

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-201-846]

Agreement Suspending the Countervailing Duty Investigation on Sugar From Mexico; Preliminary Results of the 2021 Administrative Review

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the signatory, the Government of Mexico (GOM), and the respondent companies selected for individual examination, respectively, Ingenio Tala S.A. de C.V. and Ingenio Tamazula S.A. de C.V., were in compliance with the Agreement Suspending the Countervailing Duty Investigation on Sugar from Mexico, as amended (CVD Agreement) during the period of review (POR). Commerce also preliminarily determines that the CVD Agreement met the applicable statutory requirements during the POR.

DATES: Applicable January 4, 2023.

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**

Commerce and the GOM signed the CVD Agreement under section 704(c) of the Act, which suspended the underlying countervailing duty investigation on sugar from Mexico, on December 19, 2014, and which was subsequently amended on January 15, 2020.¹

On December 23, 2021, the American Sugar Coalition and its members (the petitioners)² filed a timely request for an administrative review of the CVD Agreement.³ On February 4, 2022,

¹ See *Agreement Suspending the Countervailing Duty Investigation of Sugar from Mexico*, 79 FR 78044 (December 29, 2014); see also *Sugar from Mexico: Amendment to the Agreement Suspending the Countervailing Duty Investigation*, 85 FR 3613 (January 22, 2020) (collectively, *CVD Agreement*).

² The members of the American Sugar Coalition are: American Sugar Cane League; American Sugarbeet Growers Association; American Sugar Refining, Inc.; Florida Sugar Cane League; Rio Grande Valley Sugar Growers, Inc.; Sugar Cane Growers Cooperative of Florida; and the United States Beet Sugar Association.

³ See Petitioners' Letter, "Request for Administrative Review," dated December 23, 2021.

Commerce initiated an administrative review for the period January 1, 2021, through December 31, 2021.⁴

On March 15, 2022, Commerce selected two companies as mandatory respondents, listed in alphabetic order: Ingenio Tala S.A. de C.V. and Ingenio Tamazula S.A. de C.V.⁵ In addition, the review covered the GOM, which is the signatory to the CVD Agreement.

Scope of the CVD Agreement

The product covered by this CVD Agreement is raw and refined sugar of all polarimeter readings derived from sugar cane or sugar beets. Merchandise covered by this CVD Agreement is typically imported under the following headings of the HTSUS: 1701.12.1000, 1701.12.5000, 1701.13.1000, 1701.13.5000, 1701.14.1020, 1701.14.1040, 1701.14.5000, 1701.91.1000, 1701.91.3000, 1701.99.1015, 1701.99.1017, 1701.99.1025, 1701.99.1050, 1701.99.5015, 1701.99.5017, 1701.99.5025, 1701.99.5050, and 1702.90.4000.⁶ The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of this CVD Agreement is dispositive.⁷

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 investigation was suspended." Pursuant to the CVD Agreement, the GOM agrees that subject merchandise is subject to export limits.⁸ The GOM also agrees to other conditions including limits on exports of Refined Sugar⁹ and restrictions on shipping patterns for exports.¹⁰ The CVD Agreement also requires the GOM to issue contract-specific export licenses,¹¹ submit

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 6487 (February 4, 2022).

⁵ See Memorandum, "Respondent Selection," dated March 15, 2022.

⁶ Prior to July 1, 2016, merchandise covered by the AD Agreement was also classified in the HTSUS under subheading 1701.99.1010. Prior to January 1, 2020, merchandise covered by the AD Agreement was also classified in the HTSUS under subheadings 1701.14.1000 and 1701.99.5010.

⁷ For a complete description of the Scope of the CVD Agreement, see Memorandum, "Decision Memorandum for the Preliminary Results of the 2020 Administrative Review: Sugar from Mexico," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁸ See *CVD Agreement* at Section V.

⁹ "Refined Sugar" is defined in Section II.L of the *CVD Agreement*.

¹⁰ *Id.* at Section V.C.

¹¹ *Id.* at Section VI and Appendix I.

compliance monitoring reports to Commerce,¹² and institute penalties for non-compliance with certain key terms of the CVD Agreement and the companion Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico, as amended (AD Agreement).¹³

After reviewing the information received to date from the GOM and respondent companies in their questionnaire and supplemental questionnaire responses, we preliminarily determine that the GOM and respondent companies have adhered to the terms of the CVD Agreement and that the CVD Agreement is functioning as intended. Further, we preliminarily determine that the CVD Agreement continues to meet the statutory requirements under sections 704(c) and (d) of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and 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>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Verification

As provided in section 782(i) of the Act, Commerce may verify the information relied upon in making its final results. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. While we consider the possibility of conducting an on-site verification for some of the information submitted by the respondents, we may also need to verify the information relied upon in making the final results through alternative means in lieu of an on-site verification. Commerce intends to notify parties of its verification procedures, as applicable.

¹² *Id.* at Section VIII.B.1 and Appendix II.

¹³ *Id.* at Section VIII.B.4; see also *Sugar from Mexico: Suspension of Antidumping Investigation*, 79 FR 78039 (December 29, 2014); and *Sugar from Mexico: Amendment to the Agreement Suspending the Antidumping Duty Investigation*, 85 FR 3620 (January 22, 2020).

Public Comment

Case briefs may be submitted no later than seven days after the date on which the last final verification report is issued in this review. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹⁴ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁵ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the established deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁶

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice.¹⁷ Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act, unless extended.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

¹⁴ See 19 CFR 351.309(d)(1); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ See *Temporary Rule*.

¹⁷ See 19 CFR 351.310(c).

Dated: December 27, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Agreement
- IV. Preliminary Results of Review
- V. Recommendation

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC620]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to U.S. Navy Construction at Naval Station Newport, Rhode Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed modification of a Letter of Authorization; request for comments.

SUMMARY: NMFS is proposing to modify the Letter of Authorization (LOA) that was issued to the United States Navy (Navy) on January 26, 2022 in association with construction activities related to bulkhead replacement and repairs at Naval Station Newport (NAVSTA Newport) over the course of five years (2022–2027). Necessary additions to the Navy's construction plan include vibratory driving of 30-inch (in) steel pipe piles and Down-The-Hole (DTH) driving when technically required for repairs to the S45 bulkhead facility. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is proposing to modify the Navy's LOA to increase authorized take by Level B harassment for harbor seal, gray seal, and harp seals. NMFS is also proposing to include appropriate, additional shutdown mitigation provisions for all species in the modified LOA. The monitoring and reporting measures remain the same as prescribed in the initial LOA. NMFS will also consider public comments on the requested modification prior to making any final decision and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than January 19, 2023.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to ITP.Hotchkin@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Cara Hotchkin, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.