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Antidumping Apple Case Ends But Duties Could Resume

Report Categories:

Agriculture in the Economy

Fresh Deciduous Fruit

Policy and Program Announcements

Trade Policy Monitoring

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Report Highlights:

On April 26, 2010, the Secretariat of Economy (SE) followed its March 2 announcement and officially concluded the Antidumping Investigation on U.S. Red and Golden Delicious Apple Imports. The announcement was published in the *Diario Oficial* (Federal Register) and ended the 25 working day period for parties to appeal the suspension, which ended the extra duties on U.S. Red and Golden Delicious apple imports. According to various sources, no appeals were sent to the SE during that time and duties should be removed. However, a court injunction was filed in the state of Mexico on April 7, 2010, by *Grupo de Comuneros de Tenango del Valle* to reestablish the compensatory duties on apples. The court granted a permanent injunction on April 8, and the SE

must re-impose compensatory import duties until a decision is reached. An announcement is expected with more detailed information, but it remains unclear how the state injunction process will work with an official NAFTA decision.

Executive Summary:

On March 2, 2010, the Secretariat of Economy (SE) published an announcement in the *Diario Oficial* (Federal Register) that complies with the October 15, 2009, NAFTA Binational Panel's decision concerning the compensatory duties on U.S. imported Red and Golden Delicious apples. The SE's final decision is that the compensatory duties imposed on U.S. Red and Golden Delicious apple imports (HTS 0808.10.01) must be eliminated. The SE indicated that there was not enough information from the domestic industry that demonstrates damage to the industry from 2002 to June 2005. Therefore, there was no proof of damage to the domestic industry and the duties must be eliminated. The announcement stated that the SE must wait 25 business days in order to allow interested parties to either challenge or appeal the decision from the SE. (For more information, please see Gain reports "Apple NAFTA Panel Orders Economia to Deliver Final Verdict" 1/7/2010, and "SE Eliminates Duties on U.S. Apples" 3/2/2010).

On April 26, 2010, the SE followed up on its March 2 announcement in the *Diario Oficial* (Federal Register) and concluded the case on the Antidumping Investigation on U.S. Red and Golden Delicious Apple Imports. This resolution indicates that the court injunctions 5/1991, 1015/1996, 312/2001, 299/2002, and 47/2004 cease to have effect.

COURT INJUNCTION: After the conclusion of the Binational Panel's decision, a court injunction was filed on April 7, 2010, to stop implementation of the SE's elimination of the compensatory apple duties. The court granted a permanent injunction on April 8 to *Grupo de Comuneros de Tenango del Valle* (CTV) in the state of Mexico.

The Injunction was filed against the SE's action to eliminate compensatory duties imposed on Red and Golden Delicious apples imported from the United States. The SE's action fully complies with the NAFTA Binational Panel's decision of October 15, 2009, concerning the compensatory duties on U.S. imported Red and Golden Delicious apples. The SE's final decision was that the compensatory duties imposed on U.S. Red and Golden Delicious apple imports (HTS 0808.10.01) must be eliminated starting March 3, 2010. According to various sources, the injunction means that the SE must reimpose the compensatory import duties (47.05%) on Red and Golden Delicious apples imported from the United States. The SE is expected to follow up with another announcement concerning the injunction, which could take at least two years to finalize. Until an announcement follows, it remains unclear how this process will work.

General Information:

This report summarizes an announcement by the Secretariat of Economy (SE) published in Mexico's "*Diario Oficial*" (Federal Register) on April 26, 2010, that concludes the Antidumping Investigation on U.S. Red and Golden Delicious Apple Imports.

Disclaimer: This summary is based on a *cursory* review of the subject announcement and therefore should not, under any circumstances, be viewed as a definitive reading of the regulation in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulation or announcement as published in

Spanish, the latter shall prevail.

Title: Resolution that concludes the procedure of the annual review of definitive compensatory quotas imposed through the final resolution of the antidumping investigation on table apple imports of Red Delicious and their mutations and Golden Delicious, originating in the United States of America, independently of the country of origin, which are classified under the tariff number 0808.10.01 of the General Duties of the Import and Export Tariff Law.

Important Dates:

1. Publication Date: April 26, 2010

2. Effective Date: April 27, 2010

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Mexico's equivalent of the Secretariat of Agriculture, SAGARPA, can be found at

www.sagarpa.gob.mx and Mexico's equivalent of the Secretariat of the Economy can be found at

www.se.gob.mx