

Congress of the United States

Washington, DC 20515

March 4, 2022

The Honorable Gina Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, D.C. 20230

Dear Secretary Raimondo:

We write to urge the U.S. Department of Commerce to reject a request for a Changed Circumstances Review which seeks to exempt certain greenhouse-grown specialty tomatoes from the 2019 Suspension Agreement on Fresh Tomatoes from Mexico. There are no circumstances—whether changed or otherwise—to support such a request. The dismissal of the Changed Circumstance request is required to maintain the integrity of the 2019 Suspension Agreement and to prevent harm to domestic industries, which depend on strong enforcement of the Suspension Agreement to find relief from the persistent flood of unfairly priced Mexican tomatoes.

The assertion that the 2019 Suspension Agreement was not intended to impact imports of greenhouse-grown specialty tomatoes from Mexico is not correct. The scope of the 2019 Suspension Agreement unambiguously includes “all fresh or chilled tomatoes (fresh tomatoes) which have Mexico as their origin, except for those tomatoes which are used for processing.”¹ As the 2019 Suspension Agreement clarifies, and as the Department of Commerce reiterated in its 2019 scope ruling,² this scope includes all round, roma, and specialty tomatoes, whether grown in an open-field or a greenhouse. There is no question that the 2019 Suspension Agreement is intended to cover the greenhouse-grown specialty tomatoes that the Changed Circumstance request seeks to exempt.

The claim that greenhouse-grown specialty tomatoes “are not contributing to any injury experienced by U.S. growers” is similarly without merit. In fact, the U.S. International Trade Commission (ITC)—the U.S. governmental body statutorily authorized with making like-product and injury determinations—explicitly considered this very question in its continued investigation in 2019 and reached the opposite conclusion. After considering nearly identical arguments as those posed by the Changed Circumstance request, the ITC determined that the tomatoes covered by the scope of the investigation—which explicitly includes greenhouse-grown specialty tomatoes—constituted a single like product and that unfairly priced imports of that

¹ *Fresh Tomatoes from Mexico: Suspension of Antidumping Duty Investigation*, 84 Fed. Reg. 49987 (Sep. 24, 2019).

² See “Post-Preliminary Decision Memorandum in the Less-Than-Fair-Value Investigation of Fresh Tomatoes from Mexico,” Case No. A-201-820, Investigation, ACCESS Barcode: 3867703-01 (Jul. 23, 2019).

product from Mexico threatened the domestic industry with material injury.³ The Department of Commerce does not have grounds to alter the USITC's unambiguous determination.

Moreover, the claimed distinction between "U.S.-grown round and roma tomatoes" and Mexican specialty tomatoes is a red herring. As Commerce is well-aware, U.S. producers grow many varieties of tomatoes, including specialty tomatoes. The scope of the Suspension Agreement covers all types of tomatoes precisely because, as the ITC has confirmed, U.S. producers face material injury from all fresh and chilled tomatoes imported from Mexico.

Thank you for your attention to this important matter.

Sincerely,



Marco Rubio
U.S. Senator



Rick Scott
U.S. Senator



Scott Franklin
Member of Congress



Al Lawson
Member of Congress



Daniel Webster
Member of Congress



Carlos Gimenez
Member of Congress



W. Gregory Steube
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Stephanie Murphy
Member of Congress

³ See ITC Publication 5003, "Fresh Tomatoes from Mexico: Investigation 731-TA-747 (Final)" (December 2019).



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