



8 October 2020

(20-6901)

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Committee on Safeguards

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**NOTIFICATION UNDER ARTICLE 12.1(A) OF THE AGREEMENT ON
SAFEGUARDS ON INITIATION OF AN INVESTIGATION AND
THE REASONS FOR IT**

UNITED STATES

Fresh, Chilled, or Frozen Blueberries

The following communication, dated 7 October 2020, is being circulated at the request of the delegation of the United States.

Pursuant to Article 12.1(a) of the WTO Agreement on Safeguards (Safeguards Agreement), the United States notifies that a safeguard investigation has been initiated as follows:

1 SPECIFY THE DATE WHEN THE INVESTIGATION WAS INITIATED

The U.S. International Trade Commission (Commission) initiated the investigation on 6 October 2020, with the initiation effective for purposes of U.S. law on 29 September 2020.

A copy of the notice of institution of the investigation, which includes the scheduling of public hearings and the applicable rules of procedure, is attached.

The Commission will make its serious injury determination on or before 11 February 2021. If affirmative, the Commission will submit to the President its report on or before 29 March 2021.

2 SPECIFY THE PRODUCT SUBJECT TO THE INVESTIGATION

The products covered by this investigation are fresh, chilled, or frozen blueberries ("blueberries"). For Customs purposes, the blueberries covered by the investigation are provided for under Harmonized Tariff Schedule of the United States ("HTSUS") statistical reporting numbers 0810.40.0024, 0810.40.0026, 0810.40.0029, 0811.90.2010, 0811.90.2024, and 0811.90.2030. These HTSUS numbers are provided for convenience, and the written description of the scope is dispositive.

3 PROVIDE THE REASONS FOR THE INITIATION OF THE INVESTIGATION

- (i) Was the investigation initiated pursuant to a petition from the domestic industry?

The investigation was initiated pursuant to a request filed on 29 September 2020, by the United States Trade Representative ("USTR").

- (ii) Evidence on the basis of which the investigation was initiated.

The investigation was initiated in response to a request by the USTR.

The request noted that U.S. import statistics indicate that blueberry imports have greatly increased in recent years and are sourced in major quantities from multiple countries.

The request noted that USTR and the Departments of Agriculture ("USDA") and Commerce ("Commerce") had conducted a series of hearings conducted by USTR, USDA, and Commerce on trade distorting practices that might be contributing to unfair pricing in the United States. The agencies received more than 300 written submissions, and more than 60 witnesses testified at two days of hearings. A transcript of the hearings and copies of written submissions are available at www.regulations.gov under Docket ID: USTR-2020-0010.

- (iii) Evidence, if any, of critical circumstances where delay would cause damage which it would be difficult to repair.

The request did not allege critical circumstances.

4 PROVIDE A POINT OF CONTACT FOR THE INVESTIGATION AND IDENTIFY THE PREFERRED MEANS FOR CORRESPONDING

The point of contact for the investigation is:

Jordan Harriman
Office of Investigations
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436
Tel: (202-205-2610)

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

5 PROVIDE THE DEADLINES AND PROCEDURES FOR IMPORTERS, EXPORTERS AND OTHER INTERESTED PARTIES TO PRESENT EVIDENCE AND THEIR VIEWS, INCLUDING (I) DEADLINES AND PROCEDURES FOR MEMBERS AND EXPORTERS TO IDENTIFY THEMSELVES AS INTERESTED PARTIES, IF SO REQUIRED, TO PARTICIPATE IN THE INVESTIGATION, AND (II) THE DATE OF AN INTENDED PUBLIC HEARING AS PROVIDED FOR IN ARTICLE 3.1

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission not later than 21 days after publication of the notice of institution in the Federal Register. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

The Secretary will make confidential business information gathered in this investigation available to authorized applicants representing interested parties under the administrative protective order issued in the investigation, provided that the application is made not later than 21 days after the publication of the notice of institution in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive confidential business information under the administrative protective order.

Each party who is an interested party may submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on serious injury is 29 December 2020; that for filing prehearing briefs on remedy is 18 February 2021.

The Commission has scheduled separate hearings in connection with the serious injury and remedy phases of this investigation. The hearing on serious injury will be held on 12 January 2021, at the U.S. International Trade Commission Building, 500 E Street, SW, Washington, DC.

In the event that the Commission makes an affirmative serious injury determination or is equally divided on the question of serious injury in this investigation, a hearing on the question of remedy will be held on 25 February 2021.

Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before 30 December 2020 for the serious injury hearing, and 19 February 2021 for the remedy hearing.

All parties and nonparties desiring to appear at the hearings and make oral presentations should participate in prehearing conferences to be held on 11 January 2021 for the serious injury hearing and 24 February 2021 for the remedy hearing, if deemed necessary.

Parties may file written testimony in connection with their presentation at the hearing. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearings. Parties must submit any request to present a portion of their hearing testimony in camera no later than seven business days prior to the date of the respective hearings.

The deadline for filing posthearing briefs for the serious injury phase of the investigation is 19 January 2021; the deadline for filing posthearing briefs for the remedy phase of the investigation, if any, is 3 March 2021.

In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of serious injury on or before 19 January 2021, and pertinent to the consideration of remedy on or before 3 March 2021.

The attached notice of institution provides further information regarding deadlines and procedures applicable to this investigation.

The Commission's Handbook on E-Filing, available on the Commission's website at <https://edis.usitc.gov>, elaborates upon the Commission's rules with respect to electronic filing.
