about the bill. In a letter to the United States Trade Representative dated March 4, 1997, the sponsor wrote that:

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<sup>1</sup> Industry analyst: Stephen Burket (205-3318); attorney: Jan Summers (205-2605).

<sup>2</sup> See appendix A for definitions of tariff and trade agreement terms.

Fortunately in 1996 U.S. importers of green peanuts from Mexico were able to bring their crop into the country within quota. However, this year the entire quota was filled before even half the Mexican grown green peanuts were harvested. The impending 100% duty makes the enterprise largely uneconomical. This situation will have serious financial implications for the small vegetable broker/growers engaged in the business. Additionally hundreds of small retail outlets in the Southeast will be deprived of potential sales and thousands of consumers will be denied the possibility of almost year round access to this regional favorite.

Product description and uses:

Green peanuts: Green peanuts are peanuts that have been harvested before they have reached maturity. The harvested immature peanuts have a high moisture content and require special handling to prevent mold and decay. Green peanuts are primarily consumed as boiled peanuts in the Southeastern United States. There are no other known commercial uses of green peanuts in the United States.

Tariff treatment:<sup>3</sup>

<u>Product</u>	<u>HTS subheading</u>	<u>Col. 1-general rate of duty</u>	<u>Special</u>
Green peanuts.....	1202.10.80	178.3%	See 9906.12.01 (MX) <sup>4</sup>

Structure of domestic industry (including competing products):

Green peanuts: Data are not available on the production of green peanuts in the United States. Green peanuts can be produced by any farmer who raises peanuts. However, the special handling requirements and the need to refrigerate the harvested green peanuts limit the level of production of green peanuts. U.S.-grown green peanuts are harvested from May 15 through November 30 in the Southeastern United States. It is estimated that 5-6 million pounds are used annually in the canning of boiled peanuts. However, it is believed that roadside sales of green peanuts in the form of boiled peanuts exceed the volume of green peanuts used in canning. Green peanuts are a specialized product with limited competition from other products.

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<sup>3</sup> See appendix B for column 1-special and column 2 duty rates.  
<sup>4</sup> If this quantity is filled, Mexican peanuts valued not over 28.4 cents per kilogram are eligible to enter at a duty rate of 47.7 cents per kilogram under subheading 9906.12.02, and those valued over that figure can enter at a duty rate of 167.5 percent ad valorem under subheading 9906.12.03. Mexican peanuts are ineligible to enter under the global in-quota tariff category, subheading 1202.10.40.

Private-sector views:

The Commission contacted the importer/broker of green peanuts,<sup>5</sup> one wholesaler of green peanuts,<sup>6</sup> one canner of boiled peanuts,<sup>7</sup> and six associations.<sup>8</sup> Five of the entities submitted comments on the bill, which are attached to this memorandum. The other four organizations had not submitted written comments as of the date of the preparation of this report.

U.S. consumption:

Green peanuts:	<u>1994</u>	<u>1995</u>	<u>1996</u>
	-----(\$1,000)-----		
U.S. production.....	1,800	1,800	1,800
U.S. imports.....	( <sup>1</sup> )	( <sup>1</sup> )	60
U.S. exports.....	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
Apparent U.S. consumption.....	1,800	1,800	1,860

<sup>1</sup>The average annual value of U.S. imports of this product during 1994-95 is not known.

<sup>2</sup>The average annual value of U.S. exports of this product during 1994-96 is not known but is believed to be nil or negligible.

Principal import sources: Mexico

Principal export markets: Unknown

Effect on customs revenue:<sup>9</sup>

Future (1998-2000) effect: Revenue loss is not expected to exceed \$300,000 annually, assuming all of the imports would be entered at the over-TRQ NAFTA rate of duty for peanuts that are goods of Mexico.

Retroactive effect: None.

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<sup>5</sup> Mr. Buddy Zepeda, Rio Grande Okra Sales, (210-542-2190), on July 22, 1997.

<sup>6</sup> Mr. Robert Cashdollar, representing Akin and Porter Produce Company (202-728-4058), on July 22, 1997, and Mr. Joe Porter, Akin and Porter Produce Company (901-235-2287), on July 29, 1997.

<sup>7</sup> Mr. Joey Martin, W.B. Roddenberg Co., Inc., (912-377-2102), on July 21, 1997.

<sup>8</sup> Peanut and Tree Nut Processors Association, (301-365-2521), on July 16, 1997; Georgia Agricultural Commodity Commission for Peanuts, (912-386-3470), on July 16, 1997; GFA Peanut Association, (912-336-5241), on July 16, 1997; Alabama Peanut Producers Association, (334-792-6482), on July 16, 1997; Florida Peanut Producers Association, (904-263-6130) on July 16, 1997; and the National Peanut Growers Group, (254-734-2222), on July 16, 1997.

<sup>9</sup> Actual revenue loss may be understated in the event of a significant increase in imports over the duty suspension period.

Technical comments:

The bill as drafted would cause administrative problems for Customs, in that it does not create a discrete tariff provision for the green peanuts to be covered by this special reserved TRQ quantity. As such, the Customs automated entry system probably could not be programmed to capture these shipments separately and accurately. We note that the subject green peanuts already are eligible to enter under the existing tariff-rate quota (TRQ) provision, subheading 9906.12.01, negotiated under the NAFTA as described above for all peanut shipments. Even with the new reserved TRQ quantity, shipments of green peanuts in excess of the new figure are presumably intended to be able to enter at the duty-free TRQ rate until the quota fills, with the over-TRQ shipments of all peanuts still dutiable as provided under existing subheadings 9906.12.02 and 9906.12.03. In view of this situation, we suggest amending the bill to establish an alternative structure, replacing subsection (a) and renumbering existing subsection (b) as (f):

Sec. 1(a). Subheadings 9906.12.01 through 9906.12.03 and their immediately superior text reading "Provided for in subheading 1202.10.80:" are superseded by the following new provisions, inserted in numerical sequence with the article description for new subheading 9906.12.10 inserted at the same level of indentation as the description of subheading 9906.12.04:<sup>10</sup>

[Goods of Mexico, under general note 12 to the tariff schedule:]  
[Peanuts (ground-nuts), . . .:]

9906.12.10	“Provided for in subheading 1202.10.80: Green (immature) peanuts, shipped refrigerated in containers each holding not over 20 kilograms of peanuts, entered during the period from January 1 through April 30, inclusive, in any calendar year in a quantity not to exceed 453,597 kilograms.....Free (MX)
9906.12.11	Other: Subject to the quantitative limits specified in U.S. note 16 to this subchapter.....Free (MX)
9906.12.12	Other: Valued not over 28.40¢/kg.....47.7¢/kg (MX)
9906.12.13	Other.....167.5% (MX)”

- (b) Subheadings 9906.12.12 and 9906.12.13 shall be accorded the same staged reductions in rates of duty previously proclaimed for subheadings 9906.12.02 and 9906.12.03, respectively.
- (c) U.S. note 16 to subchapter VI of chapter 99 is amended by deleting “9906.12.01, 9906.12.04” and by inserting in lieu thereof “9906.12.04, 9906.12.11”.
- (d) The special subcolumn of rates of duty 1-general for subheading 1202.10.80 is amended by striking “9906.12.01-9906.12.03” and by inserting in lieu thereof “9906.12.10-9906.12.13”.
- (e) Nothing in this act is intended to affect the status of provisions of subchapter VI of chapter 99 as being proclaimed pursuant to trade agreements, and subheadings 9906.12.10 through

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<sup>10</sup> Note that the bracketed language shown here with the suggested tariff provisions should not be used in the text of the bill; it is shown here merely for clarification.

9906.12.13 and superior text shall be deleted from the HTS as provided in U.S. note 1 to such subchapter.

## APPENDIX A

### TARIFF AND TRADE AGREEMENT TERMS

In the **Harmonized Tariff Schedule of the United States** (HTS), chapters 1 through 97 cover all goods in trade and incorporate in the tariff nomenclature the internationally adopted Harmonized Commodity Description and Coding System through the 6-digit level of product description. Subordinate 8-digit product subdivisions, either enacted by Congress or proclaimed by the President, allow more narrowly applicable duty rates; 10-digit administrative statistical reporting numbers provide data of national interest. Chapters 98 and 99 contain special U.S. classifications and temporary rate provisions, respectively. The HTS replaced the **Tariff Schedules of the United States** (TSUS) effective January 1, 1989.

Duty rates in the **general** subcolumn of HTS column 1 are most-favored-nation (MFN) rates, many of which have been eliminated or are being reduced as concessions resulting from the Uruguay Round of Multilateral Trade Negotiations. Column 1-general duty rates apply to all countries except those enumerated in HTS general note 3(b) (Afghanistan, Cuba, Laos, North Korea, and Vietnam), which are subject to the statutory rates set forth in **column 2**. Specified goods from designated MFN-eligible countries may be eligible for reduced rates of duty or for duty-free entry under one or more preferential tariff programs. Such tariff treatment is set forth in the **special** subcolumn of HTS rate of duty column 1 or in the general notes. If eligibility for special tariff rates is not claimed or established, goods are dutiable at column 1-general rates. The HTS does not enumerate those countries as to which a total or partial embargo has been declared.

The **Generalized System of Preferences** (GSP) affords nonreciprocal tariff preferences to developing countries to aid their economic development and to diversify and expand their production and exports. The U.S. GSP, enacted in title V of the Trade Act of 1974 for 10 years and extended several times thereafter, applies to merchandise imported on or after January 1, 1976 and before the close of June 30, 1998. Indicated by the symbol "A", "A\*", or "A+" in the special subcolumn, the GSP provides duty-free entry to eligible articles the product of and imported directly from designated beneficiary developing countries, as set forth in general note 4 to the HTS.

The **Caribbean Basin Economic Recovery Act** (CBERA) affords nonreciprocal tariff preferences to developing countries in the Caribbean Basin area to aid their economic development and to diversify and expand their production and exports. The CBERA, enacted in title II of Public Law 98-67, implemented by Presidential Proclamation 5133 of November 30, 1983, and amended by the Customs and Trade Act of 1990, applies to merchandise entered, or withdrawn from warehouse for consumption, on or after January 1, 1984. Indicated by the symbol "E" or "E\*" in the special subcolumn, the CBERA provides duty-free entry to eligible articles, and reduced-duty treatment to certain other articles, which are the product of and imported directly from designated countries, as set forth in general note 7 to the HTS.

Free rates of duty in the special subcolumn followed by the symbol "IL" are applicable to products of Israel under the **United States-Israel Free Trade Area Implementation Act** of 1985 (IFTA), as provided in general note 8 to the HTS.

Preferential nonreciprocal duty-free or reduced-duty treatment in the special subcolumn followed by the symbol "J" or "J\*" in parentheses is afforded to eligible articles the product of designated beneficiary countries under the **Andean Trade Preference Act** (ATPA), enacted as title II of Public Law 102-182 and implemented by Presidential Proclamation 6455 of July 2, 1992 (effective July 22, 1992), as set forth in general note 11 to the HTS.

Preferential or free rates of duty in the special subcolumn followed by the symbol "CA" are applicable to eligible goods of Canada, and rates followed by the symbol "MX" are applicable to eligible goods of Mexico, under the **North American Free Trade Agreement**, as provided in general note 12 to the HTS and implemented effective January 1, 1994 by Presidential Proclamation 6641 of December 15, 1993. Goods must originate in the NAFTA region under rules set forth in general note 12(t) and meet other requirements of the note and applicable regulations.

Other special tariff treatment applies to particular **products of insular possessions** (general note 3(a)(iv)), **products of the West Bank and Gaza Strip** (general note 3(a)(v)), goods covered by the **Automotive Products Trade Act** (APTA) (general note 5) and the **Agreement on Trade in Civil Aircraft** (ATCA) (general note 6), **articles imported from freely associated states** (general note 10), **pharmaceutical products** (general note 13), and **intermediate chemicals for dyes** (general note 14).

The **General Agreement on Tariffs and Trade 1994** (GATT 1994), pursuant to the Agreement Establishing the World Trade Organization, is based upon the earlier GATT 1947 (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) as the primary multilateral system of disciplines and principles governing international trade. Signatories' obligations under both the 1994 and 1947 agreements focus upon most-favored-nation treatment, the maintenance of scheduled concession rates of duty, and national treatment for imported products; the GATT also provides the legal framework for customs valuation standards, "escape clause" (emergency) actions, antidumping and countervailing duties, dispute settlement, and other measures. The results of the Uruguay Round of multilateral tariff negotiations are set forth by way of separate schedules of concessions for each participating contracting party, with the U.S. schedule designated as Schedule XX.

Pursuant to the **Agreement on Textiles and Clothing** (ATC) of the GATT 1994, member countries are phasing out restrictions on imports under the prior "Arrangement Regarding International Trade in Textiles" (known as the **Multifiber Arrangement** (MFA)). Under the MFA, which was a departure from GATT 1947 provisions, importing and exporting countries negotiated bilateral agreements limiting textile and apparel shipments, and importing countries could take unilateral action in the absence or violation of an agreement. Quantitative limits had been established on imported textiles and apparel of cotton, other vegetable fibers, wool, man-made fibers or silk blends in an effort to prevent or limit market disruption in the importing countries. The ATC establishes notification and safeguard procedures, along with other rules concerning the customs treatment of textile and apparel shipments, and calls for the eventual complete integration of this sector into the GATT 1994 over a ten-year period, or by Jan. 1, 2005.

Rev. 8/12/97

**APPENDIX B**

**SELECTED PORTIONS OF THE  
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

(Appendix not included in the electronic version of this report.)

**APPENDIX C**

**OTHER ATTACHMENTS**

(Appendix not included in the electronic version of this report.)

105TH CONGRESS  
1ST SESSION

# H. R. 1907

To amend the Harmonized Tariff Schedule of the United States to allow the duty-free entry of an additional quantity of green peanuts that are the product of Mexico.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 1997

Mr. TANNER introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Harmonized Tariff Schedule of the United States to allow the duty-free entry of an additional quantity of green peanuts that are the product of Mexico.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DUTY-FREE ENTRY OF GREEN PEANUTS FROM**  
4 **MEXICO.**

5 (a) AMENDMENT TO HARMONIZED TARIFF SCHED-  
6 ULE.—U.S. Note 16 to subchapter VI of chapter 99 of  
7 the Harmonized Tariff Schedule of the United States is  
8 amended by adding at the end the following:

1 “The maximum quantity of peanuts that are qualify-  
2 ing goods under subheading 9906.12.01 under this  
3 note shall be increased each calendar year by an  
4 amount of 453,597 kilograms of peanuts in imma-  
5 ture form shipped refrigerated in 1 bushel crates,  
6 entered from January 1 to April 30, inclusive, to be  
7 marketed for consumption as boiled peanuts.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section applies to goods entered, or withdrawn from  
10 warehouse for consumption, on or after the 15th day after  
11 the date of the enactment of this Act.

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