

Alert

September 15, 2022



Section 301 Petition Concerning Mexican Seasonal and Perishable Agricultural Products Filed

On September 8, 2022, 22 of Florida's 27 U.S. Representatives, along with both of Florida's U.S. Senators, filed a petition with the Office of the U.S. Trade Representative seeking relief under Section 301 of the Trade Act of 1974 with respect to allegedly actionable Mexican policies and practices related to Mexican seasonal and perishable agricultural products. If a resulting investigation leads to a determination by the U.S. Trade Representative that Mexico's policies or practices are unreasonable and burden or restrict U.S. commerce, the U.S. Trade Representative would be statutorily authorized to impose duties or other import restrictions.

The Allegations

The petition alleges that the Mexican Government has engaged in an "export targeting scheme" in order to develop and expand "an export-oriented protected seasonal and perishable agricultural industry." Under Section 301, an act, policy, or practice that "constitutes export targeting" is necessarily "unreasonable." According to the petition, the alleged export targeting scheme has led the Mexican produce industry to become more competitive, resulting in "surging volumes of unfairly priced produce being exported from Mexico to the U.S." The petition highlights Mexican exports of bell peppers, strawberries, blueberries, cucumbers, and squash.

The petition asserts that "the Mexican Government has provided hundreds of millions of dollars or more in subsidies for the development and operation of a multi-billion-dollar export-oriented 'protected' agricultural industry." Aspects of production alleged by the petition to be subsidized include the acquisition of seeds, equipment, and structures, as well as "postharvest management." Within the latter category, the petition alleges provision of "subsidies for transport to foreign markets and the acquisition of cold storage containers and vehicles to make exports more competitive in the U.S. market." The petition contends that Mexico provided subsidies for "postharvest management" and "agrifood cluster development" "with the explicit intent of positioning [its] industry as a low-cost exporter to the U.S." Additionally, the petition asserts that Mexico maintains a "government policy of low wage rates in [its] export-oriented industry [that] plays a significant role in Mexico's export targeting scheme."

The petition does not allege that Mexico's policies and practices violate or deny benefits to the United States under a trade agreement, and the petition does not seek initiation by the United States of dispute settlement proceedings against Mexico in the World Trade Organization (WTO) or under the United States-Mexico Canada Agreement (USMCA). Instead, the petition seeks a determination that Mexico's policies and practices are actionable under section 301(b) of the Trade Act, which would provide the U.S. Trade Representative with discretionary authority to take actions authorized under section 301(c), including imposing duties.

Next Steps

The petition will receive an initial review to determine if it conforms substantially to filing requirements, including with respect to the information to be included. If it does, the petition will be docketed, and the U.S. Trade Representative, advised by the interagency Section 301 Committee, will have 45 days from the petition's filing to determine whether to initiate an investigation.



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Related Practice Areas

- Customs, Imports & Trade Remedies
- International
- Transportation & Trade
- Government & Regulatory
- Trade Regulation, Export Controls & Sanctions

Industry Sectors

- Food & Beverage

If an investigation occurs, interested persons will have an opportunity to present their views. Written comments will be solicited, and as petitioners request a hearing, there will be an opportunity to present oral testimony.
