



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-820]

Fresh Tomatoes from Mexico: Intent to Terminate Suspension Agreement, Rescind an Administrative Review, and Issue an Antidumping Duty Order

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

SUMMARY: The U.S. Department of Commerce (Commerce) intends to terminate the 2019 Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico (2019 Agreement), rescind one of two ongoing administrative reviews of the 2019 Agreement, and to institute an antidumping duty (AD) order. The underlying investigation was completed on October 25, 2019.

DATES: Applicable [Insert Date of Publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-0162.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 18, 1996, Commerce initiated an AD investigation to determine whether imports of fresh tomatoes from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV).<sup>1</sup> On May 16, 1996, the United States International Trade Commission (ITC) notified Commerce of its affirmative preliminary injury determination.

On October 10, 1996, Commerce and certain tomato growers/exporters from Mexico initialed a proposed agreement to suspend the AD investigation. On October 28, 1996, Commerce determined imports of fresh tomatoes from Mexico were being sold at LTFV in the

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<sup>1</sup> See *Initiation of Antidumping Duty Investigation: Fresh Tomatoes from Mexico*, 61 FR 18377 (April 25, 1996).

United States.<sup>2</sup> On the same day, Commerce and certain growers/exporters of fresh tomatoes from Mexico signed an agreement to suspend the investigation (1996 Suspension Agreement).<sup>3</sup>

On May 31, 2002, certain tomato growers/exporters from Mexico accounting for a significant percentage of all fresh tomatoes imported into the United States from Mexico provided written notice to Commerce of their withdrawal from the 1996 Suspension Agreement, effective on July 30, 2002. Because the 1996 Suspension Agreement would no longer cover substantially all imports of fresh tomatoes from Mexico, effective July 30, 2002, Commerce terminated the 1996 Suspension Agreement, terminated the sunset review of the suspended investigation, and resumed the antidumping investigation.<sup>4</sup>

On November 8, 2002, Commerce and certain tomato growers/exporters from Mexico initialed a proposed agreement suspending the resumed AD investigation on imports of fresh tomatoes from Mexico. On December 4, 2002, Commerce and certain growers/exporters of fresh tomatoes from Mexico signed a new suspension agreement (2002 Suspension Agreement).<sup>5</sup>

On November 26, 2007, certain tomato growers/exporters from Mexico accounting for a significant percentage of all fresh tomatoes imported into the United States provided written notice to Commerce of their withdrawal from the 2002 Suspension Agreement, effective 90 days from the date of their withdrawal letter (*i.e.*, February 24, 2008), or earlier, at Commerce's discretion. On November 28, 2007, Commerce and certain tomato growers/exporters from Mexico initialed a new proposed agreement to suspend the AD investigation on imports of fresh tomatoes from Mexico. On December 3, 2007, Commerce released the initialed agreement to interested parties for comment.

Because the 2002 Suspension Agreement would no longer cover substantially all imports of fresh tomatoes from Mexico, Commerce published a notice of intent to terminate the 2002

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<sup>2</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Tomatoes from Mexico*, 61 FR 56608 (November 1, 1996).

<sup>3</sup> See *Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico*, 61 FR 56618 (November 1, 1996).

<sup>4</sup> See *Notice of Termination of Suspension Agreement, Termination of Sunset Review, and Resumption of Antidumping Investigation: Fresh Tomatoes from Mexico*, 67 FR 50858 (August 6, 2002).

<sup>5</sup> See *Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico*, 67 FR 77044 (December 16, 2002).

Suspension Agreement, intent to terminate the five-year sunset review of the suspended investigation, and intent to resume the AD investigation.<sup>6</sup> On January 16, 2008, Commerce published a notice of termination of the 2002 Suspension Agreement, termination of the five-year sunset review of the suspended investigation, and resumption of the AD investigation, effective January 18, 2008.<sup>7</sup> On January 22, 2008, Commerce signed a new suspension agreement (2008 Suspension Agreement) with certain growers/exporters of fresh tomatoes from Mexico.<sup>8</sup>

On August 15, 2012, certain growers/exporters of fresh tomatoes from Mexico filed a letter with Commerce requesting consultations under Section IV.G. of the 2008 Suspension Agreement, and Commerce agreed to consult. As a result of these consultations, on February 2, 2013, Commerce and tomato growers/exporters from Mexico accounting for a significant percentage of all fresh tomatoes imports from Mexico initialed a draft agreement. On February 8, 2013, Commerce published a notice of intent to terminate the 2008 Suspension Agreement, intent to terminate the five-year sunset review of the suspended investigation, and intent to resume the AD investigation.<sup>9</sup> On March 1, 2013, Commerce issued a notice of termination of the 2008 Suspension Agreement, termination of the five-year sunset review of the suspended investigation, and resumption of the AD investigation.<sup>10</sup> On March 4, 2013, Commerce and certain tomato growers/exporters from Mexico signed a new suspension agreement (2013 Suspension Agreement).<sup>11</sup>

On November 14, 2018, the Florida Tomato Exchange (FTE), a member of the U.S. petitioning industry, requested that Commerce terminate the 2013 Suspension Agreement and

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<sup>6</sup> See *Fresh Tomatoes from Mexico: Notice of Intent to Terminate Suspension Agreement, Intent to Terminate the Five-Year Sunset Review, and Intent to Resume Antidumping Investigation*, 72 FR 70820 (December 13, 2007).

<sup>7</sup> See *Fresh Tomatoes from Mexico: Notice of Termination of Suspension Agreement, Termination of Five-Year Sunset Review, and Resumption of Antidumping Investigation*, 73 FR 2887 (January 16, 2008).

<sup>8</sup> See *Suspension of Antidumping Investigation: Fresh Tomatoes from Mexico*, 73 FR 4831 (January 28, 2008).

<sup>9</sup> See *Fresh Tomatoes From Mexico: Intent To Terminate Suspension Agreement and Resume Antidumping Investigation and Intent To Terminate Sunset Review*, 78 FR 9366 (February 8, 2013).

<sup>10</sup> See *Fresh Tomatoes From Mexico: Termination of Suspension Agreement, Termination of Five-Year Sunset Review, and Resumption of Antidumping Investigation*, 78 FR 14771 (March 7, 2013).

<sup>11</sup> See *Fresh Tomatoes from Mexico: Suspension of Antidumping Investigation*, 78 FR 14967 (March 8, 2013).

resume the underlying AD investigation. On February 6, 2019, Commerce notified Mexican signatories that Commerce intended to withdraw from the 2013 Suspension Agreement, rescind the sunset and administrative reviews, and resume the underlying AD investigation.<sup>12</sup> On May 7, 2019, Commerce withdrew from the 2013 Suspension Agreement and issued a notice of termination of the 2013 Suspension Agreement, rescission of the administrative review, and resumption of the underlying AD investigation.<sup>13</sup>

On August 20, 2019, Commerce and a representative of Mexican producers/exporters initialed a draft agreement to suspend the AD investigation and invited interested parties to comment.<sup>14</sup> On September 19, 2019, Commerce and representatives of the signatory producers/exporters accounting for substantially all imports of fresh tomatoes from Mexico signed the 2019 Agreement.<sup>15</sup>

On October 11, 2019, the FTE requested continuation of the underlying AD investigation in accordance with section 734(g) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.208(h).<sup>16</sup> On October 25, 2019, Commerce issued its final determination that fresh tomatoes from Mexico are being, or are likely to be, sold at LTFV in the United States.<sup>17</sup> On December 12, 2019, the ITC issued its final determination that an industry in the United States is threatened with material injury by reason of imports of fresh tomatoes from Mexico.<sup>18</sup>

On August 1, 2024, Commerce initiated a five-year sunset review of the suspended investigation.<sup>19</sup>

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<sup>12</sup> See *Fresh Tomatoes from Mexico: Intent To Terminate Suspension Agreement, Rescind the Sunset and Administrative Reviews, and Resume the Antidumping Duty Investigation*, 84 FR 7872 (March 5, 2019).

<sup>13</sup> See *Termination of Suspension Agreement, Rescission of Administrative Review, and Continuation of the Antidumping Duty Investigation*, 84 FR 20858 (May 13, 2019).

<sup>14</sup> See Commerce's Letter to All Interested Parties, "Draft Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico," dated August 20, 2019.

<sup>15</sup> See *Fresh Tomatoes From Mexico: Suspension of Antidumping Duty Investigation*, 84 FR 49987 (September 24, 2019).

<sup>16</sup> See FTE's Letter, "Request to Continue Suspended Less Than Fair Value Investigation," dated October 11, 2019.

<sup>17</sup> See *Fresh Tomatoes from Mexico: Final Determination of Sales at Less Than Fair Value*, 84 FR 57401 (October 25, 2019) (*2019 Final Determination*).

<sup>18</sup> See *Fresh Tomatoes from Mexico*, 84 FR 67958 (December 12, 2019); see also *Fresh Tomatoes from Mexico, Inv. 731-TA-747 (Final)*, USITC Pub. 5003 (December 2019) (*ITC Final Determination*).

<sup>19</sup> See *Initiation of Five-Year (Sunset) Reviews*, 89 FR 62717 (August 1, 2024).

On June 16, 2023, the FTE filed a request that Commerce terminate the 2019 Agreement and institute an AD order in accordance with the affirmative final determinations of Commerce and the ITC.<sup>20</sup>

On December 4, 2023, Commerce published in the *Federal Register* the final results of the five-year expedited sunset review of the suspended investigation. Commerce preliminarily found dumping was likely to continue or recur at weighted-average margins up to 30.48 percent.<sup>21</sup> The ITC is currently conducting a full five-year sunset review.<sup>22</sup>

### Scope of the Investigation

The merchandise subject to this 2019 Agreement is all fresh or chilled tomatoes (fresh tomatoes) which have Mexico as their origin, except for those tomatoes which are for processing. For purposes of this 2019 Agreement, processing is defined to include preserving by any commercial process, such as canning, dehydrating, drying, or the addition of chemical substances, or converting the tomato product into juices, sauces, or purees. In Appendix F of this 2019 Agreement, Commerce has outlined the procedure that Signatories must follow for selling subject merchandise for processing. Fresh tomatoes that are imported for cutting up, not further processing (*e.g.*, tomatoes used in the preparation of fresh salsa or salad bars), are covered by this 2019 Agreement.

Commercially grown tomatoes, both for the fresh market and for processing, are classified as *Lycopersicon esculentum*. Important commercial varieties of fresh tomatoes include common round, cherry, grape, plum, greenhouse, and pear tomatoes, all of which are covered by this Agreement.

Tomatoes imported from Mexico covered by this 2019 Agreement are classified under the following subheading of the Harmonized Tariff Schedules of the United States (HTSUS),

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<sup>20</sup> See FTE's Letter, "Request to Terminate Antidumping Suspension Agreement," dated June 16, 2023.

<sup>21</sup> See *Fresh Tomatoes from Mexico: Final Results of the Expedited Sunset Review of Suspended Investigation*, 89 FR 96214 (December 4, 2024).

<sup>22</sup> The ITC is currently due to hold its final vote on September 30, 2025, and issue its determination on October 21, 2025.

according to the season of importation: 0702. Although this HTSUS number is provided for convenience and customs purposes, the written description of the scope of this 2019 Agreement is dispositive.

#### Intent to Terminate Suspension Agreement and Issue Antidumping Duty Order

On April 14, 2025, Commerce notified all Mexican Signatory producers/exporters of its intent to exercise its option under Section XI.B of the 2019 Agreement to withdraw from the 2019 Agreement. In accordance with Section XI.B of the 2019 Agreement, Commerce's withdrawal from the 2019 Agreement shall be effective on July 14, 2025, which is 90 days after such notice.<sup>23</sup> On July 14, 2025, Commerce intends to terminate the 2019 Agreement and issue an AD order, in accordance with section 734(i)(1)(C) of the Act. As noted above, the underlying AD investigation in this proceeding was continued pursuant to section 734(g) of the Act, following the acceptance of the 2019 Agreement. Commerce made a final affirmative determination,<sup>24</sup> and the ITC found a threat of material injury.<sup>25</sup> Therefore, in accordance with section 735(c) of the Act, Commerce will issue an AD order and instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, effective July 14, 2025.

#### Intent to Rescind Administrative Review

Commerce is currently conducting two administrative reviews of the 2019 Agreement. Commerce initiated one review on November 15, 2023, for the period of review from September 1, 2022, through August 31, 2023 (2022-2023 review).<sup>26</sup> Commerce initiated the second review on October 17, 2024, for the period of review from September 1, 2023, through August 31, 2024

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<sup>23</sup> Because the effective date for Commerce's withdrawal would fall on the weekend (*i.e.*, Sunday, July 13, 2025), the effective date became the next business day. *See Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

<sup>24</sup> *See 2019 Final Determination.*

<sup>25</sup> *See ITC Final Determination.*

<sup>26</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 78298 (November 15, 2023).

(2023-2024 review).<sup>27</sup> The final results of the 2022-2023 review are due to be issued by Commerce on July 8, 2025, prior to the effective date of termination of the 2019 Agreement on July 14, 2025. However, if Commerce terminates the 2019 Agreement, the ongoing 2023-2024 review would be moot. Therefore, Commerce will rescind the 2023-2024 review of the 2019 Agreement on July 14, 2025, the effective date of termination of the 2019 Agreement.

#### International Trade Commission

Commerce has notified the ITC of its intent to terminate the 2019 Agreement and issue the AD order.<sup>28</sup>

#### Suspension of Liquidation

As described above, if Commerce terminates the 2019 Agreement and resumes the AD investigation, Commerce will instruct CBP to suspend liquidation of entries of fresh tomatoes from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the July 14, 2025, effective date of the termination of the 2019 Agreement. CBP shall require AD cash deposits for entries of the subject merchandise based on the final weighted-average dumping margins, which range from 3.91 to 30.48 percent.<sup>29</sup>

#### Notification to Interested Parties

This determination is issued and published in accordance with section 734(i) of the Act.

Dated: April 14, 2025.

Christopher Abbott,  
Deputy Assistant Secretary  
for Policy and Negotiations,  
performing the non-exclusive functions and duties  
of the Assistant Secretary for Enforcement and Compliance.

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<sup>27</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 83644 (October 17, 2024).

<sup>28</sup> See Commerce's Letter, "Withdrawal from the 2019 Suspension Agreement," dated concurrently with this notice.

<sup>29</sup> See *2019 Final Determination* at 84 FR 57402.