



FACT SHEET

Commerce Finds Dumping of Imports of Fresh Tomatoes from Mexico

- On October 21, 2019, the Department of Commerce (Commerce) announced its affirmative final determination in the antidumping duty (AD) investigation of imports of fresh tomatoes from Mexico.
- The AD laws provide U.S. businesses and workers with a transparent, quasi-judicial, and internationally accepted mechanism to seek relief from the market-distorting effects caused by injurious dumping of imports into the United States, establishing an opportunity to compete on a level playing field.
- For the purpose of an AD investigation, dumping occurs when a foreign company sells a product in the United States at less than its fair value.
- On February 6, 2019, Commerce notified the Mexican signatories to the 2013 Suspension Agreement on Fresh Tomatoes from Mexico (Agreement) of its intention to withdraw from the Agreement, consistent with Section VI.B of the Agreement. On May 7, 2019, the Agreement was terminated and, as a result, Commerce continued its AD investigation on imports of fresh tomatoes from Mexico. Entries on or after May 7, 2019 were subject to cash deposit requirements based on the 1996 preliminary determinations in the investigation.
- On September 19, 2019, Commerce and the Mexican growers reached a new agreement to suspend the AD investigation.
- On October 11 and 15, 2019, Commerce received requests to continue the antidumping investigation, pursuant to section 734(g) of the Tariff Act of 1930, as amended (the Act). Accordingly, Commerce continued this AD investigation and issued its final determination.
- In the final determination, Commerce calculated affirmative dumping rates of 30.48 percent, 3.91 percent and 17.02 percent for mandatory respondents Bioparques de Occidente, S.A. de C.V. / Agrícola La Primavera, S.A. de C.V., Ceuta Produce S.A. de C.V. / Rancho La Memoria, S. de R.L. de C.V., and Negocio Agrícola San Enrique, S.A. de C.V., respectively. Commerce assigned a dumping rate of 20.91 percent to all other Mexican producers and exporters.
- In accordance with section 734(h)(3) of the Act, and because the 2019 suspension agreement is in effect, Commerce is instructing U.S. Customs and Border Protection (CBP) to terminate the suspension of liquidation of entries of all fresh tomatoes from Mexico regardless of the antidumping duties. Any cash deposits associated with the importation of fresh tomatoes from Mexico, which were deposited on or after May 7, 2019, will be refunded.
- The Florida Tomato Exchange is a member of the petitioning group that filed the petition in this investigation. The Florida Tomato Exchange is also one of the parties that requested continuation.
- The merchandise subject to the investigation 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 suspended investigation, 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. 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 the investigation.

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 investigation.

Tomatoes imported from Mexico covered by this investigation are classified under the following subheading of the Harmonized Tariff Schedule of the United States (HTSUS), according to the season of importation: 0702. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

- In 2018, imports of fresh tomatoes from Mexico were valued at an estimated \$2.1 billion USD.
- The Final Issues and Decision Memorandum is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. Please refer to case number: A-201-820.

NEXT STEPS

- The U.S. International Trade Commission (ITC) is scheduled to make its final determination on or about December 4, 2019.
- If the ITC makes an affirmative final determination that imports of fresh tomatoes from Mexico materially injure, or threaten material injury to, the domestic industry, the 2019 suspension agreement will remain in force. Commerce will not issue an AD order so long as: (1) the 2019 suspension agreement remains in force; (2) the 2019 suspension agreement continues to meet the requirements of sections 734(c) and (d) of the Act; and (3) the parties to the 2019 suspension agreement carry out their obligations under the 2019 suspension agreement in accordance with its terms.
- If the ITC makes a negative determination of injury, the 2019 suspension agreement will have no force or effect, and the investigation will be terminated.

FINAL DUMPING RATES:

COUNTRY	EXPORTER/PRODUCER	DUMPING RATES
Mexico	Bioparques de Occidente, S.A. de C.V. / Agricola La Primavera, S.A. de C.V.	30.48%
	Ceuta Produce, S.A. de C.V. / Rancho La Memoria, S. de R.L. de C.V.	3.91%
	Negocio Agricola San Enrique, S.A. de C.V.	17.02%
	All Others	20.91%

CASE CALENDAR:

EVENT	AD INVESTIGATION
Petition Filed	April 1, 1996
DOC Initiation Date	April 25, 1996
ITC Preliminary Determination	August 12, 1996
DOC Preliminary Determination	May 7, 2019
DOC Final Determination	October 21, 2019
ITC Final Determination	December 4, 2019
Issuance of Order*	December 11, 2019

NOTE: Commerce preliminary and final determination deadlines are governed by statute. For AD investigations, the deadlines are set forth in sections 733(b) and 735(a)(1) of the Tariff Act of 1930, as amended (the Act).

IMPORT STATISTICS:

Mexico	2016	2017	2018
Quantity (Ton)	1,619,729	1,612,338	1,691,901
Value (USD)	2,055,957,845	1,928,892,328	2,061,177,743

Source: U.S. Census Bureau, accessed through Global Trade Atlas (Harmonized Tariff Schedule of the United States (HTSUS) 0702)