

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 110th Congress ¹**

[Date approved: July 29, 2008]²

Bill No. and sponsor: H.R. 5305 (Mr. Bill Pascrell of New Jersey).

Proponent name,³ location: World Finer Foods, Inc., Bloomfield, NJ.

Other bills on product (110th Congress only): None.

Nature of bill: Temporary duty suspension through December 31, 2011.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Capers, prepared or preserved by vinegar or acetic acid, in containers holding 3.4 kg or less (provided for in subheading 2001.90.20).

Check one: ___ Same as that in bill as introduced.
 X Different from that in bill as introduced (see Technical comments section).

Product information, including uses/applications and source(s) of imports:

Capers are the unripened flower buds of *Capparis spinosa*, a prickly, perennial shrub-like plant. The plant measures about 3 feet tall and has small, green herb buds that are generally harvested by hand. Dry heat and intense sunlight with relatively limited rainfall make for the ideal growing environment for caper plants. The salted and pickled caper bud is often used as a seasoning or garnish. Capers are a common ingredient in Mediterranean cuisine, specifically pasta sauces, pizza, fish, meats, and salads.

Major production regions include southern Spain (Almeria, Grenada, and the Balearic Islands), France (Provence), and Italy (especially Sicily, the Aeolian island of Salina, and the Mediterranean island of Pantelleria). Other areas of production include Turkey, Algeria, Egypt, Morocco, Greece, Tunisia, Cyprus, Iran, and the coastal areas of the Black Sea and the eastern Mediterranean. U.S. imports of the subject product are principally from Spain, Morocco,⁴ Denmark, Turkey, and Italy. This duty suspension covers capers packaged in containers that are 3.4 kg or less. Many U.S. food processors repackage imported capers into smaller retail containers under a domestic private label.

Caper plants are grown in the United States but in very small quantities. They are generally not grown for caper consumption but for use in landscaping and as ornamental plants.⁵ Capers may be grown in

¹ Industry analyst preparing report: Brendan Lynch (202-205-3313); Tariff Affairs contact: Dan Shepherdson (202-205-2598).

² Access to an electronic copy of this memorandum is available at http://www.usitc.gov/tata/hts/other/rel_doc/bill_reports/.

³ The sponsor/proponent did not identify any additional beneficiaries of this bill.

⁴ Imports of the subject product from Morocco may be eligible for duty-free treatment under the U.S.-Morocco FTA.

⁵ Staff of Exotic Nursery Inc. in Vista, CA, telephone interview with Commission staff, May 2, 2008.

small quantities as a food crop in northern California, but not in significant commercial quantities.⁶

Estimated effect on customs revenue:

HTS subheading: 2001.90.20					
	2009	2010	2011	2012	2013
Col. 1-General rate of duty	8%	8%	8%	8%	8%
Estimated value <i>dutiable</i> imports <u>1/</u>	\$4,841,080	\$5,034,723	\$5,236,111	\$5,445,556	\$5,663,378
Customs revenue loss <u>2/</u>	\$0	\$402,778	\$418,889	\$435,644	\$453,070

1/ These figures are based on the total import value of the subject product for 2007 and project a 4-percent rise each year above the previous year's total. Imports from Morocco, which is the second leading supplier in this tariff subheading, have duty-free access under the U.S.-Morocco FTA and therefore were not included in the estimated dutiable imports.

2/ There is an existing duty suspension under HTS heading 9902.10.26 that expires on December 31, 2009. Therefore, there will be no customs revenue loss related to this bill in 2009.

Source of estimated dutiable import data: Commission estimates based on Official U.S. Government statistics.

Contacts with domestic firms/organizations (including the proponent):

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
World Finer Foods, Inc. (Proponent) Barbara Harloe, 973-338-0300, ext. 129	5/5/2008	No	Yes	No
Association of Food Industries, Inc. Bob Bauer, 732-922-3008	5/6/2008	No	No	No
Bascom Sales LLC, Inc. 973-345-1802	5/6/2008	No	No	No
California League of Food Processors Rob Neenan, 916-640-8150	5/1/2008	No	No	No
California Department of Food and Agriculture Robert Tse, Director of Trade, 916-654-0321	5/2/2008	No	No	No
Exotica Rare Fruit Nursery Staff, 760-724-9093	5/2/2008	No	No	No

⁶ Robert Tse, California Department of Food and Agriculture, telephone interview with Commission staff, May 2, 2008.

Technical comments:⁷

The Commission staff notes that HTS heading 9902.10.26 provides a temporary duty suspension for the subject capers that expires on December 31, 2009. That heading should be used to extend the duty suspension. However, the current article description in heading 9902.10.26 contains some errors and cannot be administered by Customs and Border Protection. Therefore, the article description on page 1 of this report should be used in heading 9902.10.26 because the article description on page 1 matches the tariff nomenclature in HTS subheading 2001.90.20.

⁷ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

110TH CONGRESS
2D SESSION

H. R. 5305

To suspend temporarily the duty on certain capers preserved by vinegar or acetic acid.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2008

Mr. PASCRELL introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To suspend temporarily the duty on certain capers preserved by vinegar or acetic acid.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CERTAIN CAPERS.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of
5 the Harmonized Tariff Schedule of the United States is
6 amended by inserting in numerical sequence the following
7 new heading:

“	9902.01.00	Capers, prepared or preserved by vinegar or acetic acid, in containers holding 3.4 kg or less (provided for in subheading 2001.90.20)	Free	No change	No change	On or before 12/31/2011	”.
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1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) applies to articles entered, or withdrawn
3 from warehouse for consumption, on or after the 15th day
4 after the date of the enactment of this Act.

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