



September 21, 2023

Hon. Gina Raimondo
Secretary of Commerce
ATTN: Enforcement & Compliance
APO/Dockets Unit
Room 18022
United States Department of Commerce
14th St. and Constitution Ave. NW
Washington, D.C. 20230

Re: Request to Terminate the 2019 Agreement Suspending the Antidumping Duty
Investigation on Fresh Tomatoes from Mexico

Dear Sec. Raimondo:

The Border Trade Alliance (BTA), an organization of public and private sector stakeholders involved in cross-border trade at the United States-Mexico and U.S.-Canada borders, welcomes this opportunity to provide a response to your memo dated August 9, 2023 calling for interested parties to comment on the request by the Florida Tomato Exchange (FTE) to terminate the 2019 Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico (the Agreement).

The BTA in 2019 provided comments to the Department of Commerce as part of the formal public comment period for Case No. A-201-820 and cited our appreciation to Commerce for its diligence to devise an Agreement that would preserve duty-free fresh tomato trade between the U.S. and Mexico, as has been the case for decades.

Consistent with that position we conveyed in 2019, the BTA strongly opposes the call by the FTE to terminate the Agreement. Any revisions to the existing Agreement should occur in the context of the regular sunset period of the current Agreement's five-year term. Furthermore, we would urge Commerce to critically assess FTE's termination request and demand that the group back its claims with verifiable data. We reject the FTE's claims of noncompliance. Since the implementation of mandatory quality inspections that Florida growers demanded under the 2019 Agreement, more than 99% of all tomatoes that must be inspected from Mexico have met or exceeded all quality requirements.

We believe that the negative consequences of termination would be dramatic, costing jobs, raising consumer prices, reducing variety, disrupting cross-border supply chains, undermining the USMCA and seriously degrading the U.S.-Mexico binational relationship.

Economy-wide impact

A termination of the TSA would negatively affect sectors far beyond the fresh tomato import industry, including businesses large and small, many of which are minority-owned and located in rural, economically disadvantaged areas. The impact would be felt throughout the supply chain, in sectors like banking and financial services, logistics, and more.

Supply chain disruptions

Terminating the TSA would have major implications for supply chains from point of origin to destination. Grocers place fresh produce orders with immediate consumption in mind since the products are perishable. Rather than order additional pallets of tomatoes simply to fill the truck

(i.e. buying 20 pallets when the store only needs 12 pallets), buyers will complete the space in the truck by using other fresh produce items to both maximize the freight and maximize the freshness of the product to their consumers. Removing a principal volume component like tomatoes from the process is disruptive, inefficient, and expensive.

Border wide, from California to Texas, importers and distributors of fresh produce serve as consolidators. For example, items like tomatoes, peppers, squash, and cucumbers ship at the same temperature. Disrupting the supply of tomatoes, which make up 16% of trucked imports of produce from Mexico, would also cause harm to the distributors of items like peppers, papayas, pineapples, mangoes, avocados, limes, cucumbers, and squash. These companies are often minority-owned, in rural areas, and typically act as the sole or primary employer for that rural community.

Job losses

The dramatic cut in fresh tomato imports from Mexico would mean job losses on both sides of the border. In Mexico, losses would be felt not just in so-called low-skilled jobs in fields. The Mexican fresh produce industry has become increasingly sophisticated, which has created jobs and has also increased product quality and compliance. In the U.S., job losses would be seen in transportation, warehousing & commercial real estate, banking, retail, and more.

An August 2023 paper from the Center for North American Studies at Texas A&M University found that more than 49,000 full- and part-time U.S. jobs are supported by the import and marketing of fresh tomatoes from Mexico, with a total economic impact of an estimated \$7.54

billion from the import and sale of the product.¹ This positive economic activity and enterprise would be at tremendous risk were the Agreement to be terminated.

Weakening the U.S.-Mexico binational relationship

Imposing duties on imported fresh tomatoes would undermine the promise of USMCA and harm the U.S.-Mexico binational relationship. There are already irritants in the two countries' trading relationship; rolling back the TSA would be an additional irritant with several negative knock-on effects, including the risk of retaliatory tariffs on U.S.-made and grown products.

Upward pressure on prices during period of high inflation

Duties on fresh tomatoes would almost certainly exacerbate the significant price inflation American consumers have experienced since the TSA went into force in 2019. The inflation rate for 2019 sat at 2.3%, with the average Consumer Price Index (CPI) rate at 1.8%.²³ By 2022, those numbers had shot up to 6.5% and 8.0% respectively. In August 2023, the CPI was 3.7% higher than a year prior.⁴

Duties ultimately get passed on to consumers in the form of higher prices. At a time of already high prices, dismantling the TSA would make a bad situation even worse.

¹ <https://agecoext.tamu.edu/wp-content/uploads/2023/09/2023.05.Economic-Impact-Analysis-of-Mexican-Tomatoes-Imported-by-the-United-States.pdf>

² <https://www.usinflationcalculator.com/inflation/current-inflation-rates/>

³ <https://www.bls.gov/cpi/latest-numbers.htm>

⁴ <https://www.bls.gov/news.release/cpi.nr0.htm>

Migration

The BTA acknowledges that issues of migration fall outside Commerce's jurisdiction. However, we believe stakeholders on both sides of the border would recognize that an economically stable Mexico relieves pressure on the immigration system. Making a Mexican-grown product dramatically less competitive in the U.S. market would inflict pain on the Mexican economy that could spur outbound migration.

Recent public comments at a Mexican agriculture conference indicated that there are about 400,000-500,000 workers in the Mexican tomato industry, with approximately 80% of them in greenhouse, field, and packinghouse labor. Much of this labor would be unemployed if Mexican tomato imports are severely restricted in the U.S. market.

FTE aiming at wrong target


The BTA disagrees with the FTE's call for the Agreement's termination for the many reasons cited above. Regardless of the merits of FTE's arguments, however, is the fact that no regulatory regime will alleviate the real causes of any decreased market share for Florida-grown tomatoes. As cited in a University of Florida study, Florida tomato farmers are exposed to damaging hurricanes and freezes, hostile soil and pest conditions, serious labor shortages exacerbated by state laws, and a reliance on less-desirable tomato varieties that have fallen out of consumer favor.⁵

⁵ <https://edis.ifas.ufl.edu/publication/IN733>

American consumers will continue to prefer the taste of Mexican greenhouse-grown, vine-ripened tomato varieties over Florida tomatoes picked green from the field and ripened artificially with ethylene gas, a reality no government regulation will change.

The BTA thanks the Department of Commerce for the opportunity to provide these comments. Should you or anyone from your staff have any further questions, we would be happy to make ourselves available.

Sincerely,



Britton Mullen
President

COMPANY CERTIFICATION

I, BRITTON MULLEN, currently employed by the BORDER TRADE ALLIANCE, certify that I prepared or otherwise supervised the preparation of the attached submission” “Comments On The Request By The Florida Tomato Exchange (Fte) To Terminate The 2019 Agreement Suspending The Antidumping Duty Investigation On Fresh Tomatoes From Mexico (The Agreement) ” due on SEPTEMBER 22, 2023 pursuant to the ANTIDUMPING DUTY INVESTIGATION OF FRESH TOMATOES FROM MEXICO (A-201-820). I certify that the public information and any business proprietary information of THE BORDER TRADE ALLIANCE contained in this submission is accurate and complete to the best of my knowledge. I am aware that the information contained in this submission may be subject to verification or corroboration (as appropriate) by the U.S. Department of Commerce. I am also aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. Government. In addition, I am aware that, even if this submission may be withdrawn from the record of the AD/CVD proceeding, the U.S. Department of Commerce may preserve this submission, including a business proprietary submission, for purposes of determining the accuracy of this certification. I certify that a copy of this signed certification will be filed with this submission to the U.S. Department of Commerce.

Signature:



Date:

September 22, 2023

PUBLIC CERTIFICATE OF SERVICE

2019 Suspension Agreement on Fresh Tomatoes from Mexico

A-201-820

The undersigned hereby certifies that on this 23rd day of September, 2023, copies of the foregoing will be served on the following parties by e-mail:

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Signature:

A handwritten signature in cursive script that reads "Britton Mullen". The signature is written in black ink and is positioned above the "Date:" label.

Date:

September 22, 2023

Britton Mullen
President
Border Trade Alliance