

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 731-TA-747 (Final)
Fresh Tomatoes from Mexico

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that an industry in the United States is threatened with material injury by reason of imports of fresh tomatoes from Mexico, provided for in heading 0702 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (“Commerce”) to be sold in the United States at less than fair value (“LTFV”).^{2 3 4}

BACKGROUND

The Commission instituted this investigation effective April 1, 1996, following receipt of a petition filed with the Commission and Commerce by the Florida Tomato Growers Exchange, Orlando, Florida; the Florida Fruit and Vegetable Association, Orlando, Florida; the Florida Farm Bureau Federation, Gainesville, Florida; the South Carolina Tomato Association, Inc., Charleston, South Carolina; the Gadsden County Tomato Growers Association, Inc., Quincy, Florida; the Accomack County Farm Bureau, Accomack, Virginia; the Florida Tomato Exchange, Orlando, Florida; the Florida Department of Agriculture and Consumer Services, Tallahassee, Florida; and the Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee, and Virginia Tomato Growers. The Commission scheduled the final phase of its investigation following notification of a preliminary determination by Commerce that imports

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

² 84 FR 57401 (October 25, 2019).

³ The Commission further determines that it would not have found material injury by reason of subject imports but for the suspension of liquidation of entries of subject merchandise. *See* 19 U.S.C. § 1673d(b)(4)(B).

⁴ Chairman David S. Johanson not participating.

of fresh tomatoes from Mexico were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)).

The Commission commenced the final phase of its investigation on August 21, 1996.⁵ On October 28, 1996, Commerce issued its preliminary determination that imports of fresh tomatoes from Mexico were being sold at LTFV in the United States and announced that Commerce and certain producers/exporters of fresh tomatoes from Mexico had signed a suspension agreement.⁶ Also on October 28, 1996, Commerce suspended the final phase of its investigation.⁷ On November 1, 1996, the Commission suspended the final phase of its investigation.⁸

On October 1, 2001, the Commission instituted its first five-year review to determine whether termination of the suspended investigation on fresh tomatoes from Mexico would likely lead to a continuation or recurrence of material injury.⁹ On January 4, 2002, the Commission determined that it would conduct a full review concerning the suspended investigation on fresh tomatoes from Mexico.¹⁰ On July 30, 2002, Commerce terminated the suspension agreement, and Commerce and the Commission terminated their reviews of the suspended investigation and resumed their final phase antidumping investigations.¹¹ On December 16, 2002, Commerce and the Commission suspended their resumed final phase investigations when Commerce signed a new suspension agreement with certain growers/exporters of fresh tomatoes from Mexico.¹²

On November 1, 2007, the Commission instituted its second five-year review to determine whether termination of the suspended investigation on fresh tomatoes from Mexico would likely lead to a continuation or recurrence of material injury.¹³ On January 18, 2008, Commerce terminated the suspension agreement, and Commerce and the Commission

⁵ 61 FR 46823 (September 5, 1996).

⁶ 61 FR 56618 (November 1, 1996).

⁷ 61 FR 56618 (November 1, 1996).

⁸ 61 FR 58217 (November 13, 1996).

⁹ 66 FR 49975 (October 1, 2001).

¹⁰ 67 FR 3229 (January 23, 2002)

¹¹ 67 FR 50858 (August 6, 2002); 67 FR 53361 (August 15, 2002); 67 FR 5685 (September 5, 2002).

¹² 67 FR 77044 (December 16, 2002); 67 FR 78815 (December 26, 2002).

¹³ 72 FR 61903 (November 1, 2007).

terminated their reviews of the suspended investigation and resumed their final phase antidumping investigations.¹⁴ On January 22, 2008, Commerce and the Commission again suspended their resumed final phase investigations when Commerce signed a new suspension agreement with certain growers/exporters of fresh tomatoes from Mexico.¹⁵

On December 3, 2012, the Commission instituted its third five-year review to determine whether termination of the suspended investigation on fresh tomatoes from Mexico would likely lead to continuation or recurrence of material injury.¹⁶ On March 1, 2013, Commerce terminated the suspension agreement and its review of the suspended investigation and resumed its final phase antidumping investigation.¹⁷ On March 4, 2013, the Commission terminated its review of the suspended investigation and resumed its final phase antidumping investigation.¹⁸ Also on March 4, 2013, Commerce signed a new suspension agreement with certain grower/exporters of fresh tomatoes from Mexico and again suspended its resumed final phase antidumping investigation.¹⁹ On March 5, 2013, the Commission again suspended its resumed final phase antidumping investigation.²⁰

On February 1, 2018, the Commission instituted its fourth five-year review to determine whether termination of the suspended investigation on fresh tomatoes from Mexico would likely lead to continuation or recurrence of material injury.²¹ On May 7, 2019, Commerce terminated the suspension agreement and its review of the suspended investigation and resumed its final phase antidumping investigation.²² Also on May 7, 2019, the Commission terminated its review of the suspended investigation and resumed its final phase antidumping investigation.²³ On September 19, 2019, Commerce signed a new suspension agreement with certain grower/exporters of fresh tomatoes from Mexico and again suspended its resumed final

¹⁴ 73 FR 2887 (January 16, 2008); 73 FR 5869 (January 31, 2008).

¹⁵ 73 FR 4831 (January 28, 2008); 73 FR 7762 (February 11, 2008).

¹⁶ 77 FR 71629 (December 3, 2012).

¹⁷ 78 FR 14771 (March 7, 2013).

¹⁸ 78 FR 16529 (March 15, 2013).

¹⁹ 78 FR 14967 (March 8, 2013).

²⁰ 78 FR 16530 (March 15, 2013).

²¹ 83 FR 4676 (February 1, 2018).

²² 84 FR 20858 (May 13, 2019).

²³ 84 FR 21360 (May 14, 2019); 84 FR 27805 (June 14, 2019).

phase antidumping investigation.²⁴ On September 24, 2019, the Commission again suspended its resumed final phase antidumping investigation.²⁵

On October 11 and 15, 2019, Commerce received timely requests, pursuant to section 734(g) of the Tariff Act of 1930 (19 U.S.C. 1673c(g)), to continue its antidumping investigation on fresh tomatoes from Mexico and resumed its final investigation.²⁶ On October 17, 2019, the Commission, therefore, continued its antidumping investigation. Notice of the scheduling of the continuation of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of October 23, 2019 (84 FR 56837). The hearing was held in Washington, DC, on October 24, 2019, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made this determination pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determination in this investigation on December 9, 2019. The views of the Commission are contained in USITC Publication 5003 (December 2019), entitled *Fresh Tomatoes from Mexico: Investigation No. 731-TA-747 (Final)*.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

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²⁴ 84 FR 49987 (September 24, 2019).

²⁵ 84 FR 54639 (September 24, 2019).

²⁶ 84 FR 57401 (October 25, 2019).