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U.S. International Trade Commission Rules in Favor of Mexican Tomato Imports

by LADB Staff

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In early July, the US International Trade Commission (ITC) issued a landmark ruling suggesting that imports of Mexican tomatoes to the US have not caused irreparable harm to US producers. The ruling, which the five-member commission approved by a four-to-one margin, came in response to a complaint from growers in Florida that imports of tomatoes and other produce from Mexico are harming the US industry.

"We are extremely disappointed about the ruling," said Michael Stuart, vice president of an organization representing fruit and vegetable producers in Florida. "We believe our industry will suffer serious damage from tomato imports from Mexico." As expected, the Mexican government praised the ITC decision and suggested that the ruling is a necessary step to ease trade tensions between the US and Mexico. "This ruling is consistent with the spirit of the North American Free Trade Agreement (NAFTA), which allows our tomatoes and bell peppers access to the US market," read the Trade Secretariat (SECOFI) statement.

The ITC ruling, however, represents only a partial victory for Mexican tomato growers, since the commission must now consider a separate complaint that Mexico is selling tomatoes and other produce in the US at less-than-market value. This practice is commonly known in international trade circles as "dumping." As in the earlier complaint, the request for an anti-dumping investigation was spearheaded by Florida agricultural producers and the state's agriculture department. But the second complaint was expanded to include tomato producers from California, Georgia, Pennsylvania, South Carolina, Tennessee, and Virginia.

In the anti-dumping case, the ITC has scheduled a series of hearings for July, with the goal of announcing a preliminary ruling by early September. In their two complaints before the ITC, the tomato producers contend that lower production costs in Mexico, mainly because of cheaper labor, have enabled Mexican producers to sell their produce in the US at below-market value, thus displacing Florida sales in the US market. Furthermore, the tomato growers argue that an increase of imports from Mexico is responsible for a steady drop in income for the state's tomato producers. In presenting their argument, Florida producers noted that annual income for their state dropped from US\$607 million in 1993 to US\$465 million in 1994, and then to US\$387 million in 1995.

Dana Harris, a spokesperson for the Agricultural Research Institute in Jacksonville, Florida, said the economic interests of Florida producers are so "enormous" that the industry would continue to fight imports of Mexican tomatoes at all costs. "Mexican producers should understand that tomato growers in Florida will not give up their fight that easily," said Harris. Meanwhile, statistics published by the US and Mexican governments confirm that exports of tomatoes to the US surpassed US\$400 million during 1995. For January-April of this year, tomato exports had already

reached US\$332 million. The statistics showed a similar pattern for exports of bell peppers, which totaled US\$120 million in 1995 and US\$64 million in the first four months of this year. If the ITC sides with the Florida producers, the US government could eventually impose countervailing duties on imports of Mexican tomatoes and other produce.

According to trade specialists, US Commerce Secretary Mickey Kantor and US Trade Representative Marlene Barshefsky would like the ITC to rule in favor of the Florida producers on the anti-dumping case. Kantor was among the most vocal critics of the ITC's recent ruling that imports of Mexican tomatoes were not causing harm to US producers. In an article published in early July, trade columnist Alva Senzek of *El Financiero* International weekly business newspaper suggested that the US Commerce Department has already shown an inclination to skew the figures in favor of US tomato producers. Senzek said the Commerce Department is examining exports between October 1995 and March 1996 to determine whether dumping occurred. Senzek noted that Mexico has two separate growing seasons for tomatoes, one from January to June and the other from June to December. "In selecting a time period that includes a bit of both seasons, the ITC is sure to come up with figures which show that Mexico surpassed the quotas, since the slow starts and finishes will be eliminated from both cycles," said Senzek.

On the other hand, Senzek suggested that the anti-dumping investigation could require several steps, which would mean a final decision would not be handed down until after the US presidential elections in November of this year. Still, the upcoming presidential elections continue to influence any actions taken by US President Bill Clinton's administration regarding imports of Mexican produce. Clinton is not only facing pressure from agricultural producers in Florida, but has been criticized by growers in California for a proposal to allow imports of Mexican avocados (see *SourceMex*, 03/20/96).

Both Clinton and Republican nominee Bob Dole supported legislation to create a new protected status for tomatoes grown in Florida. The measure was recently approved in the Senate with broad bipartisan support. A bill similar to the one that passed in the Senate went before the House Ways and Means Committee in early July and is expected to gain easy approval in the full House. In the long term, however, the next president either Clinton or Dole will have to ultimately deal with the question of whether any new restrictions on imports of Mexican tomatoes violate the US commitment to NAFTA. Clinton has staunchly defended NAFTA, but the administration has also proposed measures that run counter to some sections of the agreement. For example, the administration has proposed creating a fixed weekly quota for imports of Mexican tomatoes rather than the quarterly quota negotiated under NAFTA.

The Mexican government and Mexican tomato producers have strongly opposed this proposal, arguing that a weekly quota would limit the amount of Mexican tomatoes exported to the US. President Ernesto Zedillo's administration has filed a complaint before the World Trade Organization (WTO), charging that the proposed change in the formula to calculate quotas was, in effect, a violation of international trade rules. Meanwhile, the Mexican government continues other efforts to fight US proposals to restrict imports of tomatoes from Sinaloa and other Mexican states. Among other actions, SECOFI, the Agriculture Secretariat (SAGDR), and organizations representing producer groups are working jointly to formulate positions to present at the ITC hearings. The

SAGDR said the joint strategy has helped lawyers representing the Mexican government present a more effective argument in the hearings on whether Mexican imports are damaging US producers. "By joining our positions and actions, we were able to obtain a favorable response from the ITC," the SAGDR said in a prepared statement. (Sources: El Financiero International, 07/01/96; Agence France-Presse, Notimex, 07/02/96; La Jornada, 07/03/96; Excelsior, 07/03/96, 07/09/96)

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