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BEFORE THE U.S. INTERNATIONAL TRADE COMMISSION
INVESTIGATION NO. 332-504
India Effects of Tariffs and Nontariff Measures on U.S. Agricultural Exports

Chairwoman Aranoff and Commissioners, I appreciate the opportunity to appear before you today to discuss CPEC's opinions on India's import tariffs and non tariff barriers. The U.S. pistachio industry views India as an excellent market for our pistachios because of the Indian consumers' enjoyment of pistachios. Pistachios are no stranger to Indian consumers. For decades and perhaps even centuries pistachios have been imported from Afghanistan and Iran. Today because of the increase in India's middle income population, education, their increased desire to enjoy snack foods and awareness of pistachio nutritional benefits, we find a strong and growing demand for pistachios.

The California Pistachio Export Council was organized under the Export Trading Act of 1982. The Council has six processing members (Attachment A). We have increased exports through use of USDA's Market Access Program, the privilege of being able to incorporate under the Export Trade Act, the weak dollar, and aggressive export marketing. However, it continues to be our goal to find new avenues to increase pistachio exports.

With reference to the tariff, the applied 30 percent *ad valorem* tariff is a real burden for pistachio exports to India. With reference to the nontariff barriers, we have reviewed the Government of India's laws and regulations for both imports and domestic procedures and find them to be analogous to other export markets.

Approximately 70% of the pistachios produced in the U.S. are exported to over 100 countries. While I have not personally visited India, industry representatives have made numerous trips to India to discuss the tariff with the appropriate government officials and the Indian importers, wholesalers and the retailers. If you are only exporting to India, the importer and wholesaler have the responsibility to comply with India's laws and regulations. In summary, CPEC members do not find India as a difficult import country for our pistachio exports, except for the high tariff.

India's Pistachio Tariff and Doha Development Agenda

The pistachio industry is a strong advocate of trade agreements whether multilateral or bilateral. We made the decision to support trade agreements early in our stage of development and have supported the agreements before this independent agency and other federal forums such as Congressional committees and interagency hearings. In reviewing India's WTO *Proposal by India in the areas of (i) Food Security, (ii) Market Access, (iii) Domestic Support, and (iv)*

*Export Competition*¹, we share India's Doha goals of removing domestic and export subsidies because they are trade distorting:

As such any reduction in tariffs by the developing countries could be considered only after substantial reduction in trade distorting domestic subsidies and elimination of export subsidies. We are a strong advocate to remove amber subsidies and to gain access to foreign markets. Page 3, Para.8.

However, we are concerned with India's Doha tariff policy when it states:

The appropriate levels of tariff bindings will have to necessarily relate to the trade distortions in the areas of market access; domestic support and export competition being practiced by developed countries. Page 5, (vi)

As a tree nut crop that has a zero tariff on raw pistachios, we are being penalized because of the U.S. Doha objectives. There should be a special preference given to those crops that have no tariff and no domestic export subsidies. CPEC is working towards positioning the pistachio industry to demonstrate to the Government of India that we meet all its Doha agricultural objectives as expressed in its proposal to the WTO membership.

We have two opportunities to have the Indian pistachio tariff lowered: by the Government of India unilateral action or in the Doha Development Round. Until either option happens, our exports to India will not reach their true potential. With reference to the first option, industry representatives have visited India many times since 2000 meeting with the government officials making, what we believe to be, a compelling argument for a reduction of the tariff. Both the U.S. government and the Government of India have encouraged the visits. We will continue these contacts.

The second opportunity is a much larger task – completion of the Doha Round - and perhaps why this study was requested. The study is to determine India's trade restrictions.

Description of Principal Measures Affecting India Imports

The primary measure currently affecting U.S. imports of pistachios is the high 30% *ad valorem* tariff. Each year the GOI reviews tariffs when it is preparing its budget. The announcement is generally made on February 28 every year, and each year we anxiously look to determine if the pistachio tariff has been reduced.

While there are other requirements for imports of pistachios, these are generally standard and straight-forward. We have found the Indian government regulations to be transparent. The sanitary and phytosanitary measures required for pistachios are a Phytosanitary Certificate. Packaging and labeling standards require pre-packaged pistachios to carry the basic contact information of the importer, net quantity, month and year of packaging and maximum retail price. Raw pistachios have more relaxed labeling requirements.

¹ G/AG/NG/W/102

For clearance of import goods, I have attached information (Bill of Entry) that the importer or his agents have to undertake to comply with GOI requirements (Attachment B).

Green Channel Facility

Some major importers have been given the green channel clearance facility. It means clearance of goods is done without routine examination of the goods. When our exports reach a certain level we will probably request the special clearance procedure. A declaration has to be made in the declaration form at the time of filing of bill of entry. The appraisal is done as per normal procedure except that there would be no physical examination of the goods. Only marks and the number are to be checked in such cases. However, in rare cases, if there are specific doubts regarding description or quantity of the goods, physical examination may be ordered.²

Customs Duties (Import Duty)

In India, the basic law for levy and collection of customs duty is Customs Act, 1975. It provides for levy and collection of duty on imports and exports, import/export procedures, prohibitions on importation and exportation of goods, penalties, offences, etc. As previously mentioned, the applied tariff on pistachios is 30% *ad valorem*.³

Tariff Item	Description of Goods	Unit	Rate of Duty	
			Standard	Preferential Areas
0802 50 00	Pistachios	kg.	30%	20%

Packing and Labeling Requirements for Pistachios

Pre-packaged pistachios imported into India are required to carry the name and address of the importer, net quantity, month and year of packing and maximum retail price. The Directorate General of Foreign Trade has clarified that the labeling requirements are applicable only to imports of those pre-packaged commodities which are intended for retail sale (DGFT vide Circular No.38 (RE-2000)/1997-2002, dated 22.1.2001). As imported raw materials, components, bulk imports, etc. would invariably undergo further processing or assembly before they are sold to consumers. Those imports are not under the same labeling requirements.⁴

India's Food Marketing and Distribution System

Industry officials have visited India several times to discuss with the government the tariff matter. While in India we have visited prospective importers, wholesalers and retailers. We have also had wholesalers and a large retailer as our guests during the WPA's annual meeting. In each case we found the Indian dry nut industry to be very enthusiastic over marketing U.S. pistachios. Our visits have been to Mumbai and New Delhi. We regard pistachios to be semi-perishable; not like tomatoes but like wheat. Therefore, pistachio storage for raw pistachios should be dry and pest free. We found the storage in Mumbai and New Delhi to be adequate, if

² http://business.gov.in/taxation/import_procedures.php

³ Government of India, Central Board of Excise and Customs, Customs Act of 1975, <http://www.cbec.gov.in/customs/cst-0708/chap-8.pdf>

⁴ http://www.cbec.gov.in/customs/cs-manual/manual_9.htm

the pistachios were to be moved forward for roasting. Pistachios are transported by truck, and this is adequate. Unfortunately the roads are congested and in need of repair. Mumbai and New Delhi wholesalers sell to regional wholesalers who in turn sell to small retailers. Several of the large retailers are expanding the number of retail outlets. The benefit of the large retail stores is the ability to have on-site promotion. These retailers will most likely purchase directly from the U.S. exporters.

Many in the Indian almond trade have expressed interest in adding U.S. pistachios to their product line. This will be an added benefit as pistachios would be marketed through an existing and proven channel.

In the last year the Rupee has weakened from approximately 40,000 Rupees to 51,000 Rupees to a dollar. This will make our pistachios more expensive to purchase and even more of a reason to adjust the pistachio tariff.

Quantitative Analysis of the Effects of Indian Tariffs on U.S. Pistachio Exports

India's 30 percent *ad valorem* import duty on U.S. pistachios is a significant obstacle to U.S. exports. Pistachios are becoming more popular as a snack and a cooking ingredient in India, but the high tariff makes pistachios less available. A meaningful reduction in the tariff would benefit India in several ways:

- Increased revenue for the Ministry of Finance
- Investment in pistachio processing facilities, resulting in greater employment opportunities, and
- Increased availability and lower prices for pistachios.

U.S. Pistachio Exports to India

U.S. pistachio exports to India increased from less than \$1 million per year in the early years of this decade to \$3.7 million in 2007 and \$5.5 million in 2008. This trade, however, pales in comparison with the \$176 million worth of U.S. inshell and shelled almonds shipped to India in 2008. The almond trade has benefited from a reduction in the tariff rate in place since 1989. The higher Indian tariff for pistachios severely limits the potential to develop an otherwise promising market. More than 80 percent of U.S. almonds exported to India are in-shell. Indian shelling, roasting and packaging industries have developed to process and distribute U.S. almonds

U.S. Pistachio Exports to India

Calendar Year	Metric tons	Value (\$1,000)
2003	204	689
2004	452	1,477
2005	0	0
2006	124	498
2007	832	3,692
2008	1,110	5,496

Pistachio exports denote HTS numbers 0802.50.20.00 and 0802.50.40.00
 Source: U.S. Department of Commerce.

Lower Tariff Rate Will Not Necessarily Reduce Indian Customs Revenue

The Peoples' Republic of China reduced its import tariff for in-shell pistachios from 25 percent *ad valorem* to 10 percent in 2005, resulting in a significant increase in U.S. exports. Apparent customs revenue from U.S. in-shell pistachio imports increased from \$1.1 million before the tariff reduction to \$1.7 million the year the reduction was implemented.

U.S. In-shell Pistachio Exports to China

Calendar Year	Value (\$1million)	China tariff	Apparent tariff Revenue (\$1 million)
2003	2.2	25%	0.6
2004	4.4	25%	1.1
2005	17.4	10%	1.7
2006	14.8	10%	1.5
2007	17.0	10%	1.7
2008	54.1	10%	5.4

Pistachio exports denotes HTS number 0802.50.20.00
 Source: U.S. Department of Commerce.

Conclusion

In conclusion, the California Pistachio Export Council urges a significant reduction in the pistachio tariff either through the Doha Round or through a bilateral negotiation between the U.S. and India.

Attachment A

CALIFORNIA PISTACHIO EXPORT COUNCIL

MEMBERS

A & P GROWERS COOPERATIVE, INC.

KEENAN FARMS, INC

MONARCH NUT COMPANY

NICHOLS PISTACHIO

PRIMEX FARMS, LLC

SETTON PISTACHIOS OF TERA BELLA, INC.

Attachment B

Bill of Entry

A bill of entry is a document certifying that the goods of specified description and value are entering into the country from abroad.

If the goods are cleared through the (Electronic Data Interchange) EDI system no formal Bill of Entry is filed as it is generated in the computer system, but the importer is required to file a cargo declaration having prescribed particulars required for processing of the entry for customs clearance.

The Bill of entry, where filed, is to be submitted in a set, different copies meant for different purposes and also given different color scheme. There are three types:

- Bill of Entry for home consumption
- Bill of Entry for Warehouses
- Bill of Entry for Ex-Bond Clearance

In the non-EDI system along with the bill of entry filed by the importer or his representative the following documents are also generally required:

- Signed invoice
- Packing list
- Bill of Lading or Delivery Order/Airway Bill
- GATT declaration form duly filled in
- Importers declaration
- License wherever necessary
- Letter of Credit/Bank Draft/wherever necessary
- Insurance document
- Import license
- Industrial License, if required
- Test report in case of chemicals
- Ad hoc exemption order
- DEEC Book/DEPB in original
- Catalogue, technical write up, literature in case of machineries, spares or chemicals as may be applicable
- Separately split up value of spares, components machineries
- Certificate of Origin, if preferential rate of duty is claimed
- No Commission declaration