

Congress of the United States
Washington, DC 20515

July 22, 2021

The Honorable Gina M. Raimondo
Secretary
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Raimondo:

We write to you concerning the Department of Commerce's administration of the 2019 Mexico Tomato Suspension Agreement ("2019 TSA") (A-201-820). We understand that the Department is considering a proposal to break with 25 years of precedent of how it administers the minimum reference price, a cornerstone of the agreement. The proposed reinterpretation of the reference price would be costly for the tens of thousands of Americans that distribute and sell tomatoes from Mexico and their millions of American customers. We urge Commerce to reject it.

The minimum pricing threshold established by the 2019 TSA through the "reference price" mechanism provides predictability for American tomato growers, produce distributors, and consumers alike. The proposal under consideration would require U.S. distributors to add *all expenses* incurred the moment tomatoes cross the U.S.-Mexico border to the reference price, including wages, utilities, and inspection fees. This proposed interpretation stands in stark contrast to the decades-old interpretation of the reference price, which treats such expenses as included in the reference price and establishes that the reference price applies when the tomatoes are sold at the distributor's warehouse/first point of sale in the United States.

Similar to prior suspension agreements on fresh tomatoes from Mexico, the 2019 TSA works well because it establishes clear guidelines for distributors of Mexican tomatoes to follow by setting a specific minimum price for each type of tomato. However, if Commerce adopts the proposed reinterpretation of the reference price, distributors would lose this predictability and certainty. Instead of following set reference prices, distributors would be required to *anticipate* their expenses, *quantify* such expenses on a per-unit basis, and add those additional, unknown costs to the established reference price *at the time of sale*. Thus, the reference prices established in the 2019 TSA would have no meaning at all because such prices would no longer represent the prices at which the distributor can sell tomatoes.

The sale and distribution of tomatoes from Mexico creates tens of thousands of jobs across the United States, and is a particularly important jobs engine throughout the entire southwest border region. The proposed reinterpretation would hit small businesses in this industry hardest. A larger distributor with a more efficient cost structure would need to increase the reference price by a smaller magnitude relative to small- and medium-sized enterprises with higher costs. The Department should not be in the business of picking winners or losers in the U.S. supply chain, particularly in an industry which brings healthy products to our constituents and at a time when so

many businesses are attempting to recover from the economic havoc wreaked by the COVID-19 pandemic.

A disruption of the 2019 TSA through the adoption of this novel and unreasonable interpretation would raise the price of tomatoes across the board, harming restaurants and grocers, as well as squeezing the budgets of working families. Our grocers and restaurants need imports to satisfy the growing demand for tomatoes. Mexico is not only the United States' largest and most reliable foreign supplier, it also grows many varieties of tomatoes that simply are not grown in the United States.

We urge the Department to reject the proposed novel interpretation to add to the reference price expenses that are incurred upon passage of the tomatoes across the U.S.-Mexico Border and before the final sale of such tomatoes occurs at the U.S. distributor. We look forward to working with you to resolve this important concern.

Sincerely,



Vicente Gonzalez
Member of Congress



Filemon Vela
Member of Congress



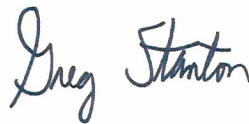
Marc Veasey
Member of Congress



Henry Cuellar
Member of Congress



Jaime Herrera Beutler
Member of Congress



Greg Stanton
Member of Congress



Raul M Grijalva
Member of Congress



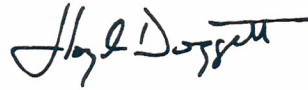
Ruben Gallego
Member of Congress



Tom O'Halleran
Member of Congress



Ann Kirkpatrick
Member of Congress



Lloyd Doggett
Member of Congress