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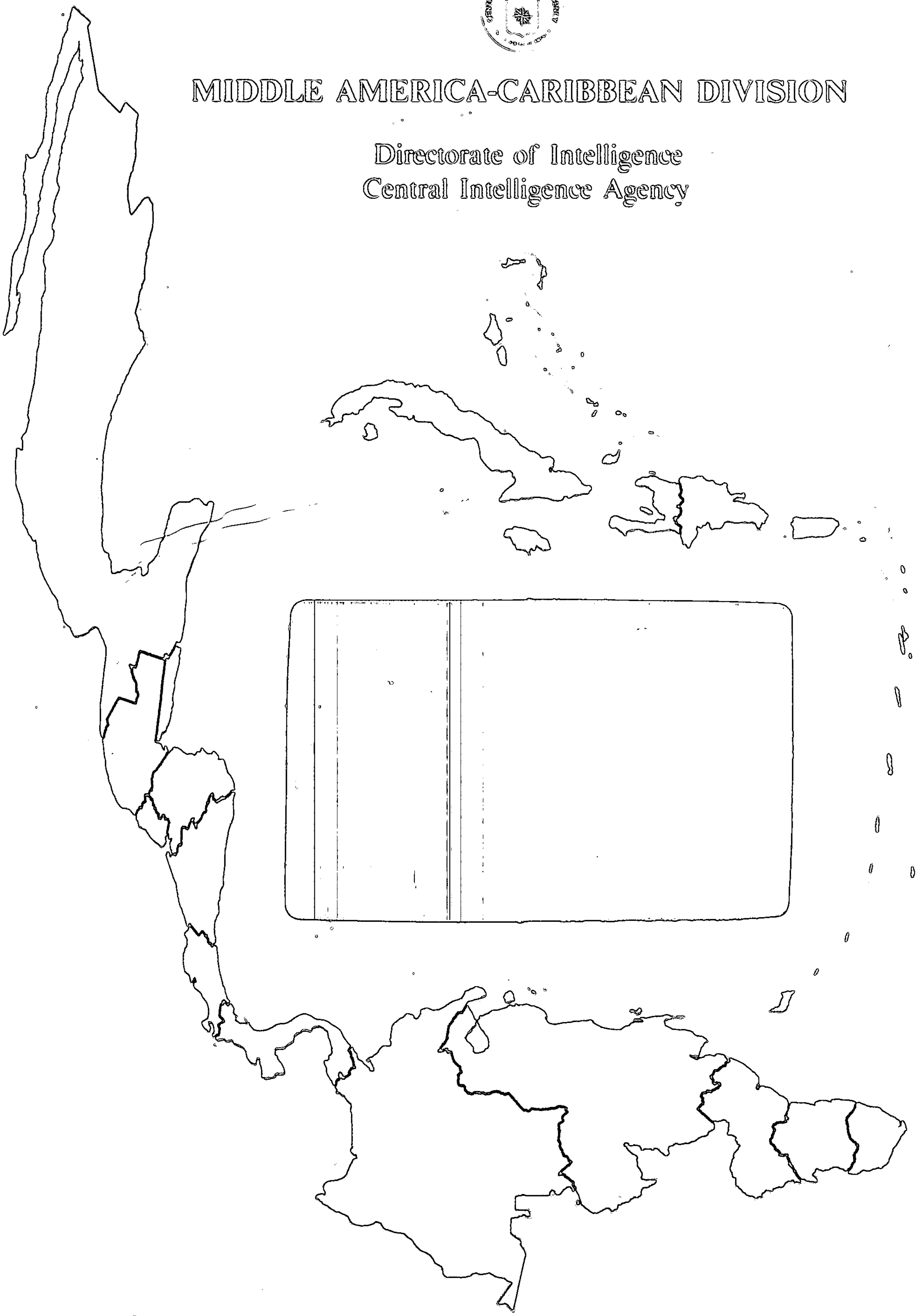

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MEXICAN VIEWS ON UPCOMING BILATERALS

1 OCTOBER 1986

[redacted] 25X1

Central Intelligence Agency

Washington, D.C. 20505

DIRECTORATE OF INTELLIGENCE

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Mexico's Stance on Bilateral Commercial Negotiations

Summary

After a one-year hiatus, Mexican officials have committed themselves to returning to the negotiating table to discuss a bilateral commercial agreement with the United States that will provide a framework for trade and financial dealings, consultation and dispute settlement procedures, and guidelines for investment. President de la Madrid personally signaled his desire to seek a broad-based commercial agreement with the United States last year by reversing a regulation detrimental to US pharmaceutical firms that had obstructed bilateral talks. [redacted] 25X1
[redacted] **opposition from interest groups, however, probably limit the scope of the agreement the government will accept and will complicate the negotiations. On balance, we believe that the Mexicans would be willing to agree to consultation and dispute settlement procedures and to fold intellectual property rights into an agreement, but if they are pressed on foreign investment, they are likely to balk.** [redacted] 25X1 25X1

Introduction

After a year-long hiatus, Mexican officials have committed themselves to returning to the negotiating table to discuss a bilateral commercial agreement with the United States that will provide a framework for trade and financial dealings, consultation and dispute settlement procedures, and guidelines for investment. Negotiations on the agreement will touch on a broad range of specific trade and investment issues, including trade barriers on agricultural and manufactured goods, intellectual property rights, and foreign investment laws. [redacted] 25X1

This memorandum was prepared by [redacted] **Mexico Branch, Middle America-Caribbean Division, Office of African and Latin American Analysis, at the request of Ann Hughes, Deputy Assistant Secretary for the Western Hemisphere at the Department of Commerce. Questions and comments may be directed to the Chief, Mexico Branch** [redacted] 25X1 25X1

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Mexico has made some headway in removing major trade irritants with the United States in the last year. Most notably, the government signed a subsidies agreement calling for the gradual elimination of illegal export subsidies, it backed away from tightening restrictions on the operations of US pharmaceuticals, and it added a large number of products to the list of imports exempt from permits. A number of problem areas remain, however, the most difficult being regulations on patents and trademarks that have effectively allowed Mexican firms to copy US products, restrictions on foreign investment, local content requirements, and export performance requirements. [redacted] 25X1

Giving Ground on Intellectual Property Rights

[redacted] the Mexicans are willing to move forward with changes in patent and trademark laws. [redacted] The government also presented draft amendments on the inventions and trademarks law to the Mexican Senate in mid-September. If enacted, these amendments would go far beyond de la Madrid's 1985 decision to overturn a regulation prohibiting US drug firms from using brand names and forcing them to disclose trade secrets. [redacted] In large measure, the revisions are primarily aimed at protecting pharmaceuticals and biotechnology, but they also will cover other products, such as chemicals, previously excluded from patent rights. [redacted] 25X1

[redacted] 25X1

[redacted] the proposal may provide only nominal protection because of several loopholes. Compulsory licensing and injunctions are in fact very difficult to obtain in Mexico. Moreover, ambiguous wording may allow "pirate" firms to interpret the law to their advantage. [redacted] 25X1

Dim Prospects for Changing Investment Laws

Mexican willingness to negotiate on intellectual property rights is not likely to be matched by a similar attitude on foreign investment. [redacted] while at least some government officials believe relaxing foreign investment restrictions is critical to revitalizing Mexico's economy, the protectionist bent of key members of the Cabinet--as well as of business and leftwing opposition--make significant changes in foreign investment rules unlikely. [redacted] 25X6

[redacted] 25X1

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In our opinion, a wariness towards foreign investment and a desire to prevent multinationals from driving local firms out of the market are likely to remain the underpinnings of Mexico's investment policy. Despite some steps taken two years ago to chip away at administrative delays and to lower barriers on foreign investment in priority sectors, the government has authorized only a handful of US investments with more than a 50 percent US share. Mexico also has recently allowed 100 percent Japanese ownership of several plants. Nevertheless, we believe these moves are in line with previously-announced policies to allow majority foreign ownership only in a limited number of sectors where the Mexicans seek foreign technology, such as electronics and chemicals, and subject to numerous constraints. At the same time, Mexico has imposed higher local content and export performance requirements that hinder foreign investors. The government shows no signs of permitting majority foreign ownership in other sectors, such as banking, insurance, and brokerage, which are politically sensitive and where fledgling Mexican firms would have difficulty competing with multinationals. [redacted] 25X1

[redacted] 25X1 25X1 In some cases, the rules for what constitutes acceptable and unacceptable foreign 25X1 investments in electronics, for instance, overlap. Foreign investors, unsure of how the rules will be applied, opt not to invest. If Mexico follows through, the regulations could at least clear up uncertainties and contradictions in the government's policy. [redacted] 25X1

Concessions Mexico May Seek

Mexico is almost certainly coming to the talks with the hope of making inroads into the US market. The collapse of oil prices has prompted Mexico to strive to diversify and increase non-petroleum exports, particularly to the United States, Mexico's most important trading partner. Last year's subsidies agreement went part of the way towards achieving this goal by obtaining a US commitment to assess whether US firms are injured by Mexican exports before applying countervailing duties and anti-dumping margins. In exchange, the Mexicans promised to phase out export subsidies. [redacted] 25X1

Mexico City has moved further to encourage trade since the signing of the subsidies agreement. It has eased import licensing restrictions, lowered tariffs, joined the GATT, and drawn up a revised patent and trademarks law. These steps will markedly increase US exporters' access to the Mexican market and improve protection afforded to US manufacturers. Some will entail costs to Mexico because inefficient Mexican firms will find it difficult to survive in a more open market. Mexican officials probably view these changes as bargaining chips for extracting additional agreements from the United States, such as promises not to impose new tariffs or non-tariff barriers, a rollback of US countervailing duties on Mexican exports, and easier access for such Mexican goods as textiles, auto parts, steel, meat, tuna, and sugar. Mexico may also want to recover some of the tariff concessions it lost during the last review of the Generalized System of Preferences. [redacted] 25X1

[redacted] 25X1

[redacted] 25X1

Divisions within the Cabinet

Opposition to a wide-ranging bilateral agreement within the cabinet is likely to place limitations on any agreement and may cause the Mexicans to drag their feet on negotiations. Secretary of Commerce Hernandez advocates a framework agreement, but he probably will have a harder time selling it than GATT membership or the subsidies agreement if it appears that Mexico stands to gain little. [redacted] 25X1 25X1

[redacted] 25X1 We believe that the Mexicans would be willing to agree to consultation and dispute settlement procedures and to fold intellectual property rights into an agreement, but if they are pressed on foreign investment, they probably will stall the negotiations until the end of de la Madrid's term. [redacted] 25X1

[redacted] 25X1

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