

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 108th Congress¹**

[Date approved: December 9, 2004]²

Bill No. and sponsor: H.R. 5017 (Rep. Pascrell).

Proponent name, location:

Association of Food Industries, Inc.
3301 RT 66, Ste. 205, Bldg. C
Neptune, NJ 07753
Phone: (732) 922-3008
Fax: (732) 922-3590

Other bills on product (108th Congress only): H.R. 5017 (Rep. Pascrell).

Nature of bill: Temporary duty suspension through December 31, 2007.

Retroactive effect: None.

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

Capers, prepared or preserved by vinegar or acetic acid, other than such goods in immediate containers holding more than 3.4 kg (provided for in subheading 2001.90.20).

Check one: Same as that in bill as introduced
 Different from that in bill as introduced (explain differences in 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. It measures about 3 feet tall and has small, green herb buds that are harvested by hand.³ Capers are used in a number of classic French sauces (rémoulade, ravigote, Tartare).⁴ Major world producing countries include Spain, France, Italy, Greece, Algeria, Egypt, Morocco, Tunisia, Cyprus, and Iran.⁵ Production data for these countries are not available. Areas with intensive caper cultivation include Spain (2,600 hectares) and Italy (1,000 hectares).⁶ U.S. imports were valued at \$3.6 million in 2003, totaling 96,100 metric tons

¹ Industry analyst preparing report: Renee Johnson (202-205-3313); Tariff Affairs contact: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at <http://www.usitc.gov/billrpts.htm>. Access to a paper copy is available at the Commission's Law Library (202-205-3287) or at the Commission's Main Library (202-205-2630).

³ "Capers" available at <http://www.herbsandspices.org/capers.html> and retrieved Sept. 28, 2004.

⁴ "What are capers and what are they good for?" available at <http://www.ochef.com/489.htm> and retrieved on Sept. 28, 2004.

⁵ "Capers" available at <http://www.hort.purdue.edu/newcrop/cropfactsheets/caper.html> and retrieved Sept. 28, 2004.

⁶ Ibid.

(mt),⁷ ⁸ rising by 73 percent over the 1999 volume. Spain, and Morocco accounted for nearly 90 percent of imports, with Italy and Turkey accounting for another 9 percent. Some U.S. food processors repackage imported capers under a domestic private label. Information on U.S. caper growing and processing is not available. Caper plants are grown in the United States for sale by retail nurseries, primarily for use in landscaping and as ornamental plants.⁹ Other limited information suggests that capers may be grown in small quantities as a food crop in northern California.¹⁰ The California Agriculture Statistics Service reports no documented commercial caper production.¹¹

Estimated effect on customs revenue:

The proposed legislative changes would temporarily suspend general duties through 2007.¹² For this analysis, U.S. imports for 2004-2008 are projected assuming a simple linear trend of reported import volumes for 1996 to 2003. Assumed per-unit import value is based on the reported 2-year average of imports from 2001 to 2003. The Commission’s estimates of the potential reduction in tariff revenue take into account likely shipments from countries eligible for special rates of duty, including goods of Morocco eligible for duty-free entry under the U.S.-Morocco Free Trade Agreement (which has been approved by Congress and may enter into force as soon as January 1, 2005).¹³ Because the proposed legislation would suspend duties through 2007 only, there is no estimated revenue loss for 2008.

HTS subheading: 2001.90.2000					
	2004	2005	2006	2007	2008
Col. 1-General rate of duty (AVE) <u>1/</u>	8 percent	8 percent	8 percent	8 percent	8 percent
Estimated value <i>dutiable</i> imports <u>2/</u>	\$2.5 million	\$2.7 million	\$2.8 million	\$3.0 million	\$3.2 million
Customs revenue loss <u>3/</u>	\$200,000	\$216,000	\$224,000	\$240,000	\$0

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available. The rate shown is the “general” or normal trade relations rate. Other preferential rates may apply to countries entitled to “special” tariff treatment, including expected duty-free access for eligible goods of Morocco under the U.S.-Morocco FTA.

2/ Source of estimated dutiable import data: Commission estimates using official U.S. Government statistics.

3/ Assumes tariffs are suspended for calendar years 2004, 2005, 2006, and 2007; rounded to the nearest \$10,000.

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

⁷ Based on import data from official U.S. Government statistics.

⁸ U.S. imports under HTS subheading 2001.90.1000 were valued at \$4.6 million in 2003, totaling 600 mt.

⁹ Telephone interview with Randy Baldwin at San Marcos Growers in Santa Barbara, CA, on Sept. 28, 2004, and also Bill Nelson at Pacific Tree Farms in Chula Vista, CA, on Sept. 30, 2004.

¹⁰ Ibid.

¹¹ Telephone interview with Bill Grigg, California League of Food Processors, based on information obtained from staff at the California Agriculture Statistics Service.

¹² Commission estimates that the combined loss in customs revenue for both proposed bills, including H.R. 5018 (HTS subheading 2001.90.10) and H.R. 5017 (HTS subheading 2001.90.20), is estimated at about \$0.6 million per year.

¹³ In 2003, Morocco accounted for 27 percent and 18 percent of volume imports under HTS subheadings 2001.90.10 and 2011.90.20, respectively.

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?
		(Yes/No)		
Steve Hofmann, Sandler, Travis & Rosenberg, 1300 Pennsylvania Ave., Ste 400, Washington, DC 20004, Ph: 202-216-9307 <u>Representing:</u> Association of Food Industries, Inc., 301 RT 66, Ste. 205, Bldg. C, Neptune, NJ 07753, Ph: 732-922-3008	Sept. 28, 2004	No	Yes	No
Barbara Harloe, World Finer Foods, Inc., 300 Broadacres Dr., Bloomfield, NJ 07003, Ph: 973-338-0300 ext. 129	Oct. 20, 2004	No	Yes	No
Randy Baldwin, San Marcos Growers, 125 S. San Marcos Rd., Santa Barbara, CA 93111, Ph: 805-683-1561	Sept. 28, 2004	No	No	n/a
Bill Nelson, Pacific Tree Farms, 4301 Lynwood Dr., Chula Vista, CA 91910, Ph: 619-422-2400.	Sept. 30, 2004	No	No	n/a
Bill Grigg, California League of Food Processors, 980 9 th St., Ste 230, Sacramento, CA 95814, Ph: 916-444-9260	Sept. 29, 2004	No	No	n/a
Gary Nelson, California Ag Statistics Service, 650 Capitol Mall, Sacramento, CA 95814, Sacramento, CA 95812, Ph: (916) 498-5161	Sept. 29, 2004	No	No	n/a

See appendices to this report for all submissions received by the Commission.

Technical comments:¹⁴

The proposed article description quoted above is suggested in order to be consistent with general practice in the HTS; it would exclude goods of subheading 2001.90.10 imported in bulk or larger containers without attempting to delimit what type of packaging might apply to goods of subheading 2001.90.20.

¹⁴ 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.

APPENDIX A

**SELECTED PORTIONS OF THE
HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

[Note: Appendix may not be included in the electronic version of this memorandum.]

APPENDIX B

STATEMENTS SUBMITTED BY THE PROPONENTS

[Note: Appendix B may not be included in the electronic version of this memorandum posted on the Commission's website if an electronic copy of the statement was not received by the Commission.]

APPENDIX C

STATEMENTS SUBMITTED BY OTHER FIRMS/ORGANIZATIONS

[Note: Appendix C may not be included in the electronic version of this memorandum posted on the Commission's website if an electronic copy of the statement was not received by the Commission.]



Association of Food Industries, Inc.

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www.afi.us.org • afi@afi.us.org

October 12, 2004

Renee Johnson
U.S. International Trade Commission
Office of Industries, Agriculture Division
500 E. Street SW
Washington DC 20436

Dear Ms. Johnson,

The Association of Food Industries is composed of more than 400 U.S. companies involved in importing food products to the United States. Citing minimal domestic production, several members came to us expressing the desire to request a suspension of the duties on imported capers.

AFI is writing to you to express its support for HR 5017 and HR 5018 pertaining to duty suspension for capers. They were introduced by Congressman William Pascrell of New Jersey.

Among the companies that have contacted AFI in support of these bills are:

Abbott Blackstone Co., Clearwater, FL
American Eagle Food Products, Cedar Grove, NJ
Arguimbau & Co., Greenwich, CT
Barkey Importing Company, Inc., Larchmont, NY
Borges USA, Inc., Fresno, CA
Camerican International, Inc., Paramus, NJ
Dana Imports, Clifton, NJ
Golden Beach, Inc., Torrance, CA
H & J Trading Company, San Ramon, CA
InterBusiness USA, Inc., Warren, NJ
La Squisita Food Corp., Mount Vernon, NY
Ludwig Mueller Co., Inc., Jericho, NY
Mediterranean Gourmet Foods, Philadelphia, PA
Rema Foods, Inc., Englewood Cliffs, NJ
Schreiber Foods Int'l., Inc., Ramsey, NJ
Vigo Importing Co., Tampa, FL
World Finer Foods, Inc., Bloomfield, NJ
Zaina Trading, LLC, Bronx, NY

Since there is no domestic production of capers, the 8 percent duty currently paid does nothing to protect a domestic industry. It does, however, needlessly raise costs to consumers and impacts the profitability of U.S. companies such as members of AFI and the companies they sell product to. Congressman Pascrell's bills will take these needless costs out of the system and help many companies and consumers.

I look forward to working with you and your office on this issue. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Bob Bauer". The signature is written in black ink and is positioned below the word "Sincerely,".

Bob Bauer
President

World Finer Foods, Inc.

300 Broadacres Dr., Bloomfield, N.J. 07003 – 973-338-0300

Renee Johnson October 18, 2004
U.S. International Trade Commission
Office of Industries, Agriculture Division
500 E Street SW
Washington, D.C. 20430

Dear Ms. Johnson.

I, on behalf of World Finer Foods, am writing to you to express our support for HR 5017 and HR5018 pertaining to duty suspension for capers. They were introduced by Congressman William Pascrell of New Jersey.

The goal of duty is to protect domestic production from being hurt by imports. In the case of capers there is no domestic production. This means that companies such as World Finer Foods pay an unnecessary duty of 8 percent that result in higher costs for us and higher costs for consumers. We speak for many who hope this legislation passes.

I look forward to working with you and your office on this issue.

Sincerely,

Barbara Harloe

Vice President - Purchasing

World Finer Foods, Inc

phone: 973-338-0300 ext. 129

email: bharloe@worldfiner.com

108TH CONGRESS
2D SESSION

H. R. 5017

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2004

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:

“	9902.20.02	Capers, prepared or pre- served 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 12/31/2007	”.
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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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