LIME OIL FROM PERU

Determination of the Commission in Investigation No. 303-TA-16 (Preliminary) Under the the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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C O N T E N T S

Tables

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CONTENTS

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 303-TA-16 (Preliminary)

LIME OIL FROM PERU

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, pursuant to section 303 of the Tariff Act of 1930 (19 U.S.C. § 1303), that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, 2/ by reason of imports from Peru of lime oil, provided for in item 452.38 of the Tariff Schedules of the United States, which are allegedly subsidized by the Government of Peru.

Background

On May 29, 1985, a petition was filed with the Commission and the Department of Commerce on behalf of Parman Kendall, Inc., Goulds, FL, alleging that an industry in the United States is materially injured or threatened with material injury by reason of duty-free imports from Peru of lime oil which are subsidized by the Government of Peru. Accordingly, effective May 29, 1985, the Commission instituted preliminary countervailing duty investigation No. 303-TA-16 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade

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1/ The "record" is defined in section 207.2 (i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

2/ Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury.

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Commission, Washington, DC, and by publishing the notice in the Federal Register of June 5, 1985 (50 FR 23778). The conference was held in Washington, DC, on June 21, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission's determination in this investigation was made in an open "Government in the Sunshine" meeting held on July 10, 1985.

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VIEWS OF VICE CHAIRMAN LIEBELER, COMMISSIONER ECKES, COMMISSIONER LODWICK, AND COMMISSIONER ROHR

On the basis of the record in investigation No. 303-TA-16 (Preliminary), we determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of allegedly subsidized lime oil from Peru.

We base our determination on the absence of a reasonable indication of material injury to the industry and absence of a causal connection between the condition of the domestic industry and the subject imports. 1/ In particular, we note the generally robust growth of the domestic industry since 1983, a period of generally declining consumption. Moreover, there is no reasonable indication that imports are a real and imminent threat to the industry given the positive trends in the condition of the domestic industry and the relatively stable import penetration levels achieved by the imports from Peru.

Like product and the domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "[d]omestic producers as a whole of a like product, or those producers whose collective output of the like product constitute a major proportion of the total domestic production of that product." "Like product" is, in turn, defined in section 771(10) of the Act as "[a] product which is like, or in the

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1/ Commissioner Eckes finds that there is a reasonable indication of material injury to the industry but concurs that there is an absence of a reasonable indication of a causal connection between the condition of the domestic industry and the subject imports.

Commissioner Lodwick concurs only that there is an absence of a causal connection between the condition of the domestic industry and the subject imports.

absence of like, most similar in characteristics and uses with, the article subject to an investigation . . . ." 2/

The imported Peruvian product under investigation is lime oil made by a distillation process from the whole fruit of the Key lime. 3/ The Key lime used by the Peruvian producers is a small, walnut-sized seeded lime with a sharp taste. The Peruvian producers produce no other type of lime oil. The bulk of the imported lime oil from Peru is used as a flavoring in beverages, with a small amount used as a flavoring agent in other foods. The information gathered in the investigation indicates that no lime oil imported from Peru was used in perfumes or in cosmetics. 4/

Lime oil produced in the United States is processed from the Persian lime, 5/ which is the familiar lemon-sized lime found in supermarkets and which has a milder taste than the Key lime used by the Peruvian producers. Lime oil from the Persian lime is produced by two processes: a process referred to as an "expression" or "cold-pressed" process, and a process which distills oil from cold-pressed oil and lime juice. 6/ The best information available to the Commission indicates that the domestic distilled oil is used almost exclusively as a fragrance in perfumes, with a small amount used as a flavoring in beverages. The bulk of the domestically produced lime oil is now distilled oil. 7/ The cold-pressed oil is used primarily as a food flavoring and as a fragrance in perfumes, with a small amount used as a flavoring in

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2/ 19 U.S.C. § 1677(4)(A); 19 U.S.C. § 1677(10).
3/ Citrus aurantifolia Swingle.
4/ Transcript of the conference (Tr.) at 114-15; Report of the Commission (Report) at A-2-A-4.
5/ Citrus latifolia Tanaka.
6/ Tr. at 46, 70-74; Report at A-2.
7/ Report at A-6.

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beverages. Cold-pressed lime oil apparently cannot be used in cosmetics because the cold-pressed oils contain certain skin-sensitizers. 8/

Respondents claim that no like product should be found in this investigation because the lime oil produced in the United States is produced from a different variety of lime using a different processing method and differs chemically, in flavor and aroma characteristics, and in use from the imported Peruvian lime oil. 9/

Petitioner claims that its distilled lime oil, while not identical to the imports from Peru, is like or most similar to the Peruvian product in characteristics and uses. 10/

We find that, while there is no product "like" the imports from Peru, the lime oil produced in the United States is the product that is sufficiently "most similar in characteristics and uses" to the Peruvian oil, and thus is the like product as defined by the statute. Respondents' argument that we should find no like product runs counter to the statute's definition of "like product" as "a product like, <u>or in the absence of like, most similar in characteristics and uses with</u>, the article subject to an investigation . . . ." 11/ While the domestic lime oils are made from a different variety of lime using different processes than the Peruvian lime oil, and have somewhat different uses, they are the product that is "most similar in characteristics and uses" to the Peruvian product. Both the domestic and

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8/ Tr. at 114-15; Petitioner's Post-Conference Brief at 8.
9/ Tr. at 119-20; Brief of the Peruvian exporters at 20.
10/ Petitioner's Brief at 9-19. The petition had defined the domestic industry as "domestic processors of lime oil from fresh limes," Petition at 2, which would necessitate defining the like product as including both cold-pressed and distilled lime oils. In his post-conference brief, petitioner argued for defining the like product to exclude cold-pressed lime oil.
11/ 19 U.S.C. § 1677(10) (emphasis added).

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imported lime oils are made from the same general type of fruit, are used as a flavoring agent or fragrance in various products, and are often sold through the same distribution network of brokers and distributors.

Our finding is that there is one like product consisting of all lime oil, both distilled and cold-pressed, produced in the United States. 12/ While the parties agreed that cold-pressed and distilled oils are distinct products with different chemical compositions, flavors, fragrances, and uses, 13/ we note that the same characterization can be made with respect to the distilled Persian lime oil when comparing it to the distilled Key lime oil imported from Peru. 14/ Moreover, both domestically produced oils are produced from the same species of lime, are marketed through the same channels of distribution, and have similar uses, though cold-pressed lime oil apparently cannot be used in cosmetics. The best information available to the Commission in fact suggests that the domestic cold-pressed Persian lime oil may be more similar in use to the distilled Peruvian Key lime oil than is the domestic distilled Persian lime oil, notwithstanding its differing characteristics. 15/

12/ We note that our determination that a like product exists and that the like product consists of both cold-pressed and distilled lime oil does not preclude the Commission from examining precisely where in the market competition occurs between the subject imports and the domestic product. See 12-Volt Lead-Acid Type Automotive Storage Batteries from the Republic of Korea, Inv. No. 731-TA-261 (Preliminary), USITC Pub. 1710 at 6, n.11 (June 1985) (Views of the Commission).

13/ Petitioner's Brief at 7-8; Tr. at 44, 56, 113.

14/ The exception is that the petitioner does not agree that the domestic distilled Persian lime oil is a different product from the Peruvian distilled Key lime oil. However, even petitioner conceded that its distilled lime oil is at least somewhat different in characteristics, flavors, and aroma. Tr. at 47-48; Petitioner's Brief at 11-19.

15/ Cold-pressed oil is used primarily as a food flavoring and as a fragrance in perfumes, with a small amount used in beverages; distilled Peruvian Key lime oil is used almost exclusively in beverages, with a small amount used as a food flavoring; distilled domestic Persian lime oil is used almost exclusively as a fragrance in perfumes, with a small amount used as a food flavoring. Report at A-4.

Accordingly, while the domestic distilled and cold-pressed lime oils are not "like" the imported Peruvian product, we find that the domestic lime oils are both sufficiently similar in characteristics and uses to the imported product to be considered the like product. 16/

The domestic industry is thus comprised of the producers of lime oil in the United States, which are the petitioner, Parman-Kendall, Inc., and Minute Maid Corp. 17/

16/ We note that the like product and domestic industry determination has no effect on the outcome of this case, and we would have reached the same result even if we had defined the like product to include only domestically produced distilled Persian lime oil. To the extent separate data are available with respect to cold-pressed and distilled lime oil, the data on cold-pressed oil generally tend to lend greater support to the petitioner than do the data on distilled lime oil. Inclusion of cold-pressed oil in the definitions of like product and industry favors petitioner's allegations. To the extent separate data are not available on cold-pressed and distilled lime oil, we are required by the statute to examine the impact of the imports on the narrowest group of products for which data are available. See 19 U.S.C. § 1677(4)(D). Income-and-loss and investment data are available only for lime oil operations generally or for overall establishment operations. Report at A-9-A-14. Accordingly, even if we had defined the like product more narrowly as distilled oil, we would have made our determination of no reasonable indication of material injury by reason of allegedly subsidized imports on the basis of essentially the same data.

17/ Minute Maid, which produces only cold-pressed lime oil, does not support the petition and has submitted only incomplete data to the Commission. We thus base our determination primarily on data submitted by the petitioner, whose production constitutes a major proportion of the total domestic production of the product. Report at A-3, A-5-A-6.

Petitioner argued that Minute Maid should be excluded from the definition of the domestic industry because it captively consumes all of its production. E.g., Petition at 2. We note both that the domestic industry is to be defined in terms of the product it produces, not the distribution channels it employs, and that Minute Maid in fact sells a portion of its production on the open market. Report at A-3. See, e.g., 12-Volt Lead-Acid Type Automotive Storage Batteries from the Republic of Korea, Inv. No. 731-TA-261 (Preliminary), USITC Pub. 1710 at 5 (1985).

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Condition of the domestic industry <u>18</u>/ <u>19</u>/

In making a determination as to the condition of the domestic industry, the Commission considers, among other factors, whether there are declines in or negative effects on production, sales, market share, profits, productivity, utilization of capacity, cash flow, inventories, employment, wages, growth, and investment. <u>20</u>/

<u>18</u>/ Commissioner Eckes finds a reasonable indication that the domestic industry is experiencing material injury, though not by reason of the imports from Peru. In his view, the substantially increased inventories of the petitioner provide a sufficient basis for finding a reasonable indication of injury. Further, the income-and-loss data developed by the company and presented in the Commission Report "are limited in their use as a reasonable measure of profitability on its operations producing lime oil." Report at A-14. Accordingly, overall establishment data are the best available information regarding the industry's financial performance. Those data show a decline in operating income in the fiscal year ending in March 1985. <u>Id</u>. at A-17. <u>See</u> 19 U.S.C. § 1677(4)(D).

Commissioner Lodwick finds the data on the condition of the industry to be sufficiently ambiguous that he would have voted to continue the investigation had there been a reasonable indication of a causal connection between the condition of the industry and the subject imports. However, in this investigation, he found no such indication of a causal connection.

<u>19</u>/ In its post-conference brief, petitioner alleged for the first time that the establishment of the distilled lime oil industry is materially retarded by reason of imports from Peru. Because we have defined the domestic industry to include producers of both cold-pressed and distilled lime oil, and because the lime oil industry (as contrasted to the alleged distilled lime oil "industry") has been in existence for many years, we find that the industry is established and not materially retarded. Report at A-5-A-6; Tr. at 11, 27-28. However, we note that even if we had defined the industry to include producers of only distilled lime oil, we would have found no reasonable indication of material retardation. Petitioner began production of distilled lime oil over two years ago, and distilled lime oil sales have sharply increased, and capacity utilization has been at very respectable levels even though petitioner has greatly expanded his distilled lime oil capacity. Petitioner's Brief at 42-44; Report at A-5-A-8, A-11, A-13. Further, unlike a new entrant, petitioner had been in the business of selling lime oil for years and could utilize existing customer contacts and distribution infrastructure in introducing distilled lime oil. Rather than establishing an industry, petitioner was introducing a new product line which has established a stable presence in the market.

Commissioner Eckes concurs in this footnote and notes that this issue was raised at the preliminary conference, and that respondents were thus on notice that the issue was suitable for discussion in post-conference submissions.

<u>20</u>/ 19 U.S.C. § 1677(7)(C)(iii).

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As background, we find it important to note that prior to 1983, petitioner manufactured only cold-pressed lime oil. In 1980-83, the cold-pressed market was being dominated by imports from Brazil and petitioner decided to enter the much larger distilled lime oil market principally supplied by Mexico. Accordingly, petitioner invested in equipment to produce distilled lime oil and in the process greatly increased its capacity to produce lime oil beginning in 1983. The revamping of its production facilities was not completed until May 1984. In the process, petitioner also greatly increased its productivity. 21/

The condition of the domestic industry was generally good during the period of investigation. 22/ While the income-and-loss data provided are of limited use because of problems in allocating this data to lime oil production, they do suggest that gross profits, operating income, cash flow, and net income have all increased over the period of investigation. The industry has grown significantly with production, shipments, market share, sales, capacity, productivity, and employment and wages all increasing substantially during each annual period covered by the period of investigation, during a time of declining consumption. 23/ Capacity utilization increased substantially between 1982 and 1984, notwithstanding a very large expansion in capacity. While capacity utilization appears to have declined during the most recent period covered by the investigation, this is due at least in part to further increased production capacity as petitioner completed revamping its production facilities. 24/ While inventories have

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21/ Tr. at 19-22; Report at A-5-A-6.

22/ Due to the small size of the domestic industry, our discussion of these and other issues relevant to this determination must be in general terms to avoid disclosure of confidential information.

23/ Report at A-5-A-7, A-9-A-12, A-17; Tr. at 21-22.

24/ Report at A-5-A-6.

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increased substantially during the period of investigation, the increase also appears to be caused by increased production. 25/

Overall establishment operations also generally reflect a healthy condition. 26/ Total sales, gross profits, capital expenditures, and investments in productive capacity all increased over the period of investigation. Although operating income, cash flow, and net profit and loss data have fluctuated over the course of the investigation, 27/ we find no reasonable indication of material injury due to our findings on the generally positive indications provided by other factors demonstrating the condition of the domestic industry.

No material injury by reason of allegedly subsidized imports

Section 771(7)(B) of the Tariff Act of 1930 requires the Commission to determine whether there is a reasonable indication of material injury by reason of allegedly unfair imports by considering, among other factors, (1) the volume of allegedly subsidized imports, (2) the effect of such imports on prices in the United States for the like product, and (3) the impact of such imports on domestic producers of the like product. 28/

Even if there had been a reasonable indication of material injury to the domestic industry, we would find no reasonable indication that any such injury is caused by the allegedly subsidized imports from Peru.

25/ Compare Report at A-5-A-6 with A-8.

26/ To the extent data on such factors as the production or profitability of production of the like product are not available, we are instructed to examine the effect of the imports on the narrowest group of products, including the like product, for which data are available. 19 U.S.C. § 1677(4)(D).

27/ Report at A-9-A-14. We also note that petitioner's lime oil sales accounted for a small percentage of establishment sales over the period of investigation, which suggests that overall establishment data are also limited in their utility. Id. at A-10-A-12.

28/ 19 U.S.C. § 1677(7)(B).

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While imports from Peru have increased in volume from 130,000 pounds in 1982 to 209,000 pounds in 1984, and have further increased in the most recent period covered by the investigation, the Peruvian market share has fluctuated over this same period, and has in fact declined slightly between 1982 and the most recent period covered by the period of investigation. 29/ We find it significant that the market share of imports from Peru has declined slightly over a period of increases in petitioner's sales and production.

Further, although the petitioner alleged three lost sales, the Commission staff was unable to confirm that these sales were sales lost to the imports from Peru. 30/

Price comparisons are difficult in this investigation and fail to establish any indication of a causal nexus between the subject imports and the condition of the domestic industry. The imports generally do not directly compete with the domestic product. As noted in the Report, "[t]he questionnaire responses showed no overlap in expected end uses of the major sales each quarter by the domestic producer and importers." 31/ The best available information indicates that virtually all imports from Peru are used as a flavoring agent in beverages. These data are consistent with information indicating that approximately 80 percent of distilled Key lime oil imported

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29/ Report at A-16-A-17.
30/ *Id*. at A-23. Vice Chairman Liebeler notes that the presence or absence of confirmed lost sales is not determinative or persuasive on the question of a causal link between allegedly subsidized imports and material injury to the domestic industry. Typically, a subsidized import that is sold in the United States affects the domestic industry the same way regardless of whether it is a confirmed lost sale. Although it might be appropriate to inquire whether a sale by a respondent has been in lieu of sales by the domestic industry or, alternatively, at the expense of imports from other countries, Commission information on lost sales is not capable of providing an answer to such a question because the data are based on a very small and biased sample.
31/ *Id*. at A-18.

into the United States from all sources is used as a flavoring agent in beverages. 32/ Similarly, information gathered during the course of the investigation suggests that the bulk of the domestic lime oil was sold for use as a fragrance in perfumes, with only a small amount sold for use in beverages. 33/ End-users generally are reluctant to change the type of lime oil that is used, due to the impact on their often complex flavor or fragrance formulae. This reluctance is especially pronounced in the beverage industry, 34/ which predominantly uses Key lime oil. 35/ As virtually all of the Peruvian Key lime oil is sold in the beverage market, this indicates that there is no apparent widespread competition between the imports from Peru and the domestic product due to the inherently different characteristics of the two products.

In addition, some purchasers indicated concern about the quality of the distilled Persian lime oil, stating that because the distilled Persian lime oil comes under no Food Chemical Codex standard, they would be reluctant to purchase it for use in beverages or as a food additive, except as a component in a blend of lime oils. 36/ Whether this concern is valid or not, we find it to be additional evidence that there is a barrier to direct competition

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32/ Id. at A-4; Tr. at 77.
33/ Report at A-4.
34/ Id. at A-2; Tr. at 109-11; Office of Investigations memorandum to the Commission INV-I-147 at 1 (July 9, 1985) (INV-I-147) (two major soft drink manufacturers indicated they would not switch to the domestic product because it would significantly change the flavor of their beverage products. One manufacturer specifically indicated he would be willing to pay a premium price to continue using the imported distilled Key lime oil his company currently uses, and thus avoid having to change product formulae). See also Tr. at 92 (buyer of lime oil was willing to pay twice as much for a given oil to obtain specific flavor and aroma characteristics).
35/ Tr. at 109-11; INV-I-147 at 1.
36/ Tr. at 100-06; Peruvian Brief at 18-20; INV-I-147 at 2.

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between the imports and the domestic product that is caused by the characteristics of the products and not by the presence of the imports.

With respect to price trends, petitioner entered the market with significant quantities of distilled lime oil in 1983 at prices well below that of the imports from Peru. 37/ Once petitioner's product settled into the market at the end of 1983, the price of imports from Peru was not systematically reduced to narrow the price premium charged for the Peruvian distilled Key lime oil compared to the price charged for the domestic product. 38/ This undercuts petitioner's allegation of price suppression. In addition, petitioner's gross margin, which measures the relationship between the value of price of sales and the cost of goods sold, actually increased for both lime oil and overall establishment operations during the fiscal year ending March 31, 1985. This indicates that prices were not suppressed relative to costs. 39/

We also find no relationship between movement of prices for the subject imports as compared with movement of prices for the domestic product. Prices of both domestic distilled lime oil and the imports from Peru have generally declined over the period of investigation, but prices of each have fluctuated without any clear pattern, and without moving in tandem. Prices for cold-pressed lime oil were much more erratic and generally do not indicate a price decline. 40/ This is further evidence supporting our finding that the imports from Peru and the domestic product compete only to a very limited degree.

37/ Tr. at 20.
38/ Report at A-17-A-23.
39/ *Id*. at A-10-A-14.
40/ *Id*. at A-18-A-23.

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Accordingly, in light of the decreased market share of the imports from Peru, the lack of confirmed lost sales, the absence of significant competition between the domestic product and the imports, and the increase in domestic sales and market share while the market share of the imports from Peru declined, we find no reasonable indication of a causal link between the condition of the domestic industry and the allegedly subsidized imports.

No reasonable indication of threat of material injury by reason of allegedly subsidized imports

The "threat of material injury" standard is intended to permit import relief under the countervailing duty laws before actual material injury occurs. 41/ Section 612(a)(2)(b) of the Trade and Tariff Act of 1984 amends title VII of the Tariff Act of 1930 (the Act) by adding a new subparagraph, § 771(7)(F), which lists a series of factors which "[t]he Commission shall consider, among other relevant economic factors" in making a determination of threat of material injury. The factors set forth in the Act are generally those which the Commission has traditionally considered in making determinations on threat of material injury. In addition, the Act provides that a determination of threat of material injury "[s]hall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition." 42/ Our consideration of the factors set forth in the Act leads us to conclude that the record does not provide us with a reasonable indication that a threat of material injury is real and that actual injury is imminent.

41/ S. Rep No. 249, 96th Cong., 1st Sess. 89 (1979); H.R. Rep. No. 317, 96th Cong., 1st Sess. 47 (1979).
42/ 19 U.S.C. § 1677(7)(F)(ii).

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Imports from Peru have increased in absolute terms during the period of investigation. However, much of the increase went into importers' inventories, causing these stocks to grow considerably. 43/ Nonetheless, there has been no "[r]apid increase in United States market penetration," section 771(F)(III), but rather a decline in penetration 44/ since the highest level of penetration by imports from Peru in 1982. 45/ The substantially increased volume of imports from Peru took place in 1984, while the domestic industry continued to increase its market share. 46/

Moreover, the increase in import volume from Peru between 1982 and the most recent period covered in the investigation appears to be due to temporary factors. Specifically, the climatological phenomenon known as "El Nino," which caused a dramatic rise in rainfall in the lime growing regions in Peru, dramatically increased fresh lime production in 1984. The "El Nino" further caused a sharp decline in fish production in 1983 and 1984, which in turn caused a downturn in demand for fresh limes for use as a condiment, the primary market for fresh limes in Peru. These factors caused a massive diversion of fresh limes to the processing market where they were processed into lime oil. In 1983, for example, 65 percent of fresh limes were converted into lime oil in Peru, compared to a historical percentage of only 25 percent. It is this excess lime oil which caused the sharp increase in exports to the United States in 1984 and early 1985. 47/ It is predicted that

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43/ Report at A-14-A-16.
44/ The penetration ratio measures the ratio of all imports, whether shipped to markets or going into importers' inventories, versus apparent consumption.
45/ *Id*. at A-17; Confidential Staff Chart of Distilled Lime Oil Import Penetration.
46/ *Id*. at A-17.
47/ In fact, the percentage of Peru's production that was exported to the United States in 1984 was lower than the percentage of production exported to the United States in 1983. *Id*. at A-15.

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these climatological effects will not recur for approximately 300 years. 48/ It is further anticipated that lime oil production in Peru in 1985 will decline to below 1982 levels. 49/ Accordingly, we find that this phenomenon is not likely to recur and that imports from Peru are not likely to increase.

Finally, the threat could not be considered real and imminent. As noted above, imports from Peru and the domestic industry satisfy different segments of the market demand for lime oil due to their differing characteristics. Purchasers are reluctant to change formulae to accommodate those differing characteristics. Therefore, even if imports from Peru were to increase, they would have little impact on those segments of the market served by the domestic industry.

There thus is no reasonable indication that the threat is real and material injury is imminent.

48/ Id. at A-14-A-15; Tr. at 80-85; Peruvian brief at 46-47.

49/ Report at A-14-A-15. Petitioner did receive in early February 1985 an offer by an agency of the Peruvian government to sell to petitioner a significant quantity of lime oil on an open-ended monthly basis. It would be speculative to attempt to extrapolate a trend from this one incident.

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VIEWS OF CHAIRWOMAN PAULA STERN

On the basis of the record in investigation No. 303-TA-16 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of allegedly subsidized lime oil from Peru. I base my determination primarily on the following factors: (1) petitioner's inability to obtain orders for its product in 1985; (2) the sudden and precipitous decline in the price of the apparently higher quality Peruvian lime oil in 1985, which fell to or below the price of petitioner's generally lower quality product; and (3) confirmation that a broker who placed an order for a significant amount of petitioner's product refused delivery due to price competition posed by imports.

Like product and the domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 1/ "Like product" is, in turn, defined by section 771(10) of the Act as "[a] product which is like, or in the absence of like most similar in characteristics and uses with, the article subject to an investigation . . . ." 2/

1/ 19 U.S.C. sec. 1677(4)(A).
2/ 19 U.S.C. sec. 1677(10) (emphasis supplied).

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The Commission has defined "like" to mean "substantially similar in characteristic and uses." Thus products do not have to be identical or completely substitutable to be considered "like." However, they must demonstrate substantial similarity in characteristics and substantial interchangeability.

The imported Peruvian product under investigation is lime oil distilled from the whole fruit of the key lime. All of the lime oil produced domestically is made from Persian limes; most of it is distilled, but some is cold-pressed. Petitioner maintains that the domestically-produced Persian lime oils are "like" the key lime oil imported from Peru, regardless of the fact that they are made from different species of limes. However, it maintains that cold-pressed and distilled lime oils are not "like". Respondents agree that cold-pressed and distilled lime oils are not "like", but disagree vigorously with the assertion that the key lime oil is "like" the Persian lime oil.

Thus the "like product" issues presented in this investigation are: (1) is there a domestic product that is "like," i.e., substantially similar in characteristics and uses to the imported distilled key lime oil; (2) if not, what domestically-produced Persian lime oil is "most similar" in characteristics and uses to the imported product. Specifically, is the "most similar" domestic product distilled or cold-pressed Persian lime oil, or both?

The fragrance industry distinguishes lime oil both by the species of lime from which it is made and by the production

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process with which it is made. This investigation involves two distinct species of lime--the "key" lime, which is grown in Peru, Mexico, and other major lime oil exporting countries, except Brazil. The other species, which is referred to as the "Persian" lime, is grown in less tropical locations--specifically, in Brazil and the United States. 3/ In addition to botanical and chemical differences in characteristics, the major commercial difference between the oils of the two limes is that the key lime oil has a distinctly sharper and tangier flavor than the Persian lime oil, and a milder aroma. 4/

Many end-users in the food flavoring and beverage sector of the market--a sector which accounts for approximately 75 percent of the overall market--prefer the key lime oil, apparently because its taste is tangier than the Persian lime oil. 5/ Although we do not know the precise extent of consumer preferences for the key lime oil in the beverage and food flavoring sector, we know that a significant part of this submarket is accounted for by manufacturers of soft drinks, many of which, for historical reasons are locked into using formulas that utilize *key* lime oil.

3/ U.S. production of limes apparently concentrated in the state of Florida. Petitioner generally sells only *distilled* Persian lime oil; the only other domestic producer makes cold-pressed Persian lime oil.

4/ Report, A-2, n.4; Haro & Foss, "Comparative Study of the Essential Oils of Key and Persian Limes", quoted in respondents' brief at 6.

5/ *See* Report at A-24, n.1; Transcript of Staff Conference (Tr.) at 77. Another apparently inhibitive factor is that the petitioner's product used alone does not satisfy the "CODEX" standards. *See* July 9, 1985, Memorandum from Director, Office of Investigations to the Commission (INV-I-147) at 3-4.

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The main use for which we know there is some substitutability between key and Persian lime oil is in the making of blends, because small amounts of either may not be strong enough to affect negatively the overall flavor of the blend. 6/ In addition, it appears that both could compete directly with respect to the development of new flavor formulas or new products. 7/ Nevertheless, based upon the information currently on the record, I find that these products clearly are not substantially similar in characteristics (characteristics that are significant commercially). Further, while there is some degree of overlapping uses, it is not substantial. Thus, I find that key and Persian lime oil are not "like" products. 8/

The second issue is whether cold-pressed and distilled lime oil are "like" products. The process by which the lime oil is produced has a significant affect on the taste of the lime oil. There are two major processes: the "cold-pressed"

6/ See Report at A-33; Tr. at 147; INV-I-147 at 3.

7/ July 9, 1985, Memorandum from Office of Industries (Land) at 2.

8/ A major conceptual problem in this investigation is that although these oils may be used in the same general end-use markets, the specific uses to which they are put appears to be very distinct. The fact that sand and gravel are both used to make cement does not make them interchangeable. Similarly, the fact that both key and Persian lime oils (or distilled and cold-pressed lime oils) may be used in making foods and beverages--even the same product--does not necessarily mean that they are substitutable. The fact that they are sold through the same brokers alone is not relevant. This particular industry is characterized by a wine-connoiseur-like attention to nuances in flavor, and expensive formulas that reflect the exacting balancing of flavors and aromas. I believe that the distinctions raised by the parties are realistic and go a long way toward understanding the marketing of these products.

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method and the "distilled" method. The key distinction between the two methods is that the application of heat results in changes in chemical composition, flavor and aroma. 9/ Cold-pressed oil has been described has having "a very quiet, subtle type of flavor." In contrast, the distilled lime oil is characterized by its aroma. As petitioner testified, "they just have completely different qualities to them . . . ." 10/ The substantial differences in characteristics and uses between cold-pressed and distilled lime oil is underscored by the significant price premium which cold-pressed is able to enjoy over distilled lime oil--both imported and domestic. 11/

Therefore, since distilled and cold-pressed oil are not substantially similar in characteristics or uses, I find that cold-pressed and distilled lime oils--be they from key or Persian limes--are not "like" products.

Nevertheless, the statute instructs us that, even in the absence of "like" products, we must define the domestic industry in terms of production of a product that is "most similar in characteristics and uses" to the imported product. 12/

9/ Report at A-3.

10/ Testimony of Mr. Kendall, President of petitioner, Tr. at 56. All of the parties agree that cold-pressed and distilled lime oils are separate products. Although I do not believe that the parties' position should necessarily dictate the Commission's findings.

11/ *Id.*, n.1 and Economist's notes of phone conversation with [confidential].

12/ *See* n.2 *supra*.

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The information on the record indicates one area in which the marketing of the imported oil and domestically-produced oil overlap. Given a large enough price spread between the price of petitioner's distilled Persian oil and that of imported distilled key lime oil, the petitioner's product can be sold to use in making a blend of lime oils. 13/ Such blends can be used in many of the applications in which distilled lime oil is called for. Similarly, according to one expert, if petitioner's price was attractive enough relative to those of the imported key lime oils that dominate the market, it could encourage the development of new flavors or formulas that incorporated petitioner's product. 14/ Thus, I find that the domestically-produced product most similar in characteristics and uses to the imported product is petitioner's distilled Persian lime oil. Accordingly, the domestic industry consists solely of the distilled lime oil operations of the petitioner, Parman-Kendall (P-K).

Condition of the Domestic Industry 15/

Until sometime in late 1983, P-K sold only cold-pressed lime oil. Petitioner claims that in response to import competition posed by imports of cold-pressed Persian lime oil from Brazil, and in an attempt to enter the substantially larger market for distilled lime oil, it decided to switch

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13/ See n.6 supra; Tr. at 20.
14/ See n.7 supra.
15/ Since this investigation involves only one domestic company, much of the following analysis is necessarily general in order to avoid use of confidential information.

selling cold-pressed lime oil 16/ to selling only distilled Persian lime oil. 17/ It also decided to expand capacity both in anticipation of participating in the growth of the market and to reduce costs.

In 1983, after P-K switched to the distillation process, production and shipments of the distilled product increased significantly over production and shipments of the cold-pressed product in 1982. 18/

In 1984, P-K increased capacity very substantially. Both production and shipments increased substantially over that for 1983. However, as P-K has indicated publicly, shipments fell far short of production, leaving a very large end-of-year inventory. 19/ Capacity utilization also dropped substantially. In the January-May 1985 period, production and shipments declined somewhat relative to the corresponding period of 1984, and end-of-period inventories remained high.

16/ P-K makes cold-pressed lime oil but intends it to be only an intermediate product. It currently sells a little cold-pressed oil, but the bulk of its shipments are of the distilled product.

17/ No other producer in the world currently makes distilled Persian lime oil. Petitioner's expert witness testified that the production process he designed for Parman-Kendall resulted in "acceptable" oil. However, it appears that petitioner's oil has not gained significant acceptance in the marketplace. One expert testified that producers in Brazil made an effort to produce distilled Persian lime oil before petitioner did, but that the Brazilian product was not a success. See n.7 supra.

18/ The figures utilized in the following discussion were taken from the Staff Report. When data in the Staff Report reflected inclusion of the domestic producer of cold-pressed; data contained in petitioner's questionnaire were used.

19/ [Confidential].

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We do not have isolated profitability data for interim 1985, when shipments declined and capacity utilization fell dramatically. Nevertheless, it is reasonable to assume that profitability may well be declining due to: (1) demonstrated declining shipments in interim 1985; (2) the lack of any orders booked for sales of distilled oil in 1985; and (3) declining production and capacity utilization due to the continued inventory overhang, which will increase operating costs.

Petitioner, in expanding capacity, made a very substantial investment in facilities and capital expenditures in 1984. P-K argues that it must maintain a reasonable price for lime oil to continue to meet its expenses and to generate a fair return on its investment. 20/ P-K claims that imports from Peru have diminished its ability to sell at its necessary and projected price. 21/

The information currently on the record indicates that P-K already is experiencing some indications of economic difficulties based upon declining capacity utilization, lack of orders, and large inventories.

We do not know what return on investment P-K or industry analysts believe to be adequate for this kind of by-product operation. Nevertheless, a further decline in profitability appears to be imminent in its fiscal 1985 year. 22/ Thus, P-K's arguments as to how its performance is or will be

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20/ See Report at A-19.
21/ Id.
22/ The latest period for which we have profitability data is full fiscal year 1984, ending in March 1985.

affected by imports from Peru is plausible and reasonable. Without further information, I cannot dismiss this argument at this preliminary stage.

<u>Reasonable indication of material injury by reason of imports from Peru</u>

This investigation is relatively unusual in that it involves a single domestic producer that represents a very small percentage of total lime oil consumption in the United States <u>23</u>/ who is attempting to break into the U.S. market for distilled <u>key</u> lime oil--a market traditionally dominated by imports from Mexico and Peru. In addition, it appears fairly clear that petitioner's product is encountering resistance among some end-users--particularly large soda manufacturers who years ago formulated their product to use distilled key lime oil. <u>24</u>/ For these producers, the costs of the lime oil component is so small that, even if P-K's price was very favorable, they would have little, if any, incentive to switch to petitioner's lime oil. <u>25</u>/ Thus, it appears fairly clear that P-K generally will continue to experience difficulties in selling into this fast-growing segment of the market. On the other hand, despite the unacceptability of its product to many end-users in the market, petitioner has increased sales, and satisfactorily supplies some end-users.

<u>23</u>/ Report, Table 11.
<u>24</u>/ <u>See</u> n.5 <u>supra</u>; Tr. at 76.
<u>25</u>/ Other concerns are the cost of reformulating the product and--as the recent experience of Coca Cola demonstrates--satisfying consumers by maintaining a consistency in taste.

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Even if this is a relatively small niche in the market, it is significant relative to petitioner's capacity and the magnitude of its shipments.

The major conceptual difference between my analysis and that of may colleagues apparently is that, to me, the necessary focus of our analysis is the effect, if any, of the subject imports on the domestic producer, rather than on the overall market. Looking at the overall market, it is clear that there has been little direct competition between the petitioner's product and imports from Peru. 26/ Imports from Peru historically have been sold only for use in food flavorings and beverages, a submarket that petitioner hasn't been able to sell into in any significant amounts. 27/ In contrast, petitioner's distilled oil is sold mostly for use in perfumes--a submarket in which imports of distilled key lime oil from Peru have not been sold. 28 Petitioner's price, which it admits has been significantly below that of the imports from Peru during the 1982-84 period, 29/ suggests that P-K's sales were concentrated in a market niche other than those the imports are in--the

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26/ See Report at A-5. However, I note that these figures are based upon responses representing only about half of domestic sales, and not all sales of imports from Peru. Cf. Table 1 (producers' shipments) and Table 10 (imports).

27/ Id.

28/ Id.; Tr. at 18. We do not know why the imported lime oil from Peru has not been sold for use in perfumes and cosmetics. Now that the price of the imported lime oil from Peru has generally fallen to equal that of the petitioner, it is not clear whether these historical marketing distinctions--which were based on a large price differential between the imported and domestic product--will persist.

29/ Report, Table 12.

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blend market. Had this case been continued, I would have required that all of these factors be thoroughly analyzed.

However, even assuming that all of the above is true, I believe that the information currently available satisfies the preliminary investigation standard of reasonable indication of material injury or threat thereof by reason of allegedly subsidized imports.

Imports from Peru have increased steadily during the period and have generally maintained--and even increased--market share during the period. 30/ Importers inventories of lime oil from Peru have also increased substantially, in both absolute and relative terms. 31/ Since petitioner supplies only a very small percentage of distilled oil consumption, 32/ the data on import volumes alone do not constitute evidence of material injury. However, this information corroborates statements made by brokers and other industry experts that due to world over supplies of distilled key lime oil, the price of lime oil from both major suppliers--Mexico and Peru--have dropped suddenly and precipitously in 1985. 33/

30/ Handout circulated by the Office of Investigations estimating import penetration based on distilled lime oil only (deleting domestically produced cold-pressed lime oil and imports from Brazil, which are known to be only cold-pressed). To the extent other imports of cold-pressed could not be identified, import penetration figures are somewhat understated.

31/ Report at A-19-A-20.

32/ See n.23 supra.

33/ See INV-I-147 at 1-4.

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Petitioner admits that it priced its distilled product significantly below imports in order to gain market acceptance of its new distilled product. Thus, during 1983 and 1984, imports from Peru were priced above the petitioner's product by very significant margins. 34/ However, in 1985, a substantial change occurred in the market. Although petitioner's prices remained stable, prices of imports from Peru and Brazil have plummeted to a point that is generally equal to--and in some cases below--the price of the domestic product. 35/ It was this development that apparently prompted petitioner to file this action. 36/

Although lost sales allegations are typically anecdotal and not particularly significant in magnitude, this investigation presents an exception. Petitioner alleged three lost-sales. 37/ One of these involved a total volume of lime oil that equals a substantial portion of petitioner's total shipments in 1984. 38/ In checking this allegation we discovered that a large amount of petitioner's product was sold in 1984 even though its quality was not judged to be on par with imported distilled lime oils because its price was substantially lower. 39/ This oil was successfully sold as part of a blend

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34/ Report, Table 12.

35/ *See* n.33 *supra*.

36/ Petition at 32.

37/ One lost sale could not be confirmed, and the purchaser involved in another presented plausible non-price factors for why it was no longer interested in purchasing petitioner's product.

38/ *See* *id*. and Petitioner's questionnaire.

39/ *Id*.

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used for food and beverage applications. 40/ However, in 1985, the price of the imported distilled lime oils, which end-users perceive to be of higher quality, fell. Since petitioner's oil is no longer substantially cheaper, end-users are reluctant to purchase it. 41/

This investigation presents the situation in which the price of the superior imported product has fallen such that it has affected sales of petitioner's somewhat inferior product. If imports from Peru are subsidized--as we must assume in this preliminary investigation--it is reasonable to assume that the alleged subsidies (which include export subsidies) 42/ allow for greater pricing flexibility. This, in turn, may well have contributed to or aggravated the recent price declines of imports from Peru as well as imports from Mexico 43/ and other countries that compete with imports from Peru. In this preliminary investigation, I find that the record does not contain information sufficient to rule out this possibility. 44/

40/ Notes of staff economist of phone conversation with [confidential], orally communicated to Commissioners' offices on July 9, 1985. See also transcript of July 10, 1985, public meeting for vote.

41/ Id. [confidential].

42/ See Petition.

43/ See INV-I-147.

44/ Had this investigation continued I would have required further analysis of this issue. See my minority views in two other preliminary investigations that also posed this issue: Thin Sheet Glass from Switzerland, Belgium, and the Federal Republic of Germany, Inv. No. 731-TA-127-29 (Preliminary), USITC Pub. No. 1376 (1983); and Certain Fresh Potatoes from Canada, Inv. No. 731-TA-124 (Preliminary), USITC Pub No. 1364 (1983). Our reviewing court has also indicated its concern regarding negative Commission determinations that do not thoroughly address this issue.

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This is a complicated market and a complicated case. However, I believe that the record shows a reasonable indication that imports from Peru are materially injuring or threatening to injure materially the domestic distilled lime oil industry.

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INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On May 29, 1985, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel for Parman-Kendall, Inc., Goulds, Florida, alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of lime oil, provided for in item 452.38 of the Tariff Schedules of the United States (TSUS), which are being subsidized by the Government of Peru. Accordingly, effective May 29, 1985, the Commission instituted investigation No. 303-TA-16 (Preliminary) under section 303 of the Tariff Act of 1930 (19 U.S.C. § 1303) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of duty-free imports of lime oil that are allegedly subsidized by the Government of Peru.

The statute directs the Commission to make its determination within 45 days after receipt of petitions for preliminary countervailing duty investigations, or in this case by July 15, 1985. Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of June 5, 1985 (50 F.R. 23778). 1/ The Commission held a public conference in Washington, DC, on June 21, 1985, at which time all interested parties were allowed to present information and data for consideration by the Commission. 2/ The Commission voted in this investigation at its meeting on July 10, 1985.

Nature and Extent of the Alleged Subsidies 3/

According to the petition, the Peruvian lime oil industry benefits from numerous export incentives, including the following programs: Certificate of Tax Rebate (CERTEX), Nontraditional Export Fund (FENT), and certain articles of the Law for the Promotion of Exports of Nontraditional Goods and the 1982 Industrial Law. Since the alleged subsidies involved rebates of, or exemption from, taxes, the actual amount of the subsidies is unknown to the petitioner. On the basis of available information, petitioner estimates that producers of lime oil in Peru benefit from bounties or grants ranging from 40 percent to 85 percent of the f.o.b. value of the lime oil exports. 4/

1/ A copy of the Commission's Federal Register notice is presented in app. A.

2/ A list of witnesses who appeared at the public conference is presented in app. B.

3/ Lime oil has not been the subject of any previous statutory investigations by the Commission.

4/ Petition, p. 15.

The Product

Description and uses

Lime oil is produced in the United States from a species of the Persian or Tahitian lime--"Citrus Latifolia Tanaka," whereas the lime oil produced in Peru is from a species of the key lime--"Citrus Aurantifolia Swingle."

The Persian lime species and the key lime species have several different physical characteristics and chemical properties, as well as differences in taste, flavor, and aroma. 1/ The essential oil of the lime is contained in numerous oval, balloon-shaped sacs, glands, or vesicles distributed irregularly in the outer, colored portion of the peel (or outer mesocarp) of the maturing or mature lime fruit. These sacs are ductless and are not connected in any way to the surrounding living tissues, bounded by debris of degraded tissues.

The commercial extraction of the lime oil from the sacs is accomplished by two procedures, one a physical expression of the oil known as the "cold-pressed" method, and the other a distillation of either the whole fruit, or in some cases, a crude extract that may be the result of an intermediate step in the cold-pressed process. 2/ These two methods result in lime oils that are different in appearance as well as in flavor and fragrance characteristics. The differences between the processes are related to the chemical changes of certain lime oil constituents that occur when the oil is exposed to the moist heat inherent in the distillation method. 3/

The principal commercial value of lime oil is its use as a flavoring agent in soft drinks, particularly the cola-flavored beverages. Other major markets for lime oil as a flavor include candy and confectionery products. The perfumery industry also uses lime oil, particularly that derived from the cold-pressed process, for certain types of colognes. Because of the chemical differences in the oils derived from the two processes, end users often use only one type of lime oil in their products, as the difference in the chemical makeup, in conjunction with the products' other components, may influence much more than just the flavor characteristics of the final product. 4/

1/ The key lime is a smaller, walnut-size seeded lime that has a sharper taste than the Persian lime.

2/ The imports from Peru consist entirely of distilled lime oil made from the key lime, transcript p. 70. Normally the expressed or cold-pressed oil is considered to be of higher quality and demands a higher price, transcript, p. 44.

3/ During the Commission's conference conflicting statements were made by witnesses for the petitioner and the respondents regarding the interchangeability of the distilled domestic and imported oils. A witness for the petitioner stated that the distilled oil imported from Peru and the distilled oil produced in the United States can be used interchangeably, transcript, p. 47. A witness for the respondents stated that the two types of distilled lime oils are not commercially interchangeable, transcript p. 76.

4/ Witnesses for petitioner and respondents agreed that cold-pressed lime oil and distilled lime oil are separate and distinct products in terms of both characteristics and uses.

U.S. tariff treatment

Imports of lime oil are classified under item 452.38 of the TSUS. Such imports are free of duty regardless of origin. There is no differentiation in the TSUS between the various types of lime oil, either by process or variety of lime.

U.S. Producers

Two firms, Parman-Kendall, Inc., Goulds, Florida, and Minute Maid Corp., Auburndale, Florida, are the only producers of lime oil in the United States. Lime oil is not the principal product of either of the firms. Minute Maid, a subsidiary of Coca Cola Corp., captively consumes the bulk of its production. 1/ Minute Maid is not in support of the petition and was unable to provide complete data as requested by the Commission's questionnaire.

U.S. Importers

The net import file of the U.S. Customs Service showed five importers of lime oil from Peru. The staff, however, sent questionnaires to a total of 25 firms, including many listed as importers in the petition. *** was the largest importer in 1984, accounting for *** percent of the imports from Peru in that year. Four firms, which accounted for 70.9 percent of the imports from Peru in 1984, returned completed questionnaires.

The Market

Channels of distribution

Lime oil is sold to brokers and to end users, which include all of the cola companies, fragrance houses, cosmetics producers, and food processors. 2/ Firms that received the Commission's questionnaires were asked to provide the quantities of lime oil they shipped to customers for use in food and beverages and for use in perfumes and cosmetics. Respondents to the questionnaire reported that the bulk of the lime oil imported from Peru, all of which was distilled, was used in beverages, whereas the bulk of the distilled lime oil produced by Parman-Kendall was used in perfumes, as shown in the following tabulation for 1984 (in pounds): 3/

1/ Minute Maid used *** percent of its production in 1982, *** percent in 1983, and *** percent in 1984.

2/ Transcript of the conference, p. 53.

3/ At the conference a witness for the respondents stated that approximately 80 percent of all distilled key lime oil imported into the United States is used as a soft drink flavoring, transcript, p. 77.

Item	Food flavorings	Beverages	Perfumes	Cosmetics
Domestic lime oil: 1/				
Cold-pressed	***	***	***	***
Distilled	***	***	***	***
Total	***	***	***	***
Imported lime oil: 2/				
Distilled	***	***	***	***

1/ Produced by Parman-Kendall.
2/ Imported from Peru.

U.S. consumption

U.S. apparent consumption of lime oil was on an upward trend during 1982-84. It increased from *** pounds in 1982 to *** pounds in 1983, or by *** percent, then declined to *** pounds in 1984, or by *** percent. Consumption in 1984 was up *** percent from consumption in 1982 (table 1).

Table 1.--Lime oil: U.S. producers' domestic shipments, imports for consumption, and apparent consumption, 1982-84, January-May 1984, and January-May 1985

Period	Producers' shipments 1/	Imports	Apparent consumption	Ratio to consumption of-- Producers' shipments	Ratio to consumption of-- Imports
	Pounds			Percent	
1982	***	714,369	***	***	***
1983	***	1,354,277	***	***	***
1984	***	1,188,383	***	***	***
January-May--					
1984	2/ ***	555,037	3/ ***	3/ ***	4/ ***
1985	2/ ***	536,404	3/ ***	3/ ***	4/ ***

1/ Includes open-market shipments by Minute Maid, except as noted.
2/ Data are from Parman-Kendall only. Minute Maid was unable to supply partial-year data.
3/ Data are understated because Minute Maid did not supply partial-year data.
4/ Data are overstated because Minute Maid did not supply partial-year data.

Source: Producers' shipments, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; imports, compiled from official statistics of the U.S. Department of Commerce.

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Consideration of Alleged Material Injury to an Industry in the United States

U.S. production, capacity, and capacity utilization

Prior to 1983, Parman-Kendall manufactured only cold-pressed lime oil. In 1983, the firm began to manufacture distilled lime oil in addition to its cold-pressed lime oil, resulting in a tremendous increase in its overall production. 1/ At the Commission's conference, Mr. Kendall stated that in 1980-83 the cold-pressed market was being flooded by imports from Brazil. Therefore, Parman-Kendall elected to enter the much larger distilled oil market, which was supplied principally by Mexico. In the fall of 1983, Parman-Kendall had substantial inventories of cold-pressed oil on hand; therefore, some of that inventory was distilled and sold at prices in the range of $12 to $13 per pound, in competition with the Mexican product, which was being sold at about $15 per pound. According to Mr. Kendall, Parman-Kendall discounted its price to gain entry into the marketplace. 2/ Prior to this production of distilled oil by Parman-Kendall, there was no U.S. production of that product. Minute Maid, the only other U.S. producer, manufactures only cold-pressed lime oil.

Production of lime oil 3/ by Parman-Kendall increased from *** pounds in 1982 to *** pounds in 1983, or by *** percent. Production in 1984, the year Parman-Kendall's revamped production facility was completed, reached *** pounds, an increase of *** percent from production in 1983. Production declined in January-May 1985 to *** pounds, *** percent below the *** pounds produced in January-May 1984 (table 2). 4/

As a result of its revamped production facilities, Parman-Kendall increased its capacity to produce lime oil from *** pounds in 1982-83 to *** pounds in 1984, or by *** percent. Capacity utilization by the firm increased irregularly from *** percent in 1982 to *** percent in 1984.

U.S. producers' shipments 5/

U.S. shipments of lime oil increased annually from 1982 to 1984. Shipments rose from *** pounds in 1982 to *** pounds in 1983, or by *** percent. In 1984, shipments *** compared with those in 1983, reaching *** pounds. Partial-year data, which were provided only by Parman-Kendall, show that shipments in January-May 1985 were up *** percent from shipments in January-May 1984. The average unit value of shipments increased annually from *** per pound in 1982 to *** in 1984, or by *** percent (table 3).

1/ Parman-Kendall reports that its revamped production facilities, which were completed in May 1984, increased lime oil recovery by a factor of ***.

2/ Transcript, pp. 19-20.

3/ Production of lime oil is seasonal, occurring principally from July to October each year.

4/ Minute Maid, which consumes the bulk of its production, manufactured *** pounds of lime oil in 1982, *** pounds in 1983, and *** pounds in 1984.

5/ Data in this section of the report include open-market shipments by Minute Maid.

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Table 2.--Lime oil: U.S. production, production capacity, and capacity utilization, by types, 1982-84, January-May 1984 and January-May 1985 1/

Item	1982	1983	1984	January-May-- 1984	January-May-- 1985
	Production (pounds)				
Lime oil:					
Cold-pressed	***	***	***	***	***
Distilled	***	***	***	***	***
Total	***	***	***	***	***
	Capacity (pounds)				
Lime oil:					
Cold-pressed	2/	2/	2/	2/	2/
Distilled	2/	2/	2/	2/	2/
Total	***	***	***	***	***
	Capacity utilization (percent)				
Lime oil:					
Cold-pressed	2/	2/	2/	2/	2/
Distilled	2/	2/	2/	2/	2/
Total	***	***	***	***	***

1/ Excludes Minute Maid, which did not provide capacity data and which captively consumes the bulk of its production. Production by Minute Maid, which consisted entirely of cold-pressed oil, totaled *** pounds in 1982, *** pounds in 1983, and *** pounds in 1984.

2/ Parman-Kendall produces distilled lime oil from cold-pressed lime oil; therefore, breakouts by product are meaningless as they only reflect Parman-Kendall's view of the market situation.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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Table 3.--Lime oil: U.S. producers' shipments, by types, 1982-84, January-May 1984, and January-May 1985

Item	1982	1983	1984	January-May--1/ 1984	January-May--1/ 1985
	Quantity (pounds)				
Lime oil:					
Cold-pressed	***	***	***	***	***
Distilled	***	***	***	***	***
Total	***	***	***	***	***
	Value				
Lime oil:					
Cold-pressed	***	***	***	***	***
Distilled	***	***	***	***	***
Total	***	***	***	***	***
	Unit value				
Lime oil:					
Cold-pressed	***	***	***	***	***
Distilled	***	***	***	***	***
Average	***	***	***	***	***

1/ Data are for Parman-Kendall only; Minute Maid was unable to provide partial-year data.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. exports

Parman-Kendall reported exports only in ***. As a share of production, such exports accounted for *** percent in that year. Exports of lime oil by the firm, all of which were shipped to ***, are shown in the following tabulation:

Item	*** Quantity	*** Value	Unit value
	Pounds		
Lime oil:			
Cold-pressed	***	***	***
Distilled	***	***	***
Total or average	***	***	***

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U.S. producers' inventories

Lime oil held in inventory by Parman Kendall increased substantially during 1982-84. 1/ The yearend inventory in 1983, at *** pounds, was more than *** times the quantity (*** pounds) held in inventory in 1982. In 1984, the yearend inventory reached *** pounds, *** the 1983 level. As stated earlier, production of lime oil is seasonal, occurring between the months of July and October. Inventories as of December 31, 2 months after production ceases for the year, would naturally be at higher levels than they were on May 31, or 1 month before production begins. On May 31, 1985, Parman-Kendall's inventory was up substantially from that on May 31, 1984, due to its production of distilled lime oil. The company's inventory of cold-pressed lime oil as of May 31, 1985, was *** percent lower than the inventory of cold-pressed lime oil as of May 31, 1984 (table 4). As a share of shipments, yearend inventories increased annually from *** percent in 1982 to *** percent in 1983 and to *** percent in 1984.

Table 4.--Lime oil: U.S. producers' inventories 1/ of domestically produced merchandise, by types, as of Dec. 31 of 1982-84, and May 31 of 1984-85

Item	As of Dec. 31--			As of May 31--	
	1982	1983	1984	1984	1985
	Quantity (pounds)				
Lime oil:					
Cold-pressed	***	***	***	***	***
Distilled	***	***	***	***	***
Total	***	***	***	***	***
	Ratio of inventories to shipments (percent)				
Lime oil:					
Cold-pressed	***	***	***	2/ ***	2/ ***
Distilled	***	***	***	2/ ***	2/ ***
Total	***	***	***	2/ ***	2/ ***

1/ Data are for Parman-Kendall only.
2/ Annualized.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

1/ Minute Maid was excluded from this section because the bulk of its lime oil inventory will be captively consumed.

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Employment and wages

In 1982 and 1983, *** production workers were employed by Parman-Kendall in its lime oil production, 1/ and in 1984 ***. The workers each averaged *** hours annually in 1982 and 1983 and *** hours in 1984. Average hourly wages increased from *** per hour in 1982 to *** per hour in 1983, or by *** percent, and to *** per hour in 1984, or by *** percent (table 5). Employees at Parman-Kendall are not represented by a union.

Table 5.--Average number of production workers employed by Parman-Kendall in the production of lime oil, and hours worked by and wages paid to such employees, 1982-84

Item	1982	1983	1984
Production workers:			
Cold-pressed	***	***	***
Distilled	***	***	***
Total	***	***	***
Hours worked:			
Cold-pressed---------1,000 hours	***	***	***
Distilled---do	***	***	***
Total---do	***	***	***
Wages paid: 1/			
Cold-pressed-------1,000 dollars	***	***	***
Distilled---do	***	***	***
Total---do	***	***	***

1/ Parman-Kendall reported that ***.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Financial experience of Parman-Kendall, Inc.

There are two domestic producers of lime oil, Parman-Kendall, Inc., and Minute Maid Corp. Minute Maid produces only cold-pressed lime oil and consumes the majority of its lime oil captively. Minute Maid uses the same machinery and equipment utilized in the production of lime oil to ***. Minute Maid treats lime oil as a byproduct. Hence, Minute Maid could not provide income-and-loss data on its lime oil operations.

Parman-Kendall, which accounted for *** percent of U.S. production of lime oil in 1984, furnished income-and-loss data for the overall operations of the establishment within which cold-pressed and distilled lime oil are

1/ Minute Maid did not provide employment data.

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produced for its last three complete fiscal years. The company's fiscal year ends on March 31. Parman-Kendall did not provide income-and-loss data for the interim periods ended May 31, 1984, and May 31, 1985, because the company does not prepare financial statements on a monthly basis. Further, the company provided data on its total lime oil operations for its last three fiscal years.

Parman-Kendall treats lime oil and lime peels as byproducts and lime juice as a primary product. Limes are generally not purchased on the open market specifically for the production of lime oil, but rather are acquired in conjunction with other lime-related operations of the company. 1/ The company transfers the limes purchased from a related company that grows them at the same market prices it pays to buy limes from nonrelated packing houses. The major problem is in allocating the cost of the raw material among the three products. The company has used the relative-sales-value method, which is frequently used for assigning joint costs to products for allocating raw material costs. The only identifiable costs are direct labor, payroll taxes, and oil drums costs, which accounted for less than *** percent of cost of goods sold for lime oil in 1984. All other costs and expenses, including depreciation, are allocated on the basis of sales, because the company does not keep track of costs and expenses separately for each of the products.

In its petition, the company mentioned that:

> "the manufacture of lime oil, for financial bookkeeping purposes, has not been accounted for separately. The attribution of costs of lime oil manufacture, including overhead, energy costs, space and storage, labor costs, machinery, raw materials and the like, has never been necessary, and has been viewed as an impractical bookkeeping exercise."

Allocation on a sales basis does not usually have any direct relationship with actual manufacturing costs. Further, all three products--lime juice, lime oil, and lime peels--are so interrelated that the management of the company makes business decisions, such as pricing, after taking into consideration the profit margins of all three products together as a whole, rather than each product individually. Hence the income-and-loss data developed by the company and presented in this section are limited in their use as a reasonable measure of profitability on its operations producing lime oil. 2/

<u>Lime oil operations</u>.--Net sales of all lime oil increased *** from *** in 1983 to *** in 1985. *** of sales were distilled lime oil in 1984 and 1985, whereas in 1983 all sales were cold-pressed lime oil (table 6).

1/ Supplementary Material for the Petition, p. 3.
2/ The company is not able to provide income-and-loss data separately for its cold-pressed and distilled lime oil operations.

Table 6.--Income-and-loss data of Parman-Kendall, Inc., on its total lime oil operations, accounting years ended Mar. 31, 1983-85

Item	Accounting year ended Mar. 31--		
	1983	1984	1985
Net sales:			
Cold-pressed----------1,000 dollars--	***	***	***
Distilled----------------------do----	***	***	***
Total lime oil----------------do----	***	***	***
Cost of goods sold---------------do----	***	***	***
Gross profit----------------------do----	***	***	***
General, selling, and administrative expenses--------------1,000 dollars--	***	***	***
Operating income-----------------do----	***	***	***
Interest (expense)----------------do----	***	***	***
Net income before income taxes---do----	***	***	***
Depreciation and amortization expense-----------------------do----	***	***	***
Cash flow from operations--------do----	***	***	***
Ratio to total net sales of--			
Gross profit-----------------percent--	***	***	***
Operating income---------------do----	***	***	***
Net income before income taxes-do----	***	***	***
Cost of goods sold-------------do----	***	***	***
General, selling, and administrative expenses-----------------percent--	***	***	***
Sales of cold-pressed lime oil--------------------------do----	***	***	***
Sales of distilled lime oil---do----	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Gross profit on all lime oil operations increased both in absolute dollars and in relation to net sales. As a share of net sales, gross profit increased from *** percent in 1983 to *** percent in 1985. Operating income rose from *** in 1983 to *** in 1985. The ratio of operating income to net sales increased from *** percent in 1983 to *** percent in 1985. General, selling, and administrative (GSA) expenses increased from *** percent of net sales in 1984 to *** percent in 1985. The major items of GSA expenses, which ***, were ***. The cash flow from lime oil operations rose from *** in 1983 to *** in 1985.

Establishment operations.--The firm's sale of cold-pressed lime oil accounted for less than *** percent of its establishment sales during 1983-85, whereas sales of distilled lime oil increased from *** percent of its establishment sales in 1983 to *** percent in 1984 and *** percent in 1985. Sales of lime juice ***. Total company net sales *** (table 7).

Table 7.--Income-and-loss data of Parman-Kendall, Inc., on the overall operations of its establishment in which cold-pressed and distilled lime oil are produced, accounting years ended Mar. 31, 1983-85

Item	Accounting year ended Mar. 31-- 1983	1984	1985
Net sales:			
Lime oil:			
Cold-pressed-----1,000 dollars--:	***	***	***
Distilled ----------------do----:	***	***	***
Total lime oil----------do----:	***	***	***
Lime juice-----------------do----:	***	***	***
Lime peels-----------------do----:	***	***	***
Lemon juice----------------do----:	***	***	***
Contact packing, avocados---do----:	***	***	***
Total sales---------------do----:	***	***	***
Less discounts, allowances, and freight-----------------do----:	***	***	***
Total net sales-----------do----:	***	***	***
Cost of goods sold------------do----:	***	***	***
Gross profit------------------do----:	***	***	***
General, selling, and administrative expenses----------do----:	***	***	***
Operating income--------------do----:	***	***	***
Interest income---------------do----:	***	***	***
Interest (expense)------------do----:	***	***	***
Net income or (loss) before income taxes-----------------do----:	***	***	***
Depreciation and amortization expense----------------------do----:	***	***	***
Cash flow from operations-----do----:	***	***	***
Ratio to total net sales of--			
Gross profit-------------percent--:	***	***	***
Operating income------------do----:	***	***	***
Net income or (loss) before income taxes--------------do----:	***	***	***
Cost of goods sold----------do----:	***	***	***
General, selling, and administrative expenses---do----:	***	***	***
Sales of cold-pressed lime oil----------------------do----:	***	***	***
Sales of distilled lime oil do----:	***	***	***
Total sales of lime oil-----do----:	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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Operating income ***. The ratio of operating income to total net sales ***. ***. The firm's cash flow from operations ***.

Investment in productive facilities.--Parman-Kendall's investment in productive facilities employed in the production of all products of the establishment, valued at original cost, increased from *** in 1982 to *** in 1984 (table 8). The company was not able to furnish data for its investment in productive facilities used for lime oil for 1982 and 1983. However, the company supplied such data for 1984. Parman-Kendall's investment in productive facilities for lime oil amounted to *** as of the end of 1984.

Table 8.--Parman-Kendall's investment in productive facilities and capital expenditures, 1982-84

(In thousands of dollars)

Item	1982	1983	1984
Investment in productive facilities:			
All products of the establishment:			
Original cost	***	***	***
Book value	***	***	***
Lime oil:			
Original cost	1/	1/	***
Book value	1/	1/	***
Capital expenditures:			
All products of the establishment:			
Land and land improvements	***	***	***
Building or leasehold improvements	***	***	***
Machinery, equipment, and fixtures	***	***	***
Total	***	***	***
Lime oil:			
Land and land improvements	***	***	***
Building or leasehold improvements	***	***	***
Machinery, equipment, and fixtures	***	***	***
Total	***	***	***

1/ Not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Capital expenditures.--Capital expenditures by Parman-Kendall for machinery, equipment, and fixtures used in the production of all products of the establishment and lime oil are included in table 8. Parman-Kendall made *** capital expenditures in 1982 for facilities used for the production of lime oil. Such capital expenditures were *** in 1983 and *** in 1984. These expenditures increased the firm's capacity to produce lime oil *** and *** the yield it derived from a given quantity of limes.

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Capital and investment.--Parman-Kendall was asked to describe any actual or potential negative effects of imports of lime oil from Peru on the firm's growth, investment, and ability to raise capital. An excerpt from their reply is shown below:

* * * * * * *

Consideration of Threat of Material Injury

In its examination of the question of a reasonable indication of the threat of material injury to an industry in the United States, the Commission may take into consideration such factors as the rate of increase of the allegedly subsidized imports, the rate of increase of U.S. market penetration by such imports, the quantities of such imports held in inventory in the United States, and the capacity of producers in Peru to generate exports (including the availability of export markets other than the United States).

U.S. importers' inventories

Yearend inventory data were obtained from four firms that accounted for 70.9 percent of the imports of lime oil from Peru in 1984. Yearend inventories, as reported by those firms, increased substantially from 8,751 pounds in 1982 to 30,831 pounds in 1983 and continued to build in 1984, reaching 82,549 pounds. As a share of shipments by those firms of lime oil from Peru, inventories increased annually from 10.9 percent in 1982 to 30.6 percent in 1983, and to 55.3 percent in 1984. Yearend inventories of lime oil from Peru by responding importers are shown in the following tabulation:

	Yearend inventory Pounds	Ratio of inventories to shipments Percent
1982	8,751	10.9
1983	30,831	30.6
1984	82,549	55.3

Capacity of foreign producers to generate exports

Data were requested by cable from the U.S. Embassy in Lima and from counsel for the Committee of Exporter Producers of lime oil in Peru on capacity, production, home-market shipments, exports to the United States and other markets during 1982-84, and projections for 1985. Data have not yet been received by cable from the State Department but counsel for the exporter-producers of lime oil in Peru did provide production data. Production of lime oil in Peru declined from 272,000 pounds in 1982 to 200,000 pounds in 1983, or by 26.5 percent, then increased in 1984 to 440,000 pounds, or by 120 percent. Respondents allege that the El Nino phenomenon, resulting in unusually heavy rainfall in many lime growing regions, often 2,000 percent above average, caused a drastic reduction in fish production in 1983 and 1984 1/ and an increase in the limes available for lime oil production. 2/ Production in Peru has been projected for 1985 at 240,000 pounds. U.S. imports from Peru, as a share of production in Peru, increased from 47.9 percent in 1982 to 73.9 percent in 1983, and then fell back to 47.5 percent in 1984 (table 9).

Table 9.--Lime oil: Production in Peru and U.S. imports from Peru, 1982-84

Item	1982	1983	1984
Production-----------------------------pounds--:	272,000	200,000	440,000
U.S. imports from Peru------------------do----:	130,368	147,836	208,871
Ratio of U.S. imports from Peru to production-------------------------percent--:	47.9	73.9	47.5

Source: Production, supplied by counsel for the exporter-producers of lime oil in Peru; U.S. imports, compiled from official statistics of the U.S. Department of Commerce.

The petition states that on February 8, 1985, FOPEX, the Peruvian agency responsible for promoting the export of nontraditional goods, wrote a letter to the petitioner offering to sell petitioner 50 drums of lime oil per month. This quantity equals 240,000 pounds per year. Thus FOPEX offered to sell petitioner alone more lime oil in one year than its total exports of lime oil to the United States in 1984. 3/

Consideration of the Causal Relationship Between Alleged Material Injury or the Threat Thereof and Allegedly Subsidized Imports

U.S. imports

U.S. imports of lime oil increased from 714,000 pounds in 1982 to 1.4 million pounds in 1983 (or by 89.6 percent), then declined in 1984 to 1.2 million pounds (or by 12.2 percent compared with imports in 1983). In 1984, total imports were up by 66.4 percent from imports in 1982. During January-March 1985, imports amounted to 384,000 pounds, representing an increase of 12.3 percent compared with imports in January-March 1984. Imports from Peru increased from 130,368 pounds in 1982 to 147,836 pounds in 1983, or by 13.4 percent, then rose by 41.3 percent in 1984, reaching 208,871 pounds. Mexico was by far the principal supplier of imported lime oil during the period

1/ Fish production has been emphasized by the Government of Peru to increase consumption of protein by its citizens, and normally fresh limes would have gone into the preparation of fish dishes, post conference brief on behalf of the exporter-producers of lime oil in Peru, transcript, p. 44.
2/ Ibid, pp. 46-47.
3/ Petition, pp. 38-39 and exhibit 11.

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covered by this investigation. On the basis of quantity, the share of total imports supplied by Peru amounted to 8.2 percent in 1982, 10.9 percent in 1983, 17.6 percent in 1984, and 8.2 percent in January-March 1985 (table 10).

Table 10.--Lime oil: U.S. imports for consumption, by principal sources, 1982-84, January-March 1984, and January-March 1985

Source	1982	1983	1984	January-March-- 1984	January-March-- 1985
	Quantity (pounds)				
Mexico	258,020	711,663	520,618	230,031	255,740
Peru	130,368	147,836	208,871	12,000	31,600
Haiti	104,692	202,004	166,539	29,600	12,400
Jamaica	53,310	83,124	80,477	18,940	17,856
Brazil	26,659	52,325	66,753	15,145	20,712
All other	141,320	157,325	145,125	36,441	46,096
Total	714,369	1,354,277	1,188,383	342,157	384,404
	Value (1,000 dollars)				
Mexico	3,982	9,309	7,065	3,360	3,138
Peru	1,419	1,335	2,514	153	337
Haiti	1,057	1,613	1,855	304	109
Jamaica	488	754	789	190	171
Brazil	148	228	450	68	162
All other	1,969	2,656	1,656	364	540
Total	9,062	15,895	14,329	4,439	4,457
	Unit value (per pound)				
Mexico	$15.43	$13.08	$13.57	$14.61	$12.27
Peru	10.88	9.03	12.04	12.71	10.66
Haiti	10.10	7.98	11.14	10.27	8.77
Jamaica	9.15	9.08	9.80	10.03	9.58
Brazil	5.54	4.35	6.75	4.50	7.82
All other	13.93	16.89	11.41	9.99	11.72
Average	12.69	11.74	12.06	12.97	11.59

Source: Compiled from official statistics of the U.S. Department of Commerce.

Market penetration by the allegedly subsidized imports

The share of the U.S. market for lime oil supplied by imports from Peru declined from *** percent in 1982 to *** percent in 1983, then increased to *** percent in 1984 (table 11).

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Table 11.--Lime oil: U.S. consumption and share of U.S. consumption supplied by Peru, Mexico, all other countries, and U.S. producers, 1982-84, January-May 1984, and January-May 1985

Item	1982	1983	1984	January-May--- 1984	January-May--- 1985
U.S. consumption pounds--:	***	***	***	1/ ***	1/ ***
Share of U.S. consumption supplied by--					
Peru---------percent--:	***	***	***	2/ ***	2/ ***
Mexico----------do-----:	***	***	***	2/ ***	3/ ***
All other imports percent--:	***	***	***	2/ ***	2/ ***
Subtotal-----do----:	***	***	***	2/ ***	2/ ***
U.S. producers-do----:	***	***	***	1/ ***	1/ ***
Total---------do----:	100.0	100.0	100.0	100.0	100.0

1/ Data are understated because Minute Maid did not provide partial-year data.

2/ Data are overstated because Minute Maid did not provide partial-year data.

3/ Not available; included with all other imports.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and from official statistics of the U.S. Department of Commerce.

<u>Prices</u>

The price of distilled lime oil is determined in a market that comprises producers, end users, and brokers, where brokers negotiate sales and purchases of lime oil, as well as speculate in lime oil. Brokers generally receive 2 to 3 percent of the value of the negotiated transaction as their commission. In some cases, brokers never take delivery on transactions they have negotiated--they merely facilitate the exchange between producers and end users. However, some brokers do carry inventories of lime oil, either for speculative purposes, or for purposes of blending to provide their customers with constant quality oils from year to year. In some cases, a firm will act as both a broker and an end user, reselling some of its lime oil to other end users. Transportation costs are generally an insignificant factor in relation to the value of the lime oil. For instance, a sampling of sales made by the petitioner and their respective transportation costs as a share of total transaction value showed these costs ranging from *** percent to *** percent of total shipment value. Importers frequently use price lists, and the lists typically quote both a spot f.o.b. New York City and a c.i.f. price. In the United States, sales are carried out on both spot and contract bases, with some contracts negotiated as much as 5 years in advance. Lime oil purchased from Peruvian producers is purchased on a spot basis only.

According to U.S. trade sources, 1/ Mexico is, and has been, the price leader in the international market for distilled lime oil. For the most part, Mexico sets its price for distilled lime oil and other producers establish their prices accordingly. Because Mexican distilled lime oil is considered to be the highest quality distilled key lime oil, it tends to command the highest price in the market, with distilled key lime oils from other sources selling at lower prices. Peruvian distilled lime oil, grown from Mexican root stock, is considered to be of a slightly lesser quality than the Mexican oil, and thus must be priced slightly lower than the Mexican oil in order for it to be attractive to buyers. Additionally, since Mexico is the price leader, movements in the price of Peruvian lime oil follow movements in the price of Mexican lime oil--when Mexico's price rises, Peru's price tends to rise also, and when Mexico's price falls, Peru's price tends to fall also. Thus, the market price for Peruvian distilled lime oil is affected not only by the supply and demand for Peruvian oil, but also by factors which influence the price of Mexican distilled lime oil.

Producers and importers of distilled lime oil were asked to report their largest transactions in each quarter from January-March 1983 through April-June 1985, the amount sold, and the net price per pound received. In addition, respondents were asked to break out these sales by end uses--for instance, for beverages, food flavorings, perfumes, or cosmetics. The questionnaire responses showed no overlap in expected end uses of the major sales each quarter by the domestic producer and importers. That is, the quantities sold and reported by the domestic producer, Parman-Kendall, were to be used in perfumes and cosmetics, whereas the quantities sold and reported by the importers were to be used in beverages and food flavorings. 2/ 3/ Therefore, no direct comparison of domestic and import prices by end use was possible. The data in the tables below reflect quarterly weighted-average prices for the major sales in all end use categories combined.

<u>Trends in prices</u>.--Table 12 presents quarterly weighted-average prices per pound for distilled lime oil sold to distributors by importers and by Parman-Kendall. Parman-Kendall reported prices per pound f.o.b. Miami, whereas importers reported prices per pound f.o.b. New York City. Domestic quarterly prices showed some volatility between July-September 1983 and January-March 1984, when the price per pound fell by *** percent between July-September 1983 and October-December 1983 and then rose by *** percent to *** per pound in January-March 1984. In the period following January-March 1984, quarterly prices for domestic distilled lime oil remained fairly flat, falling only *** percent from April-June 1984 to July-September 1984.

1/ Based on conversations with representatives of *** and ***.

2/ This is true for major sales only. In total sales reported, some overlap in end uses did occur.

3/ The staff contacted *** and *** by telephone on July 9, 1985, regarding use by those firms of imported and domestically produced lime oil in soft drinks. Both officials stated that their company would not switch from imported distilled key lime oil, because the domestic product would significantly change the flavor of their product. *** also stated that his company would pay a premium price to retain the current formula.

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Table 12.-- Distilled lime oil: Prices received by Parman-Kendall and weighted-average prices received by importers of lime oil from Peru on their largest sales to distributors, by quarters, January 1983-June 1985 1/

Period	Domestic	Imports from Peru	Margins of underselling or (overselling)
	Price per pound		Percent
1983:			
January-March	2/	$13.22	-
April-June	2/	14.57	-
July-September	***	14.50	(***)
October-December	***	13.91	(***)
1984:			
January-March	***	12.68	(***)
April-June	***	12.32	(***)
July-September	***	12.39	(***)
October-December	2/	12.50	-
1985:			
January-March	2/	10.50	-
April-June	2/	9.75	-

1/ Domestic prices are f.o.b. Miami; import prices are f.o.b. New York City.
2/ No sale made or data not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Prices per pound received by importers for distilled lime oil from Peru varied throughout the entire period, and overall showed a decline. After an initial 10.2-percent jump from January-March 1983 to April-June 1983, importers' prices for distilled lime oil from Peru assumed a generally steady downward trend. The quarterly price fell minimally in July-September 1983 and declined more substantially during October-December 1983, when prices fell 4.1 percent. Prices received by importers showed a net decrease during 1984. By January-March 1984, the price per pound of distilled lime oil from Peru was 8.8 percent lower than in the previous quarter, and by April-June 1984 the price had declined another 2.8 percent to reach $12.32 per pound. Over the period July-December 1984 prices per pound received by importers rose slightly--up 0.6 percent and 0.9 percent in July-September and October-December, respectively, only to fall significantly in the first half of 1985. Importers of Peruvian distilled lime oil reported receiving the lowest price to date in April-June 1985, $9.75 per pound. 1/

1/ The petitioner claims (petition, p. 29) that certain brokers were quoting prices for Peruvian lime oil as low as $7.00 per pound. Information gathered on this question shows that it is true that at least one broker, ***, was offering its Peruvian oil for *** per pound, f.o.b. Peru, and the firm estimates (in a telephone conversation with the Commission's staff on July 9, 1985) that shipping costs would bring that price to approximately *** per pound, c.i.f. New York City. However, information from questionnaire responses indicates that other brokers' prices were not that low. Information on the quantity of sales made at the *** price is unavailable at this time.

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The current prices for Peruvian lime oil quoted by importers range from approximately $8.50 to $9.75 per pound, f.o.b. New York City. 1/ Inquiries of Parman-Kendall indicate that they are offering their distilled lime oil for sale at *** per pound, f.o.b. Miami. 2/ These prices can be considered to be representative only, due to the fact that no data on sales made at these prices are available to the Commission at this time.

The prices reported in table 13 represent quarterly weighted-average prices per pound for distilled lime oil sold to end users by the domestic producer, Parman-Kendall, and by importers of distilled lime oil from Peru. Compared with the prices of distilled lime oil sold to distributors, prices paid by end users showed substantially less variability. The price received by Parman-Kendall from end users showed an overall upward trend between October-December 1983 and October-December 1984. From January-March 1984 to April-June 1984 Parman-Kendall's price of distilled lime oil rose *** percent, from *** per pound to *** per pound. The slight fall in price registered in July-September 1984 was completely offset by the rise in price in October-December 1984, and Parman-Kendall ended the year 1984 receiving a higher price, on average, for its distilled lime oil than it received at the start of the year.

Table 13.--Distilled lime oil: Prices received by Parman-Kendall and weighted-average prices received by importers of lime oil from Peru on their largest sales to end users, by quarters, January 1983-June 1985 1/

Period	Domestic	Imports from Peru	Margins of underselling or (overselling)
	Price per pound		Percent
1983:			
January-March	2/	$12.35	-
April-June	2/	2/	-
July-September	2/	12.00	-
October-December	***	2/	-
1984:			
January-March	***	12.10	(***)
April-June	***	12.00	(***)
July-September	***	12.10	(***)
October-December	***	2/	-
1985:			
January-March	2/	10.25	-
April-June	2/	2/	-

1/ Domestic prices are f.o.b. Miami; import prices are f.o.b. New York City.
2/ No sale made or data not available.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

1/ Estimates provided by *** and ***, July 9, 1985.
2/ Quote provided by Parman-Kendall, July 9, 1985.

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Prices received by importers for distilled lime oil sold to end users, however, showed a downward trend, similar to the decline in importers' prices for distilled lime oil sold to distributors, outlined above. After an initial 2.8-percent drop in price from January-March 1983 to July-September 1983, the price of distilled lime oil from Peru varied between $12.00 per pound and $12.10 per pound through the end of 1984. However, in January-March 1985, the price fell significantly--down 15.3 percent--to $10.25 per pound.

One importer of distilled lime oil from Peru was unable to provide the Commission with quarterly price data; however, he did report the annual average price received for sales to distributors and end users combined. During 1984 the firm charged *** per pound for distilled lime oil from Peru. By January-July 1985 that price had fallen *** percent to the level of *** per pound.

The general decline in the price importers received for distilled lime oil from Peru over the period of the investigation can, in part, be attributed to influences from the market for Mexican lime oil. In 1984, imports of lime oil from Mexico fell substantially (down 26.8 percent from those in 1983, table 10), primarily because some U.S. buyers reportedly were disenchanted with Mexico's pricing policies and reliability. 1/ In addition, production of lime oil in Mexico was up in 1984, due to a good lime crop. These factors combined resulted in the development of large inventories of Mexican distilled lime oil, which exerted downward pressure on the price of the Mexican distilled oil. Accordingly, for Peru to be able to sell its oil, it had to maintain a price below the level commanded by the Mexican oil. Thus, to some extent, the downward trend in the price of Peruvian distilled lime oil may be due to the oversupply of Mexican distilled lime oil, and the consequent drop in the price of the Mexican oil. 2/

The price of Mexican distilled lime oil dropped over the period January-March 1984 to April-June 1985, as shown in the tabulation below. The prices shown are weighted-average prices, f.o.b. New York City, calculated from data provided in response to the Commission questionnaires:

	Price (per pound)
1984:	
January-March	$14.96
April-June	14.93
July-August	14.36
September-December	12.34
1985:	
January-March	12.26
April-June	11.25

1/ Based on conversations with representatives of *** and ***.
2/ Based on a conversation with a representative of ***.

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In addition, prices quoted for Mexican distilled lime oil by importers as of July 9, 1985, range from $8.70 to $9.70 per pound, f.o.b. New York City. 1/ However, this is not a weighted-average price, and the Commission was unable to determine whether any sales had taken place at these prices. 2/

Because Peru neither produces nor exports cold-pressed lime oil, no direct price comparisons were possible. Prices received by Parman-Kendall varied widely, from a low of *** per pound to a high of *** per pound. 3/ The following tabulation presents price data for sales of cold-pressed lime oil to distributors by the domestic producer, Parman-Kendall:

Period	Price (per pound)
1983:	
January-March	***
April-June	***
July-September	***
October-December	***
1984:	
January-March	***
April-June	***
July-September	1/
October-December	***

1/ No data reported.

The price received by Parman-Kendall for its cold-pressed lime oil sold to end users showed very little fluctuation over the reported period. The tabulation below shows price data for sales to end users:

1/ Estimate provided by ***, July 9, 1985.

2/ A third source of data on Mexican distilled lime oil prices is the Chemical Marketing Reporter, a trade publication. The f.o.b. spot price reported by that publication was $16.50 per pound as of Feb. 18, 1985. This price prevailed until Mar. 17, 1985, at which time it fell to $10.50 to $11.00 per pound, f.o.b. In addition, the cited publication notes that in the last week of June the f.o.b. contract price fell from $12.85 per pound to $10.00 per pound.

3/ Parman-Kendall does face competition in the market for cold-pressed lime oil, primarily from Brazilian exports. Prices for Brazilian cold-pressed lime oil as reported by importers showed two trends: One importer's price showed a downward trend over the 1983-84 period. The firm received *** per pound during 1983, *** per pound during 1984, and *** per pound to-date in 1985. The other importer, however, received *** per pound from October-December 1984 through April-June 1985, with no variation in price.

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Period	Price (per pound)
1983:	
January-March	***
April-June	***
July-September	***
October-December	***
1984:	
January-March	1/
April-June	***
July-September	***
October-December	***

1/ No data reported.

Margins of underselling--Tables 12 and 13 also show the margins of underselling or overselling between prices of imports of Peruvian distilled lime oil and domestic prices as a percentage of the domestic price. In every sale to distributors and end users the Peruvian price exceeded that charged by the domestic producer, Parman-Kendall. Thus, the margins referred to reflect margins of overselling only.

For sales to distributors, the margin of overselling varied, sometimes widely, but most frequently assumed a value of approximately *** to *** percent. From July-September 1983 to October-December 1983 the margin of overselling ***, primarily due to the large decline in the domestic producer's price. In the subsequent period, however, the margin fell by more than one-half, by *** percent, to the level of *** percent in January-March 1984. Over the next two quarters, April-June and July-September 1984, the margin fell by *** percent and rose by *** percent, respectively.

The margin of overselling for distilled lime oil sold to end users showed less variability than that of lime oil sold to distributors. In January-March 1984 the margin was *** percent; by April-June it had dropped nearly *** percent to a margin of *** percent. However, in the following period, July-September 1984, the margin rose again, this time by *** percent, to reach the level of *** percent.

Lost sales

The petitioner alleges three lost sales. Specifically,

*   *   *   *   *   *   *

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during January 1982-March 1985 the nominal value of the Peruvian sol depreciated relative to the U.S. dollar by an overall 92.3 percent (table 14).

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Table 14.--Exchange rates: 1/ Nominal exchange rate equivalents of the Peruvian sol in U.S. dollars, real exchange rate equivalents, producer price indicators in the United States, and consumer price indicators in Peru, 2/ indexed by quarters, January 1982-March 1985

Period	U.S. producer price index	Peruvian consumer price index	Nominal exchange rate index	Real exchange rate index 3/
			-------Dollars per sol------	
1982:				
January-March	100.0	100.0	100.0	100.0
April-June	100.1	114.1	86.1	98.1
July-September	100.5	129.4	73.5	94.5
October-December	100.6	151.2	60.9	91.6
1983:				
January-March	100.7	184.9	49.1	90.2
April-June	101.0	230.7	38.3	87.5
July-September	102.0	288.9	29.3	83.0
October-December	102.5	340.1	25.0	83.0
1984:				
January-March	103.6	412.1	22.1	87.8
April-June	104.3	495.5	17.9	84.9
July-September	104.1	586.5	14.6	82.2
October-December	103.9	701.7	11.5	77.8
1985: January-March	103.6	4/ 897.0	7.7	66.8

1/ Exchange rates expressed in U.S. dollars per unit of sol.

2/ Producer price indicators--intended to measure final product prices--are based on average quarterly indexes presented in line 63 of the International Financial Statistics. Consumer prices are used in instances in which producer prices are not available.

3/ The real value of a currency is the nominal value adjusted for the difference between inflation rates in the United States and the foreign country. Producer prices in the United States increased by 3.6 percent during the period January 1982 through March 1985 compared with an eightfold increase in consumer prices in Peru during the same period.

4/ Based on preliminary data for January and February only.

Source: International Monetary Fund, International Financial Statistics, May 1985.

Note.--January-March 1982=100.

Because the level of inflation in Peru was substantially higher than that in the United States over the 13-quarter period, the international purchasing power of the Peruvian currency depreciated by 33.2 percent relative to the U.S. dollar--significantly less than the apparent depreciation of 92.3 percent represented by the nominal devaluation.

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APPENDIX A

COMMISSION'S FEDERAL REGISTER NOTICE

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 303-TA-16 (Preliminary)]

Lime Oil From Peru; Preliminary Countervailing Duty Investigation

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 303-TA-16 (Preliminary) under section 303 of the Tariff Act of 1930 (19 U.S.C. § 1303) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Peru of lime oil, provided for in item 452.38 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Peru. As provided in section 303, the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by July 15, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: May 29, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202-523-0369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on May 29, 1985 by Parman-Kendall, Inc., Goulds, Florida.

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary of the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR § 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 21, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Bruce Cates (202-523-0369) not later than June 20, 1985, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before June 26, 1985, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary of the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: June 3, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-13497 Filed 6-4-85; 8:45 am]

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APPENDIX B

WITNESSES WHO APPEARED AT THE COMMISSION CONFERENCE

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CALENDAR OF PUBLIC CONFERENCE

Investigation No. 303-TA-16 (Preliminary)

LIME OIL FROM PERU

Those listed below appeared as witnesses at the United States International Trade Commission's conference held in connection with the subject investigation, which began at 9:30 a.m., June 21, 1985, in the Hearing Room of the USITC Building, 701 E Street, NW., Washington, DC.

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In support of the imposition of countervailing duties

Scott, Harrison & McLeod--Counsel
Washington, DC
On behalf of

Parman-Kendall, Inc., Goulds, Fla.
Mr. Harold E. Kendall, Jr. President
Mr. R. S. Kelts, Treasurer
Professor James Kesterson, University of Florida

John M. Himmelberg)
Marc E. Miller)--OF COUNSEL

In opposition to the imposition of countervailing duties

Law Office of Larry Klayman--Counsel
Washington, DC
on behalf of

Committee of Exporter Producers
of Lime Oil in Peru

Mr. Eduardo Espinosa, President
Mr. Hector Pardodi, Producer
Mr. Luis Ginocchio, Economist

Larry Klayman)
John M. Gurley)--OF COUNSEL
Clemens Kochinke)

Citrus and Allied Essences, New York, NY.

Mr. Richard Pisano, President

A. M. Todd Company, Kalamazoo, MI
Mr. J. S. Todd, Vice President and Secretary

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