



DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-820]

Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico; Preliminary Results of 2021-2022 Administrative Review

AGENCY: Enforcement & Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the respondents selected for individual examination, Ceuta Produce S de R.L. de C.V. and its affiliate, Rancho la Memoria, S. de R.L. de C.V. (collectively, Ceuta) and Valores Horticolas Del Pacifico S.A. De C.V. (VALHPAC), complied with the Agreement Suspending the Antidumping Duty (AD) Investigation on Fresh Tomatoes from Mexico (2019 Agreement), for the period of review (POR) September 1, 2021, through August 31, 2022, except for certain instances of inconsequential and/or inadvertent noncompliance. We preliminarily determine that such noncompliance does not materially frustrate the purposes of the 2019 Agreement. Commerce also preliminarily determines that the 2019 Agreement continued to meet the statutory requirements under sections 734(c) and (d) of the Tariff Act of 1930, as amended (the Act) during the POR.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: David Cordell or Walter C. Schaub, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482-0408 or (202) 482-0907, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 19, 2019, Commerce signed an agreement under section 734(c) of the Act, with representatives of Mexican fresh tomato producers/exporters accounting for substantially all imports of fresh tomatoes from Mexico,¹ suspending the AD investigation on fresh tomatoes from Mexico.²

On September 29, 2022, the Florida Tomato Exchange (FTE), a member of the U.S. petitioning industry, filed a request for an administrative review of the 2019 Agreement. Commerce published notice of its initiation of the review on November 3, 2022.³ On January 30, 2022, Commerce selected mandatory respondents and issued questionnaires to two respondents, listed here in alphabetical order: Ceuta and VALHPAC.⁴

Scope of the 2019 Agreement

Merchandise covered by the 2019 Agreement is typically classified under the following subheading of the Harmonized Tariff Schedules of the United States (HTSUS), according to the season of importation: 0702. The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this 2019 Agreement is dispositive.⁵

Methodology and Preliminary Results

Commerce has conducted this review in accordance with section 751(a)(1)(C) of the Act, which specifies that Commerce shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” In this case, Commerce and representatives of the Mexican tomato producers/exporters accounting for substantially all

¹ The Mexican Grower Associations include: Confederación de Asociaciones Agrícolas del Estado de Sinaloa, A.C., Consejo Agrícola de Baja California, Asociación de Productores de Hortalizas del Yaqui y Mayo and Sistema Producto Tomate (collectively, Mexican Grower Associations). Members of the Mexican Grower Associations are Signatories to the 2019 Agreement (Mexican Signatories).

² See *Fresh Tomatoes from Mexico: Suspension of Antidumping Duty Investigation*, 84 FR 49987 (September 24, 2019) (*2019 Agreement*).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 66275 (November 3, 2022).

⁴ See Memorandum, “Respondent Selection,” dated January 30, 2023.

⁵ For a complete description of the scope of the 2019 Agreement, see Memorandum, “Decision Memorandum for the Preliminary Results of the 2021-2022 Administrative Review: Fresh Tomatoes from Mexico,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

imports of fresh tomatoes from Mexico signed the 2019 Agreement, which suspended the underlying AD investigation, on September 19, 2019. Pursuant to the 2019 Agreement, the Mexican Signatories agreed to sell subject merchandise at or above certain minimum reference prices, and that their pricing would eliminate at least 85 percent of the dumping determined in the AD investigation.⁶ The Mexican signatories also agreed to other conditions, including quarterly audits,⁷ near-the-border inspections by the U.S. Department of Agriculture on all Round and Roma tomatoes and certain other types of tomatoes beginning on April 4, 2020,⁸ and limits to adjustments to the sales price due to certain changes in condition and quality after shipment.⁹

After reviewing the information received to date from the respondent companies in their questionnaire and supplemental questionnaire responses, we preliminarily determine that the respondents have adhered to the terms of the 2019 Agreement, except for certain instances of inconsequential and/or inadvertent noncompliance that do not materially frustrate the purposes of the 2019 Agreement. We also preliminarily determine that the 2019 Agreement functioned as intended and that the 2019 Agreement continued to meet the statutory requirements under sections 734(c) and (d) of the Act during the POR.

For a full description of the analysis underlying our conclusions, *see* the Preliminary Decision Memorandum. Commerce examines issues involving the discussion of proprietary information concerning each of the respondents in separate memoranda which we incorporate into the Preliminary Decision Memorandum.¹⁰ A list of topics discussed in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and

⁶ *See 2019 Agreement*, 84 FR at section VI.

⁷ *Id.*, 84 FR at section VII.B.7.

⁸ *Id.*, 84 FR at section VII.C; *see also* Memorandum, “Frequently Asked Questions Regarding Inspections,” dated March 17, 2020.

⁹ *See 2019 Agreement*, 84 FR 49996, at Appendix D.

¹⁰ *See* Memoranda, “Preliminary Analysis of Proprietary Information and Argument Regarding Valores Horticolas del Pacifico S.A. de C.V.,” and “Preliminary Analysis of Proprietary Information and Argument Regarding Ceuta Produce S. de R.L. de C.V.,” both dated concurrently with this notice.

Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Public Comment

Case briefs are due 30 days from the publication of these preliminary results in the *Federal Register*. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹¹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹² All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice.¹⁴ Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

¹¹ See 19 CFR 351.309(d)(1).

¹² See 19 CFR 351.309(c)(2) and (d)(2).

¹³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹⁴ See 19 CFR 351.310(c).

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act, unless extended.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 2, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Scope of the 2019 Agreement
- III. Background
- IV. Preliminary Results of Review
- V. Discussion of the Methodology
- VI. Recommendation

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