

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-201-820]

**Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes From Mexico; Preliminary Results of 2022–2023 Administrative Review**

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that a respondent selected for individual examination, Bioparques de Occidente, S.A. de C.V. (Bioparques), complied with the Agreement Suspending the Antidumping Duty Investigation on Fresh Tomatoes from Mexico (*2019 Agreement*), for the period of review (POR) September 1, 2022, through August 31, 2023. Commerce also preliminarily determines that another respondent selected for individual examination, Agricola Globalmex, S.A. de C.V. (Globalmex), complied with certain requirements of the *2019 Agreement* during the POR. Additionally, Commerce preliminarily determines that the *2019 Agreement* functioned as intended and continued to meet the statutory requirements under sections 734(c) and (d) of the Tariff Act of 1930, as amended (the Act) during the POR. Commerce requires additional information from two respondents, Globalmex and NatureSweet Invernaderos S. de R.L. de C.V./NatureSweet Comercializadora, S. de R.L. de C.V. (collectively, NatureSweet). We intend to examine the additional requested information in a post-preliminary determination.

**DATES:** Applicable October 11, 2024.

**FOR FURTHER INFORMATION CONTACT:** David Cordell or Walter Schaub, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482-0408 or (202) 482-0907, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On September 19, 2019, Commerce signed an agreement under section 734(c) of the Act, with representatives of Mexican fresh tomato producers/exporters accounting for substantially all imports of fresh tomatoes from Mexico,<sup>1</sup> suspending the antidumping

duty investigation on fresh tomatoes from Mexico.<sup>2</sup>

On September 28, 2023, the Florida Tomato Exchange (FTE), a member of the U.S. petitioning industry, filed a request for an administrative review of the *2019 Agreement*.<sup>3</sup> Commerce published notice of its initiation of the administrative review of the *2019 Agreement* on November 15, 2023.<sup>4</sup> On January 23, 2024, Commerce selected three companies as mandatory respondents, listed in alphabetical order: Globalmex; Bioparques; and NatureSweet.<sup>5</sup> On the same day, Commerce issued questionnaires to each of the selected respondents.<sup>6</sup>

**Scope of the 2019 Agreement**

Merchandise covered by the *2019 Agreement* is typically classified under the following subheading of the Harmonized Tariff Schedule 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>7</sup>

**Methodology and Preliminary Results**

Commerce is conducting 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.” In this

de Sinaloa, A.C., Consejo Agrícola de Baja California, Asociación de Productores de Hortalizas del Yaqui y Mayo and Sistema Producto Tomate (collectively, Mexican Growers Associations). Members of the Mexican Grower Associations are Signatories to the 2019 Agreement (Mexican Signatories).

<sup>2</sup> See *Fresh Tomatoes from Mexico: Suspension of Antidumping Duty Investigation*, 84 FR 49987 (September 24, 2019) (*2019 Agreement*).

<sup>3</sup> See FTE’s Letter, “Request for Administrative Review,” dated September 28, 2023.

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 78298 (November 15, 2023).

<sup>5</sup> See Memorandum, “Respondent Selection,” dated January 23, 2024 (Respondent Selection Memorandum).

<sup>6</sup> See Commerce’s Letter, “Request for Information: Agricola Globalmex, S.A. de C.V. and Bioparques de Occidente SA de C.V.,” dated January 23, 2024 (Bioparques and Globalmex Request for Information); Commerce’s Letter, “Request for Information: NatureSweet Invernaderos S. de R.L. de C.V./NatureSweet Comercializadora, S. de R.L. de C.V.,” dated January 23, 2024 (NatureSweet Request for Information).

<sup>7</sup> For a complete description of the Scope of the 2019 Agreement, see Memorandum, “Decision Memorandum for the Preliminary Results of the 2021–2022 Administrative Review: Fresh Tomatoes from Mexico,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

case, Commerce and representatives of the Mexican tomato producers/exporters accounting for substantially all imports of fresh tomatoes from Mexico signed the *2019 Agreement*, which suspended the underlying antidumping duty investigation, on September 19, 2019. Pursuant to the *2019 Agreement*, the Mexican Signatories agreed to sell subject merchandise at or above certain minimum reference prices, and that their pricing would eliminate at least 85 percent of the dumping determined in the antidumping duty investigation.<sup>8</sup> The Mexican signatories also agreed to other conditions, including quarterly audits,<sup>9</sup> near-the-border inspections by the U.S. Department of Agriculture on all Round and Roma tomatoes and certain other types of tomatoes beginning on April 4, 2020,<sup>10</sup> and limits to adjustments to the sales price due to certain changes in condition and quality after shipment.<sup>11</sup>

After reviewing the information received to date from the mandatory respondents in the initial and supplemental questionnaire responses, we preliminarily determine that one respondent, Bioparques, has complied with the requirements of the *2019 Agreement*. We also preliminarily determine based on the available information that another respondent, Globalmex, has adhered to certain compliance requirements of the *2019 Agreement*. Finally, we preliminarily determine that the *2019 Agreement* functioned as intended and that the *2019 Agreement* continued to meet the statutory requirements under sections 734(c) and (d) of the Act during the POR.

We find that we require additional information to complete our examination of two respondents, Globalmex and NatureSweet, with regards to their compliance with the *2019 Agreement*. We are issuing supplemental questionnaires to solicit additional information and we intend to address NatureSweet’s compliance with all of the requirements of the *2019 Agreement*, and Globalmex’s compliance with certain remaining requirements of the *2019 Agreement*, in a post-preliminary analysis.

For a full description of the analysis underlying our conclusions, see the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is

<sup>8</sup> See *2019 Agreement* at Section VI.

<sup>9</sup> *Id.* at Section VII.B.7.

<sup>10</sup> *Id.* at Section VII.C; see also Memorandum, “Frequently Asked Questions Regarding Inspections,” dated March 17, 2020.

<sup>11</sup> See *2019 Agreement*, 84 FR 49996, at Appendix D.

<sup>1</sup> The Mexican Grower Associations include: Confederación de Asociaciones Agrícolas del Esta

included as an 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)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

#### Public Comment

Case briefs may be submitted no later than seven days after the date on which the last 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.<sup>12</sup> Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.<sup>13</sup>

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.<sup>14</sup> Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).<sup>15</sup>

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, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

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.

Dated: October 7, 2024.

#### Ryan Majerus,

*Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Scope of the 2019 Agreement
- III. Background
- IV. Preliminary Results of Review
- V. Discussion of the Issues
- VI. Recommendation

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[RTID 0648–XE370]

##### Endangered and Threatened Species; File No. 27106

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

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that the North Carolina Department of

Marine Fisheries (NCDMF) has been issued a permit for the incidental take of Endangered Species Act listed sea turtles and sturgeon associated with the otherwise lawful commercial inshore gillnet fishery in North Carolina.

**ADDRESSES:** The incidental take permit, final environmental assessment, and other related documents are available on the NMFS Office of Protected Resources website at <https://www.fisheries.noaa.gov/action/incidental-take-permit-north-carolina-division-marine-fisheries-sea-turtles-and-sturgeon>.

**FOR FURTHER INFORMATION CONTACT:** Celeste Stout, NMFS, Office of Protected Resources at [celeste.stout@noaa.gov](mailto:celeste.stout@noaa.gov), 301–427–8403.

**SUPPLEMENTARY INFORMATION:** Section 9 of the ESA and Federal regulations prohibit the ‘taking’ of a species listed as endangered or threatened. The ESA defines ‘take’ to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides a mechanism for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are located in 50 CFR 222.307.

#### Species Covered in This Permit

Kemp's ridley (*Lepidochelys kempii*), hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*) sea turtles; North Atlantic and South Atlantic distinct population segments (DPSs) of green (*Chelonia mydas*) sea turtles; Northwest Atlantic Ocean DPS of loggerhead (*Caretta caretta*) sea turtles; New York Bight, Chesapeake, Carolina, and South Atlantic DPSs of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*); and shortnose sturgeon (*Acipenser brevirostrum*).

#### Background

NMFS received a draft permit application and conservation plan from NCDMF on June 22, 2022. Based on our review of the draft application, we requested further information and clarification on their minimization, monitoring, and mitigation measures and take requests. After several draft submissions and reviews, on December 2, 2022, NCDMF submitted a complete revised application for the incidental take of ESA-listed sea turtles and sturgeon. On December 22, 2022, we published a notice of receipt (87 FR 78659) of application and conservation

<sup>12</sup> See 19 CFR 351.309(d)(1).

<sup>13</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>14</sup> We use the term ‘issue’ here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

<sup>15</sup> See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule*, 88 FR 67069 (September 29, 2023).