



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Section 301 Petition on Mexico's Acts, Policies, and Practices Concerning Seasonal and Perishable Agricultural Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: On September 8, 2022, the Office of the United States Trade Representative (USTR) received a petition requesting an investigation of certain alleged acts, policies, and practices of the government of Mexico concerning seasonal and perishable agricultural products. Due to the complexities of the factual and legal issues raised in the petition, the U.S. Trade Representative could not conclude during the 45-day statutory review period that an investigation would be effective and is not opening an investigation at this time. In light of challenges faced by U.S. producers, USTR in coordination with the U.S. Department of Agriculture (USDA) will establish a private-sector industry advisory panel to recommend measures to promote the competitiveness of producers of seasonal and perishable produce in the southeastern United States. Furthermore, USTR and USDA will work with the petitioners and producers to examine the issues raised in the petition and to consider any further actions that may be appropriate.

DATES: This notice is applicable on October 23, 2022.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsels David Lyons at (202) 395-9446 or Rachel Hasandras at (202) 395-5725, or Director for Agricultural Affairs Colby Branch at (202) 395-9070.

SUPPLEMENTARY INFORMATION:

On September 8, 2022, certain members of Florida's congressional delegation filed a petition under section 302(a) of the Trade Act of 1974, as amended (Trade Act)

alleging that certain acts, policies, and practices of the government of Mexico concerning seasonal and perishable agricultural products constitute an export targeting scheme, and that the alleged scheme is unreasonable and burdens or restricts U.S. commerce. The alleged export targeting scheme has two components. First, the petition alleges that beginning in the early 2000s Mexico has used certain programs specifically to subsidize its seasonal and perishable agricultural industry, and to enable that industry to expand its exports to the United States. Second, the petition alleges that wage rates in Mexico give Mexico's seasonal and perishable agriculture industry an unfair competitive advantage. The petition claims that the alleged export targeting scheme has resulted in a surge in imports of seasonal and perishable agricultural products from Mexico, and that Florida producers are adversely affected.

Section 302(a)(2) of the Trade Act provides that the U.S. Trade Representative must determine whether to initiate an investigation not later than 45 days after the filing of a petition (in this case, by October 23, 2022). Section 302(c) of the Trade Act provides that in determining whether to initiate a Section 301 investigation, the U.S. Trade Representative has discretion to determine whether action under Section 301 would be effective in addressing an alleged act, policy, or practice. Section 305(b) of the Trade Act provides for a private-sector advisory panel as a specific response to export targeting.

Evaluation of the petition entails a detailed review and analysis of multiple government measures, and legal analyses of the interplay between the measures and legal standards under Section 301. Due to the complexity of the legal and factual issues raised in the petition, the U.S. Trade Representative could not conclude within the 45-day statutory period that a formal 301 investigation would be effective and is not opening an investigation at this time. The U.S. Trade Representative made the decision under Section 302(c) on October 22, 2022.

In light of challenges faced by southeastern U.S. producers as described in the petition, USTR announced on October 23, 2022, that USTR in coordination with USDA will establish a private-sector industry advisory panel to recommend measures to promote the competitiveness of producers of seasonal and perishable produce in the southeastern United States. USTR and USDA will consider recommendations of the advisory panel and work with Members of Congress as appropriate to develop possible administrative actions and legislation that would benefit U.S. producers. Furthermore, USTR and USDA will work with the petitioners and producers to examine the issues raised in the petition and to consider any further actions that may be appropriate.

Greta Peisch,

General Counsel,

Office of the United States Trade Representative.