

Dated: September 29, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. History of the Order
- IV. Scope of the Order
- V. Legal Framework
- VI. Discussion of the Issues
- VII. Final Results of Sunset Review
- VIII. Recommendation

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**Initiation of Five-Year (Sunset) Reviews**

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

**SUMMARY:** In accordance with the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) and suspended investigation(s) listed below. The International Trade Commission (the ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

**DATES:** Applicable October 1, 2021.

**FOR FURTHER INFORMATION CONTACT:** Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

**SUPPLEMENTARY INFORMATION:**

**Background**

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012).

**Initiation of Review**

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating the Sunset Reviews of the following antidumping and countervailing duty order(s) and suspended investigation(s):

| DOC case No.    | ITC case No. | Country     | Product  | Commerce contact                 |
|-----------------|--------------|-------------|--|----------------------------------|
| A-533-867 ..... | 731-TA-1298  | India ..... | Welded Stainless Pressure Pipe (1st Review) .... | Mary Kolberg (202) 482-1785.     |
| A-570-898 ..... | 731-TA-1082  | China ..... | Chlorinated Isocyanurates (3rd Review) .....     | Jacky Arrowsmith (202) 482-5255. |
| A-469-814 ..... | 731-TA-1083  | Spain ..... | Chlorinated Isocyanurates (3rd Review) .....     | Jacky Arrowsmith (202) 482-5255. |
| C-533-868 ..... | 701-TA-548   | India ..... | Welded Stainless Pressure Pipe (1st Review) .... | Mary Kolberg (202) 482-1785.     |

**Filing Information**

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: <https://enforcement.trade.gov/sunset/>. All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.

In accordance with section 782(b) of the Act, any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. Parties must use the certification formats provided in 19 CFR 351.303(g). Commerce intends to reject factual

submissions if the submitting party does not comply with applicable revised certification requirements.

**Letters of Appearance and Administrative Protective Orders**

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at

19 CFR 351.304-306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>1</sup>

**Information Required From Interested Parties**

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce

<sup>1</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 41363 (July 10, 2020).

will automatically revoke the order without further review.<sup>2</sup>

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: September 16, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-201-820]

#### Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes From Mexico; Preliminary Results of 2019-2020 Administrative Review

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that the respondents selected for individual examination, Bioparques De Occidente, S.A. de C.V. and its affiliates (Bioparques), Del Campo Y Asociados SA de CV and its affiliates (Del Campo), and Productora Agricola Industrial del Noroeste, SA de CV (Productora Agricola) and its affiliates (collectively Grupo Pinos), are in compliance with the Agreement Suspending the Antidumping Duty Investigation on

Fresh Tomatoes from Mexico (2019 Agreement), for the period September 19, 2019, through August 31, 2020, and that the 2019 Agreement is meeting the statutory requirements under the Tariff Act of 1930, as amended (the Act).

**DATES:** Applicable October 1, 2021.

**FOR FURTHER INFORMATION CONTACT:** Sally C. Gannon or David Cordell, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482-0162 or (202) 482-0408, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 19, 2019, Commerce signed an agreement<sup>1</sup> under section 734(c) of the Tariff Act of 1930, as amended (the Act), with representatives of Mexican fresh tomato producers/exporters<sup>2</sup> accounting for substantially all imports of fresh tomatoes from Mexico, suspending the antidumping duty (AD) investigation on fresh tomatoes from Mexico.<sup>3</sup>

On September 25, 2020, the Florida Tomato Exchange (FTE),<sup>4</sup> a member of the U.S. petitioning industry, filed a request for an administrative review of the 2019 Agreement.<sup>5</sup> On September 30, 2020, Bioparques and Negocio Agricola San Enrique S.A. de C.V. (NASE) also requested reviews.<sup>6</sup>

<sup>1</sup> See *Fresh Tomatoes From Mexico: Suspension of Antidumping Duty Investigation*, 84 FR 49987 (September 24, 2019) (2019 Agreement).

<sup>2</sup> The Mexican signatories are predominately represented by the following associations: Asociacion Mexicana de Horticultura Protegida, A.C., Asociacion de Productores de Hortalizas del Yaqui y Mayo, Confederacion de Asociaciones Agricolas del Estado de Sinaloa, A.C., Consejo Agricola de Baja California, A.C., and Sistema Producto Tomate.

<sup>3</sup> *Id.*

<sup>4</sup> The members of the FTE are as follows: Ag-Mart Produce, Inc. dba Santa Sweets, Inc., Classie Produce, DiMare Homestead, Inc., DiMare Ruskin, Inc., Gargiulo, Inc., Kern Carpenter Farms, Lipman Family Farms, Mecca Family Farms, Inc., Michael Borek Farms, Pacific Tomato Growers, Ltd., Taylor & Fulton Packing, LLC, Tomatoes of Ruskin, Inc., TomPak, LLC, and West Coast Tomato, LLC.

<sup>5</sup> See Letter from FTE, "Fresh Tomatoes from Mexico: Request for Administrative Review," dated September 25, 2020.

<sup>6</sup> See Letter from Bioparques and Letter from NASE, both entitled "Suspension Agreement on Fresh Tomatoes from Mexico—Request for Administrative Review," each dated September 30, 2020. Bioparques and NASE explained they had requested reviews primarily to review each of the company's own sales, and "the amount of any . . . dumping margin involved in the {suspension} agreement." Pursuant to section 751(a)(1)(c) of the Act, Commerce reviews "the current status of, and compliance with, any agreement by reason of which an investigation was suspended, and review the amount of any . . . dumping margin involved in the agreement, in administrative reviews. . . ." Because there is no dumping margin involved in

The review of the 2019 Agreement was initiated on October 30, 2020.<sup>7</sup> Commerce inadvertently identified the period of review (POR) as September 1, 2019, through August 31, 2020, but corrected the POR on January 7, 2021, to reflect the period from September 19, 2019 to August 31, 2020.<sup>8</sup> On January 7, 2021, Commerce selected mandatory respondents and issued its questionnaire to the three largest respondents, listed here in alphabetical order: Bioparques, Del Campo, and Productora Agricola.<sup>9</sup>

#### Scope of the 2019 Agreement

Merchandise covered by the 2019 Agreement is typically imported under the following heading of the HTSUS: Tomatoes imported from Mexico covered by this Agreement are 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.<sup>10</sup>

#### 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

the 2019 Agreement, in conducting this administrative review, we are not calculating new margins for the companies under review, as we would in an administrative review of an order. Rather, in addition to examining compliance with the terms of the agreement, generally, we are examining whether for the sales during the period of review the respondents complied with the price undertakings specified in section VI of the 2019 Agreement, *i.e.*, not making sales below the Reference Prices established in Appendix A and eliminating the required percentage of dumping from the original investigation, *i.e.*, 85 percent.

<sup>7</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 68841 (October 30, 2020).

<sup>8</sup> See Memorandum, "2019-2020 Administrative Review of the 2019 Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico: Respondent Selection and Corrected Period of Review" (January 7, 2021). See also *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 8166 (February 4, 2021) at footnote 10. As the 2019 Agreement was signed on September 19, 2019, this date is the beginning of the POR.

<sup>9</sup> *Id.* See also questionnaires issued individually to Bioparques, Del Campo and Productora Agricola, each dated January 7, 2021.

<sup>10</sup> For a complete description of the Scope of the 2019 Agreement, see Memorandum, "Decision Memorandum for the Preliminary Results of the 2019-2020 Administrative Review of the Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>2</sup> See 19 CFR 351.218(d)(1)(iii).