

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. 5309 (Mr. Bill Pascrell of New Jersey).

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

Other bills on product (110th Congress only): H.R. 5306 (Mr. Bill Pascrell of New Jersey).

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

Retroactive effect: None

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

Pepperoncini, prepared or preserved otherwise than by vinegar or acetic acid, not frozen (provided for in subheading 2005.99.55).

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:

The subject product is a type of pepper that is prepared or preserved without vinegar or acetic acid. The use of a brine that is made of vinegar and acetic acid in the process of pickling gives peppers a tart taste and acts as a preservative due to the acidity of vinegar, whereas peppers that are prepared or preserved without vinegar are generally crispier and are often used in sandwiches.⁴ An estimated 15,000 acres in the United States are used to grow various pickling peppers, including pepperoncini.⁵ However, there is limited commercial production of pepperoncini for use in domestic processing. Small quantities of pepperoncini are grown in California, Michigan, and New Jersey. The pepperoncini that is produced commercially is generally sold in various forms of brine.⁶

Pepperoncini peppers are often imported to the United States in bulk containers for sale to food service firms and distributors.⁷ Pepperoncini is also imported in retail-size containers, and food processors repackage the imported pepperoncini and distribute it under private labels. The primary suppliers of pepperoncini imports are Greece, Spain, and Italy.

¹ Industry analyst preparing report: Brendan Lynch (202-205-3313); Tariff Affairs contact: Daniel 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 "Pickles and Relishes" available at <http://www.four-h.purdue.edu/foods/Pickles%20and%20relishes%20frame1.htm> and retrieved May 5, 2008 and "Pickle and Pickled Pepper Key" by Pickle Packers International Inc., available at <http://www.ilovepickles.org/articles/key.html> and retrieved May 6, 2008.

⁵ "Pickles and Pickled Pepper Fact Sheet" by the Pickle Packers International, Inc., available at <http://www.ilovepickles.org/articles/factsheet.html> and retrieved May 1, 2008.

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

⁷ Staff of Victoria Packing Corp., interview with Commission staff, May 2, 2008.

Estimated effect on customs revenue:

HTS subheading: 2005.99.55					
	2009	2010	2011	2012	2013
Col. 1-General rate of duty	14.9%	14.9%	14.9%	14.9%	14.9%
Estimated value <i>dutiable</i> imports <u>1/</u>	\$4,131,254	\$4,213,879	\$4,298,156	\$4,384,119	\$4,471,801
Customs revenue loss <u>2/</u>	\$0	\$627,868	\$640,425	\$653,234	\$666,298

1/ These figures are based on estimates of the total dutiable import value of the subject product for 2007 and project a 2-percent rise each year above the previous year's total. Because U.S. import data does not differentiate prepared and preserved pepperoncini products from other types of pepper products, it is not possible to estimate precisely the expected revenue loss from a suspension of import duties. For this analysis, the Commission assumes that prepared and preserved pepperoncini are imported primarily from Greece, Italy, and Spain and that the imports from these three countries under HTS statistical subheading 2005.99.55.90 consist primarily of prepared or preserved pepperoncini. Imports from some other possible suppliers, specifically Mexico, Peru, Chile, and Morocco, may qualify for duty-free access as a result of the free trade agreements with the United States or unilateral tariff preference programs and therefore imports from those countries were not included in the estimated dutiable imports.

2/ There is an existing duty suspension under HTS heading 9902.10.27 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: Official U.S. Government statistics and Commission estimates.

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?
		(Yes/No)		
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	Yes	No	No
California Department of Food and Agriculture Robert Tse, Director of Trade, 916-654-0321	5/2/2008	Yes	No	No
Victoria Packing Co. Purchasing Department, 718-927-3000	5/2/2008	No	No	No

Technical comments:⁸

The Commission staff notes that an existing HTS heading, 9902.10.27, provides a temporary duty suspension for the subject product. The Commission staff suggests that heading 9902.10.27 be used to extend the existing duty suspension. The Commission staff suggests that the article description on page 1 of this report be used in heading 9902.10.27 because it contains the correct HTS subheading reference, and it tracks the nomenclature of subheading 2005.99.55. H.R. 5306 and H.R. 5309 cover the same product, and only one bill should be enacted.

⁸ 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. 5309

To suspend temporarily the duty on certain pepperoncini prepared or preserved otherwise than 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 pepperoncini prepared or preserved otherwise than 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 PEPPERONCINI PREPARED OR PRE-**
4 **SERVED OTHERWISE THAN BY VINEGAR OR**
5 **ACETIC ACID.**

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

“	9902.01.00	Pepperoncini, prepared or preserved otherwise than by vinegar or acetic acid (provided for in subheading 2005.90.55)	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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