

OLEORESINS FROM INDIA

**Determination of No Injury or
Likelihood Thereof in Investigation
No. 303-TA-10
Under Section 303 (b)
of the Tariff Act of 1930,
as Amended, Together With
the Information Obtained
in the Investigation**

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[303-TA-10]

OLEORESINS FROM INDIA

Determination of No Injury or Likelihood Thereof

On the basis of its investigation the Commission determines (Chairman Parker dissenting) that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of oleoresins from India, which are accorded duty-free treatment, upon which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303).

On April 4, 1979, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to oleoresins imported from India, entered under item 450.20 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment. Accordingly, the Commission, on April 13, 1979, instituted investigation No. 303-TA-10, under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register of April 18, 1979 (44 F.R. 23133). On May 22, 1979, a public hearing was held in Washington, D.C., at which time all interested persons were provided the opportunity to appear in person or by counsel.

In arriving at its determination, the Commission gave due consideration to written submissions from interested parties and information adduced at the hearing

as well as information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

The Treasury investigation resulting in the countervailing duty determination was initiated as a result of a petition filed with the Treasury Department in March 1978, by Kalsec, Inc., Kalamazoo, Michigan.

STATEMENT OF REASONS OF COMMISSIONERS ALBERGER, MOORE, BEDELL AND STERN

On the basis of the information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured and is not prevented from being established,^{*/} by reason of the importation of oleoresins from India which the Department of Treasury has determined are receiving a bounty or grant from the Government of India.

The imported article

Oleoresins are thick, liquid extracts of the flavor of spices which are used primarily as seasoning and coloring agents by the food industry. Although Kalsec, Inc. claimed that Indian imports threaten the producers of all oleoresins, the petitioner sought to focus attention specifically on black pepper oleoresin. While 88 percent of the imports of spice oleoresins from India in 1978 were of the black pepper type, black pepper oleoresins accounted for only about 16 percent of apparent U.S. consumption of spice oleoresins in 1978. Paprika oleoresin accounts for more than half of apparent U.S. consumption of all spice oleoresins, but India neither produces nor exports paprika oleoresin.

The domestic industry

In making our determination, we consider the relevant domestic industry to consist of all U.S. facilities used in the production of all spice oleoresins. Seven U.S. firms produce a variety of oleoresins. In most

^{*/} Prevention of establishment of an industry is not an issue in this investigation and will not be discussed further.

cases, they shift production between different types of oleoresins depending on the demand, spice supply, and economies of scale involved. Identical equipment, technology, and labor skills are employed in the production of the various oleoresins.

In a case such as the present one, we believe a broad definition of the industry to be appropriate. When a multiproduct producer has the option of shifting productive resources between product lines, the producer may be able to avert injury when sales of a single article decline. Such a switch in production from one kind of oleoresin to another can be accomplished without the dislocation of labor or significant expenditure of capital.

The bounties or grants

The U.S. Department of Treasury determined that the Government of India provides Indian manufacturers/exporters of oleoresins with various refunds of indirect taxes under that government's "Cash Assistance Program." The refunds amount to a bounty or grant having a net benefit of 4.23 percent of the FOB price of the exported product as of April 1979.

No injury by reason of subsidized imports

It is clear that the U.S. oleoresin industry is not being injured by reason of subsidized imports from India. In fact, the industry has experienced uninterrupted improvement in its economic condition during the period of the investigation, 1975 through April 1979. We have considered such indicia as domestic shipments, exports, financial performance, employment, production, capacity, capacity utilization, and inventories.

The data we have used are in value terms because it is not possible to meaningfully aggregate quantities of different oleoresins. In using these value data we recognize that inflation may skew some of the measures.

The value of domestic shipments of spice oleoresins rose from \$6.5 million (1975) to \$9.4 million (1978), an increase of 45 percent. Data furnished to the Commission by domestic producers show that declines in the value of shipments of black pepper oleoresin have been more than offset by increasing shipments of paprika and other spice oleoresins. During the same period, the value of U.S. exports of these oleoresins rose 35 percent. Leading this export rise was black pepper oleoresin, the product allegedly affected the most by Indian imports.

Starting from a weak base in 1976, the financial performance of the domestic industry shows a strong improvement. Net sales reached \$16.5 million in 1978, a 28% improvement over the 1976 level. The growth of the industry's net operating profits was even more marked. From \$498,000 in 1976, profits grew 262 percent in two years to \$1.8 million. During the same period, the ratio of net operating profit to net sales rose from a low of 3.8 percent to 10.9 percent. No firms reported net operating losses for 1977 or 1978; indeed, four of the firms reported increased net operating profits in each of those years. Employment of production and related workers in this capital intensive industry increased from 63 persons in 1975 to 68 persons in 1978.

Other factors employed by the Commission in its investigations also fail to support the petitioner's claim of injury. Because of aspects peculiar to this industry, each of these factors requires careful examination .

Large fluctuations in production and capacity to produce oleoresins are attributable to the varying product mix of U.S. producers and the range of extraction rates of the several spices produced. Some firms only extract spice oleoresins in periods of tight supply or on the basis of specific customer orders. When such demand slackens, they may switch to other extracts. Such a decline in production and capacity need not signify a significant idling of production capacity for these firms. Extraction rates for the oleoresins of the different spices and herbs used as inputs range between 100 and 1000 pounds per hour. The data for the industry show a marked decline in both production and capacity in 1978 after uneven increases in both between 1975 and 1977. This decline, however, resulted from a major producer's decision in 1978 to extract an unusually large quantity of slower running, higher unit value specialty oleoresins.

The overall capacity utilization ratio for the entire spice oleoresin industry was stable each year during the 1975-1978 period at about 55 percent. Such a capacity utilization may seem low compared to figures for other industries. However, reserve capacity in this industry permits concentrated runs of specialty spices which tend to deteriorate rapidly in their raw state.

Although the ratio of inventories to shipments varied between 55 percent and 79 percent in the period, increases in inventories are attributable to the industry's practice of extracting oleoresin from raw spice well in excess of demand in order to take advantage of the

seasonality of raw spice supplies, avoid the loss of spice in its perishable raw form, and reap the economies of scale associated with large production runs.

The U.S. market penetration of imports from India increased from about 2 percent of apparent consumption in 1975 to about 8 percent in 1978. Though Indian black pepper oleoresins (constituting 88% of that nation's total oleoresin exports to the U.S.) undersold the domestic product, the margin of underselling has substantially decreased since 1976. Notwithstanding these two factors, the available information clearly shows that the industry is not being injured.

No likelihood of injury by reason of subsidized imports

The trends evident in the factors we have discussed do not suggest the likelihood of injury. All parties seem to feel that any likelihood of future injury would be centered primarily on the likelihood of Indian manufacturers of oleoresin to begin exporting paprika oleoresin to the United States. Paprika oleoresin accounted for more than half of apparent U.S. consumption of all oleoresins from 1976 through 1978. A number of considerations persuade us that there is no real and imminent likelihood that India will begin exporting paprika oleoresin. India neither grows paprika nor produces its oleoresin at the present time. Because the cultivation of paprika with the precisely desired color properties is difficult to achieve, its successful introduction to Indian agriculture would likely require a period of development;^{*/} there is no indication of the existence of such a program or of one being developed. Because Indians do not

^{*/} The petitioner testified that the alleged threat to U.S. paprika oleoresin producers "may be five to ten years away" (Hearing Transcript, May 22, 1979, p. 72.)

customarily use paprika, no local market exists for the raw spice. Demand by the oleoresin industry for export alone would probably not be sufficient to sustain paprika farming in the absence of a domestic market for the raw spice. Importation of the raw spice to India for processing into oleoresin also appears unlikely because of its perishability and the transport costs from Spain where it is grown on a large scale and where it is made into oleoresin in part for export to the United States. High quality Spanish paprika oleoresin production is running at only 50 percent of capacity. It is not clear why India, without any going paprika oleoresin operations and with no promising access to home or foreign sources of raw paprika, would wish to enter the U.S. market where Spain is well established as a supplier facing none of these obstacles. Thus, we find that the domestic industry is in no real and imminent likelihood of injury by reason of the imports in question.

Conclusion

On the basis of all these considerations, we must conclude that the domestic industry is neither being injured nor is likely to be injured by reason of subsidized imports from India. Overall capacity utilization has remained stable. Its level as well as the fluctuations of production, capacity, and inventories are not indicative of injury because of the peculiarities of the industry. Employment has been growing slowly but steadily. Sales have grown in the last three years. Finally, profits have shown substantial improvement between 1976 and 1978, and by the petitioner's own admission are now "satisfactory."^{*/}

^{*/} Hearing Transcript, p. 41.

Views of Chairman Joseph O. Parker

On April 4, 1979, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to oleoresins imported from India. The final countervailing duty determination published by the Department of the Treasury 1/ states that the net amount of the bounty or grant has been ascertained by Treasury to be 11.73 percent of the f.o.b. price for those goods exported from India to the United States before April 1, 1979, and 4.23 percent of the f.o.b. price for those goods exported from India to the United States on or after April 1, 1979. On April 13, 1979, the Commission instituted investigation No. 303-TA-10 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, 2/ by reason of the importation of such merchandise into the United States. Both the legislative history of the amendments to section 303 3/ and past Commission determinations under this section 4/ confirm that it was derived from and is intended to be interpreted in the same manner as the identical language in section 201 of the Antidumping Act.

Determination

On the basis of the information obtained in this investigation, I determine that an industry in the United States is likely to be injured by reason of the importation of oleoresins from India which the Department of

1/ 44 F.R. 21009.

2/ Prevention of establishment of an industry is not an issue in this investigation and will not be discussed further.

3/ U.S. House of Representatives, Trade Reform Act of 1973: Report of the Committee on Ways and Means . . ., H. Rept. No. 93-571 (93d Cong., 1st sess.), 1973, p. 74.

4/ E.g., Certain Zoris From the Republic of China (Taiwan); Determination of No Injury or Likelihood Thereof or Prevention of Establishment in Investigation No. 303-TA-1 . . ., USITC Publication 787, 1976.

the Treasury has determined are receiving a bounty or grant from the Government of India.

Likelihood of injury

The final countervailing duty determination published by the Department of the Treasury describes the products which are the subject of this investigation as oleoresins classifiable under item 450.20 of the Tariff Schedules of the United States Annotated (TSUSA). An oleoresin is a thick, liquid extract of the flavor of a spice used primarily in the food industry as a seasoning.

Black pepper oleoresin constituted almost 90 percent of the value of all oleoresins imported into the United States from India in 1978. The remainder of the imports from India consisted primarily of oleoresins of ginger, celery seed, and turmeric.

About 30 different oleoresins are marketed in the United States. Of these, the following account for about 90 percent of U.S. consumption: paprika, black pepper, ginger, chili pepper, celery seed, and turmeric. While seven U.S. firms produced oleoresins in 1978, some of them produced only one type. The process used in the production of oleoresins permits the same equipment to be used in the production of different types of oleoresins. After the production of one type the equipment must be thoroughly cleaned, but it is then readily convertible to the production of another type. Frequently, the type of oleoresin being produced at any one time depends primarily on the availability and price of the raw material used in its production. After the oleoresin is produced, quantities are placed in inventory and marketings are made from this inventory for some time thereafter. Thus, imports of a particular type of oleoresin have

an impact not only on domestic production of that type of oleoresin, but also on the total utilization of the productive facilities. For these reasons, I have considered the domestic industry to be the U.S. facilities used in the production of all spice oleoresins.

During the last 4 years, imports of oleoresins from India established a sharp upward trend. The value of the imports increased from \$225,000 in 1975 to about \$1,400,000 in 1977 and 1978 or by more than 500 percent. As a share of apparent U.S. consumption, imports from India increased from about 2 percent in 1975 to above 8 percent in 1977. In 1978, the year in which the countervailing duty petition was filed, they remained at about 8.0 percent of apparent consumption. Since most of these imports from India were black pepper oleoresin, their penetration of the market for that product was significantly higher. By 1978, these imports accounted for almost half of apparent domestic consumption of black pepper oleoresin. This trend of increasing penetration, particularly in the major oleoresins, is likely to continue if imports from India continue to benefit from a bounty or grant from the Indian Government.

From the information obtained in the Commission's investigation, it is apparent that consumers of the oleoresins under investigation generally regard the imported and the domestically produced products as substantially equivalent in terms of quality. Thus, price is a significant factor in determining the extent to which imports are able to penetrate the U.S. market. Price information gathered during the Commission's investigation establishes that oleoresins from India, presently primarily black pepper, undersold the domestically produced black pepper oleoresin throughout the period January 1976-May 1979, with the exception of two 3-month periods when they were approximately the same price. The margin of underselling can be accounted for by the bounty or grant being paid as determined by the

Department of the Treasury.

Industry sources estimate that ginger oleoresin ranks third in value of U.S.-produced oleoresins, behind paprika and black pepper. It ranks second in imports from India, and that country is the principal source of the raw material used by U.S. producers in the production of ginger oleoresin. Thus, India has access to the primary raw material used in the production of ginger oleoresin and has begun exporting this oleoresin to the United States. Pricing information gathered during the Commission investigation indicates that imports of ginger oleoresin from India began during the first quarter of 1977. These imports undersold domestically produced ginger oleoresin from the time of their introduction into the U.S. market through the second quarter of 1979 with the exception of the third quarter of 1978.

It is apparent that the bounty or grant determined by the Department of the Treasury has been a significant factor in aiding imports of both black pepper and ginger oleoresins, the second and third most important oleoresins, in underselling the domestically produced products and increasing their penetration of the U.S. market. In my judgment, the information obtained in this investigation indicates that increasing penetration by these imports is likely to continue and is likely to cause injury to the domestic industry. There is no indication in the record of this proceeding that the Indian Government has given any assurances that the bounty or grant will be terminated. Nor has the Government of India signed the countervailing duty/subsidy code recently signed by the United States at the Multilateral Trade Negotiations. Thus, if the bounties or grants are likely to continue as found by the Department of the Treasury, they will contribute to the competitive advantage of oleoresins imported from India, particularly black pepper and ginger. Increasing penetration of the

major oleoresin markets resulting from underselling is likely to cause injury to the domestic industry through further loss of markets, decreasing capacity utilization, and the resulting adverse effects on profit and employment. In my judgment, it is clear that the duty-free imports are likely to cause more than frivolous injury to the domestic industry.

On the basis of these factors, I have determined that an industry in the United States is likely to be injured by the continued importation of these products, which receive the benefits of a bounty or grant from the Government of India.

SUMMARY

Investigation No. 303-TA-10 was instituted by the United States International Trade Commission on April 13, 1979, following notification from the Department of the Treasury that bounties or grants are being paid with respect to oleoresins imported from India and entered under (TSUS) item 450.20. The net bounty or grant was determined by Treasury to be 11.73 percent of the f.o.b. price for those goods exported from India to the United States before April 1, 1979, and 4.23 percent of the f.o.b. price for those goods exported from India to the United States on or after April 1, 1979. The investigation evolved from a countervailing duty petition filed with Treasury by Kalsec, Inc., a major U.S. producer of oleoresins. A public hearing in connection with the investigation was held on Tuesday, May 22, 1979, in Washington, D.C.

For the purpose of this investigation, the term "oleoresins" means flavoring extracts, and fruit flavors, essences, esters, and oils, not containing alcohol, and not in ampoules, capsules, tablets, or similar forms, classifiable under TSUS item 450.20. An oleoresin is a thick liquid extract of the flavor of a spice used primarily as a seasoning in the food industry. There are about 30 different oleoresins, of which paprika and black pepper oleoresin are the most important in terms of domestic consumption. Black pepper oleoresin accounted for the vast bulk of all exports of these products from India to the United States.

Seven firms produced some type of oleoresin in the United States in 1978. Only two firms, Kalsec, Inc., and Joseph Adams Corp. produced black pepper oleoresin. Some firms produce certain oleoresins and import others; they may sell these oleoresins to other firms, or use them in producing spice blends or processed foods in their own plants.

The estimated value of U.S. imports of oleoresins increased 125 percent from 1975 to 1978, but decreased 36 percent in January-April 1979, as compared with the value of imports in the corresponding period of 1978. India was the second largest exporter of oleoresins to the United States in 1978. Imports from India rose more than fivefold from 1975 to 1977, but remained static in 1978, and decreased 29 percent during January-April 1979 compared with imports in the corresponding period of 1978. Imports of oleoresins from India increased from 5.9 percent of total U.S. imports in 1975 to 17.5 percent of total U.S. imports in 1977 before decreasing somewhat to 16.6 percent in 1978 and 15.7 percent in January-April 1979. Black pepper oleoresin constituted 88 percent of the value of all oleoresins imported into the United States from India in 1978.

The value of U.S. producers' shipments of domestically produced oleoresins increased from 6.5 million in 1975 to 9.4 million in 1978. The value of exports increased from * * * million in 1975 to * * * million in 1978. Although production and capacity to produce oleoresins fluctuated from year to year because of the varying product mix of the domestic producers, the capacity utilization of the industry remained at about 55 percent during 1975-78 and in January-March 1979. The number of production and related workers and the man-hours worked by them rose slowly throughout the period. Inventories of oleoresins rose from * * * million pounds in 1975 to * * * million pounds in 1977, before dropping to * * * million pounds in 1978. The relatively high

inventory-to-shipments ratios that prevailed throughout 1975-78 are attributable to the industry practice of producing oleoresins well in excess of immediate demand in order to take advantage of the seasonality of raw spices and to minimize costly downtime associated with cleaning and adjusting production equipment when changing from one type of oleoresin to another.

Profit-and-loss data were reported by five U.S. producers of oleoresins representing 97 percent of total industry shipments in 1978. Net sales of these firms rose 28 percent from 1976 to 1978, and net operating profit increased 262 percent over the same period. The ratio of net operating profit to net sales increased from 3.8 percent in 1976 to 10.9 percent in 1978.

The value of imports of oleoresins from India as a share of apparent U.S. consumption increased from * * * percent in 1975 to * * * percent in 1977 before decreasing to * * * percent in 1978. Black pepper oleoresin from India decreased from * * * percent of apparent U.S. consumption in 1976 to * * * percent in 1978, but increased to * * * percent in January-March 1979. Imports of black pepper oleoresin from both India and Singapore undersold U.S.-produced black pepper oleoresin throughout most of the period from January 1976-May 1979, but the margin of underselling of imports of this oleoresin has decreased markedly since July-September 1978.

Two firms which had purchased black pepper oleoresin from domestic producers advised the Commission that they purchased imports from India for virtually all of their requirements for this product in 1977 and 1978 in lieu of the U.S.-made product. One firm listed price and the other, price and quality of the Indian product equally as the reasons for their purchasing decisions.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On April 4, 1979, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to oleoresins imported from India, entered under item 450.20 of the Tariff Schedules of the United States (TSUS), and accorded duty-free treatment under section 501 of title V (Generalized System of Preferences (GSP)) of the Trade Act of 1974. ^{1/} Accordingly, on April 13, 1979, the Commission instituted investigation No. 303-TA-10 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. The statute directs that the Commission make its determination within 3 months of its receipt of advice from Treasury, or in this case by July 4, 1979.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., at the Commission's New York Office, and by publishing the notice in the Federal Register of April 18, 1979 (44 F.R. 23133). ^{2/} The public hearing was held in Washington, D.C., on Tuesday, May 22, 1979.

Investigation No. 303-TA-10 evolved from a countervailing duty petition filed with the Department of the Treasury in March 1978 by Kalsec, Inc., a major U.S. producer of oleoresins. This petition alleged that a variety of oleoresin products from India, eligible for duty-free treatment under the GSP, were subject to bounties and grants. Treasury's notice of initiation of the investigation was published in the Federal Register of May 16, 1978 (43 F.R. 21087). This notice stated that a satisfactory petition had been received and that a countervailing duty investigation had been started to determine if benefits were being paid by the Government of India to manufacturers, producers, or exporters of oleoresins which constituted the payment of a bounty or grant within the meaning of the U.S. countervailing duty law.

Treasury published a preliminary countervailing duty determination in the Federal Register on November 28, 1978 (43 F.R. 55512), and on April 9, 1979, a final countervailing duty determination (44 F.R. 21009). The latter notice stated that the investigation had resulted in a determination that the Government of India had given benefits which constituted bounties or grants under the countervailing duty law on the manufacture, production, or exportation of oleoresins from India. Accordingly, Treasury suspended the liquidation of entries or of withdrawals from warehouse for consumption of the

^{1/} A copy of Treasury's letter to the Commission is presented in app. A.

^{2/} A copy of the Commission's notice of investigation and hearing is presented in app. B.

articles in question until further order or publication of an injury determination by the Commission.

On February 28, 1979, Treasury published a final countervailing duty determination on oleoresins from Spain (44 F.R. 11214). Since oleoresins from Spain are subject to duty, this case was not referred to the Commission. A countervailing duty of 3.37 percent has been applicable to oleoresin imports from Spain since February 28, 1979.

Description and Uses

The term "oleoresins" as used in this investigation means flavoring extracts, and fruit flavors, essences, esters, and oils, not containing alcohol, and not in ampoules, capsules, tablets, or similar forms, and classifiable under item 450.20 of the TSUS. An oleoresin is a thick liquid extract of the flavor of a spice used primarily as a seasoning in the food industry. There are about 30 different oleoresins, of which the following six account for an estimated 90 percent of U.S. consumption: Black pepper, paprika, capsicum (chili pepper), celery seed, ginger, and turmeric. The most important of these oleoresins from the standpoint of the present investigation is oleoresin of black pepper, which accounted for 88 percent of all oleoresins exported from India to the United States in 1978.

Oleoresins are produced by two different methods, the continuous or one-step process and the batch or two-step process. In the continuous process, which is favored by most domestic producers, raw spice is pulverized into required particle sizes, and then percolated with a solvent. The solvent extracts the active ingredients which impart aroma and taste to the spice. The resultant solution, called miscella, is then boiled and vacuum-distilled, which removes all but minute quantities of the solvent. The resultant oleoresin is a viscous, almost solid, dark-colored material, representing the concentrated odoriferous principles plus the alcohol-soluble resins, coloring matter, and so forth, contained in the original plant material. 1/

Synthite Industrial Chemicals, Ltd., the chief Indian exporter of oleoresins to the United States, employs the batch process. This process is similar to the continuous process except that prior to the incorporation of the solvent, the spice is subjected to steam under pressure, which volatilizes the aromatic principles. After these are removed, the spice is dried and percolated with solvents, as in the continuous method, to remove the flavor principles of the spice. After the solvent is removed, the aromatic principles, in the form of an essential oil, is recombined with the flavor principles to form an oleoresin. U.S. producers contended that there is little difference between oleoresins produced by the two processes. However, a representative of Quality Control Spice Co., a large domestic consumer of oleoresins imported from India, testified in the hearing before the Commission that his company found that oleoresin produced by the batch process was superior in aromatic quality and flavor. 2/

1/ Ernest Guenther, The Essential Oils, New York, 1952, vol. I, p. 204.

2/ Transcript of the hearing, p. 106.

The users of oleoresins are industrial producers of canned and processed foods and beverages, and spice blends. In these uses, spices in oleoresin form are superior to ground spices because they are free from bacteria, possess long shelf life, and can be standardized in relation to taste, aroma, and color. Because of their potency, oleoresins are not used in home food preparation.

U.S. Import Treatment

The various oleoresins which are the subject of this investigation are classified for tariff purposes under item 450.20 of the TSUS. The column 1 (most-favored-nation) rate of duty applicable to merchandise entered under this item is 6 percent ad valorem. The column 2 rate (applicable to imports from certain Communist-dominated countries) is 25 percent. These rates have been in effect since January 1, 1969.

Effective January 1, 1979, TSUS item 450.20 was annotated for statistical purposes as follows:

<u>TSUSA item No.</u>	<u>Description</u>
450.2010-----	Oleoresin paprika.
450.2020-----	Other spice oleoresins.
450.2040-----	Other flavoring extracts, and fruit flavors, essences, and oils, not containing ethyl alcohol and not in ampoules, capsules, tablets, or similar forms.

Item 450.20 of the TSUS was annotated following a request by Kalsec, Inc., in July 1978 to the Committee for Statistical Annotation of Tariff Schedules for a breakout of spice oleoresins from TSUS item 450.20. A similar request to this Committee from the American Spice Trade Association in November 1978 for a breakout of oleoresin black pepper has not been granted as of this time.

Title V of the Trade Act of 1974 authorized the President to extend duty-free treatment to eligible articles from designated beneficiary developing countries after consideration of (1) the effect such action will have on furthering the economic development of the developing countries; (2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries; and (3) the anticipated impact of such action on U.S. producers of like or directly competitive products. Duty-free treatment may not be applied to certain categories of articles which are considered import sensitive in the context of GSP. Oleoresins have been entitled to duty-free treatment under the GSP since January 1, 1976. Designated eligible countries which are suppliers of oleoresins to the U.S. market are (in descending order based on the value of imports in January-April 1979) India, Singapore, and Ethiopia.

Nature and Extent of the Bounties or Grants Being Paid or Bestowed

The bounty or grant bestowed by the Government of India is a portion of the export rebate received by Indian oleoresin manufacturers/exporters under the Government's "Export Cash Assistance Program." This program refunds various indirect taxes to Indian manufacturers and exporters of oleoresins, and also allegedly compensates them for locating production facilities in the State of Kerala, an industrially underdeveloped area of India. Exports of oleoresins were found to have received a rebate of 20 percent of the f.o.b. value of the exported product. This rebate was reduced to 12.5 percent as of April 1, 1979. Of the total rebate of 12.5 percent, 8.27 percent was found by Treasury to have constituted a rebate of indirect taxes on inputs physically incorporated in the final product, and was not countervailable. The net amount of such bounties or grants has been ascertained and determined to be 11.73 percent of the f.o.b. price for those goods exported from India to the United States before April 1, 1979, and 4.23 percent of the f.o.b. price for those goods exported from India to the United States on or after April 1, 1979.

Oleoresin of black pepper constitutes 88 percent, by value, of exports of all oleoresins from India to the United States. Oleoresin of ginger accounts for more than 8 percent of such exports. Oleoresin of paprika is neither exported nor produced for domestic consumption in India.

Countervailing Duty Determination Concerning Oleoresins From Spain

On March 24, 1978, the Department of the Treasury initiated a countervailing duty investigation on oleoresins from Spain. Since oleoresins from Spain are subject to duty, this investigation was completed without referral to the Commission. It was initiated following the receipt of a petition filed by Kalsec, Inc., which alleged that payments made by the Government of Spain to manufacturers/exporters of oleoresins constituted the payment of a bounty or grant within the meaning of the U.S. countervailing duty law.

Treasury published a preliminary countervailing duty determination on oleoresins from Spain in the Federal Register on September 5, 1978 (43 F.R. 39466), and a final countervailing duty determination on February 28, 1979 (44 F.R. 11214). The latter notice stated that the investigation had resulted in a determination that the Government of Spain had given benefits which constituted bounties or grants under the countervailing duty law on the manufacture, production, or exportation of oleoresins from Spain. The benefits received were in the form of an overrebate, upon export, of the "Desgravacion Fiscal," a Spanish indirect tax. The net amount of the bounties or grants was determined to be 3.37 percent of the f.o.b. value of the exported goods. A countervailing duty in this amount applies with respect to oleoresins from Spain entered or withdrawn from warehouse for consumption on or after February 28, 1979.

Domestic Producers

Seven firms are known to have produced oleoresins in the United States in 1978. Some of these firms may produce only one type. Oleoresin of paprika is

produced by three U.S. firms; it accounted for more than half of the value of U.S. domestic shipments of oleoresins in 1978. Oleoresins of black pepper, capsicum, ginger, turmeric, and a number of minor spices account for the remainder of U.S. shipments. Because of economies of scale, it is unprofitable to produce only the minor spices; hence, oleoresin manufacturers produce one or more of the high-volume oleoresins, or the production of oleoresins is of necessity a small part of a much larger and diversified operation and occurs on an intermittent basis.

Kalsec, Inc., of Kalamazoo, Mich., is the largest U.S. producer of spice oleoresins, accounting for * * * percent of the value of total industry shipments in 1978. In addition, Kalsec also imports a wide variety of oleoresins from several countries, * * *.

Three firms have ceased production of black pepper oleoresin since 1971:

(1) Fritzsche Dodge & Olcott, Inc., ceased production in 1971 following the establishment of Bombay Oil Co. in India, a facility they helped to establish; (2) Bush Boake Allen, Inc., ceased production of all oleoresins following a fire in 1972; * * * (3) Quality Control Spice Co. ceased production in 1976 because it found imports from India "to be more economical." The company further advised the Commission at the hearing and in its post hearing brief that it could not obtain products meeting its flavor requirements from domestic sources. ^{1/} Kalsec, Inc., and Joseph Adams Corp., Valley City, Ohio, are the only remaining domestic firms that produce black pepper oleoresin on a regular basis.

The trend in the oleoresin industry for the past several years has been to transfer production from the United States to foreign countries in order that production facilities might be closer to where the spices are grown. U.S. firms have established wholly owned subsidiaries for producing oleoresins in foreign countries and have formed joint ventures with host governments to produce these articles. McCormick & Co., the largest producer of ground spices for home use in the United States, and Stange Co., a major producer of spice blends and food flavorings, established a joint venture in Singapore in 1972. Kalsec, Inc., the petitioner in the present case, established a facility to manufacture paprika and capsicum oleoresin in Ethiopia in 1970. On February 12, 1975, the Ethiopian Government nationalized this facility without compensation. Oleoresins produced in this facility are being imported into the United States.

U.S. Market and Channels of Distribution

The producers of oleoresins are only a part of the complex spice industry in the United States. U.S. firms produce some oleoresins and import others. The types and quantities of oleoresins produced may vary significantly from year to year. Producers sell the oleoresins, incorporate them into oleoresin blends, or place them on carriers such as salt or dextrose to form a dispersed

^{1/} Transcript of the hearing, p. 106; posthearing brief, p. 3.

spice. The resultant products may be resold, or utilized within the firm's facilities as a condiment or garnishment in processed foods.

The principal purchasers of oleoresins are compounders, which use them to make spice blends and dispersed spices, and food processors, especially manufacturers of processed meat products. An example of a compounder is Stange Co., of Chicago, Ill., whose main business activity entails the blending of oleoresins, ground spices, and essential oils of spices according to precise recipes supplied by food processors. Stange imports a large part of its oleoresins from a facility which it owns and operates jointly with McCormick in Singapore; * * *. Quality Control Spice Co., a division of Oscar Mayer, a large meatpacker in the United States, is an example of a food processor that both manufactures and imports oleoresins in significant quantities, for direct reselling to other processors or use within Oscar Mayer in the manufacture of processed meats.

The import side of the oleoresin industry is characterized by three distinct types of operations: (1) "True" importers, such as J. Manheimer & Sons, New York, N.Y., which imports oleoresins from a number of countries, including India, for direct resale to customers; (2) brokers such as George Uhe Co. and Ludwig Mueller, both of New York, N.Y., which act as intermediaries between foreign oleoresin manufacturers and U.S. customers but do not themselves take possession of the imported product; (3) large spice houses such as McCormick & Co., Baltimore, Md., which imports oleoresins primarily from its own offshore facilities but which may also import oleoresins directly or through brokers, depending on demand and availability.

Consideration of Injury or Likelihood Thereof

U.S. imports

The estimated value of U.S. imports of spice oleoresins increased 125 percent between 1975 and 1978, from \$3.8 million to \$8.6 million. Imports decreased 36 percent in January-April 1979 compared with imports in the corresponding period of 1978, falling from \$5.5 million to \$3.6 million. The estimated value of U.S. imports in 1975-78 and in January-April 1978 and January-April 1979 is presented in the following table.

Table 1.--Spice oleoresins: U.S. imports for consumption, 1975-78, January-April 1978, and January-April 1979 ^{1/}

(In thousands of dollars)						
Source	1975	1976	1977	1978	January-April--	
					1978	1979
Spain-----	2,558	4,571	4,710	5,264	3,512	2,155
India-----	225	839	1,444	1,429	782	^{2/} 558
Singapore-----	691	905	1,356	1,131	571	416
All other -----	347	620	727	759	670	430
Total-----	3,821	6,935	8,237	8,583	5,535	3,559

^{1/} Import data prior to Jan. 1, 1979, have been adjusted to exclude certain flavoring extracts and fruit flavors which were classified under TSUS item 450.20. The data were adjusted by calculating the percentage of oleoresins in the total imports entered under item 450.20, by countries, in January-March 1979 and applying these percentages to total imports from these countries in 1975-78.

^{2/} Import data for India for January-April 1979 have been adjusted to include approximately \$129,000 worth of oleoresin imports incorrectly reported under TSUSA item 450.2040 "as other flavoring extracts."

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

Imports from Spain accounted for 62 percent of estimated total imports of oleoresins from 1975 to 1978. Such imports rose 106 percent from 1975 to 1978, but decreased 39 percent in January-April 1979 compared with those in the corresponding period of 1978. Virtually all imports from Spain consisted of paprika oleoresin.

India became the second largest exporter of oleoresins to the United States in 1977. The value of imports from India rose more than fivefold from 1975 to 1977 before decreasing slightly in 1978. Imports from India decreased by 29 percent in January-April 1979 compared with those in the corresponding period of 1978. Imports of oleoresins from India increased from 5.9 percent of total U.S. imports in 1975 to 17.5 percent in 1977 before decreasing slightly to 16.6 percent in 1978 and 15.7 percent in January-April 1979. Black pepper oleoresin constituted 88 percent of the value of all spice oleoresins imported into the United States from India in 1978. ^{1/} Other oleoresins entered from India consist primarily of ginger, celery seed, and turmeric.

Singapore is currently the third largest exporter of oleoresins to the United States. The value of imports from Singapore rose 96 percent from 1975 to 1977, before declining by 17 percent in 1978. Imports of oleoresins from Singapore continued to decline in January-April 1979, dropping 27 percent compared with imports in the corresponding period of 1978. * * *

^{1/} Posthearing brief of counsel for respondents, app. 1, p. 3.

U.S. producers' shipments and exports

The value of U.S. producers' domestic shipments ^{1/} of oleoresins increased steadily throughout the period, rising from \$6.5 million in 1975 to \$9.4 million in 1978, or by 45 percent. The value of shipments rose more slowly in January-March 1979, increasing 1.3 percent compared to the value in the corresponding period of 1978. Data showing the quantity and value of U.S. producers' shipments of oleoresins, by spice types, are given in table 2 on page A-11.

^{1/} Analysis herein is based on value because of the heterogeneity of the product mix, the widely disparate unit value of the different spices, and the varying concentrations of the oleoresins produced.

Table 2.—Oleoresins: U.S. producers' domestic shipments, by spice types, 1975-78, January-March 1978, and January-March 1979

Item	1975	1976	1977	1978	January-March--	
					1978	1979
Quantity (1,000 pounds)						
Paprika oleoresin-----	***	***	***	***	***	***
Black pepper oleoresin-----	***	***	***	***	***	***
Other oleoresins-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***
Value (1,000 dollars)						
Paprika oleoresin-----	***	***	***	***	***	***
Black pepper oleoresin-----	***	***	***	***	***	***
Other oleoresins-----	***	***	***	***	***	***
Total-----	6,535.9	6,606.3	8,880.8	9,447.8	2,501.3	2,533.4

The increase in the value of domestic shipments was paced by the increase in paprika oleoresin shipments, which rose * * * percent from 1975 to 1978. The value of other oleoresins also rose substantially over the period, from * * * million in 1975 to * * * million in 1978. The value of black pepper oleoresin, however, dropped from * * * million in 1975 to * * * million in 1978, a decrease of * * * percent. Shipments of black pepper oleoresin continued to decline in January-March 1979, * * *.

The value of exports of domestically produced oleoresins increased from * * * million in 1975 to * * * million in 1978, or by * * * percent. The value of exports increased slightly in January-March 1979, rising from * * * in January-March 1978 to * * * in the corresponding period of 1979. Data showing the value of U.S. producers' exports of oleoresins, by spice types, are given in table 3.

Table 3.--Spice oleoresins: U.S. exports, by types, 1975-78, January-March 1978, and January-March 1979

Item	(In thousands of dollars)					
	1975	1976	1977	1978	January-March--	
					1978	1979
Black pepper-----	***	***	***	***	***	***
Paprika-----	***	***	***	***	***	***
Other-----	***	***	***	***	***	***
Total-----	***	***	***	***	***	***

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

Capacity utilization

As part of its consideration of injury to the domestic industry, the Commission asked U.S. producers of oleoresins to report their annual capacities to produce such merchandise in their domestic facilities. Capacity was defined as the maximum sustainable production at three 8-hour shifts a day, 350 days a year. Six U.S. producers of oleoresin supplied the Commission with usable data on production and production capacity in their domestic facilities.

There are several factors prevalent in the oleoresin industry which may qualify conclusions regarding injury to the domestic industry based on capacity utilization data. The machinery utilized in the oleoresin production process can also be used to extract or volatilize a variety of essences from their organic sources. Domestic producers of oleoresins such as * * * and * * * produce other extracts and essences as their main business activity, and may extract spice oleoresins in periods of tight supply or on the basis of specific customer orders. Hence, a decline in demand for any particular oleoresin, or for oleoresins in general, need not indicate a significant idling of

productive capacity for these firms. Another factor directly affecting producers' capacity is the wide variation in extraction rates of the different spices and herbs used in the production of oleoresins. Some oleoresins, such as capsicum, can be produced at rates up to 1,000 pounds an hour; certain specialty items, such as oleoresins of coriander or mace, may have extraction rates as low as 100 pounds an hour. Hence, depending on product mix, firms may show wide fluctuations in production and capacity from year to year.

Furthermore, the production and capacity of the major U.S. producer of oleoresins, Kalsec, Inc., was altered significantly beginning in 1975, when its Ethiopian facility was nationalized. Prior to nationalization, * * *.

Data showing capacity utilization in the production of oleoresins are given in table 4.

Table 4.--Oleoresins: U.S. production, capacity, and capacity utilization, by spice types, 1975-78, January-March 1978, and January-March 1979

Type and period	Production	Capacity	Capacity utilization
	<u>1,000</u>	<u>1,000</u>	<u>Percent</u>
	<u>pounds</u>	<u>pounds</u>	
Paprika oleoresin:			
1975-----	***	***	***
1976-----	***	***	***
1977-----	***	***	***
1978-----	***	***	***
January-March--			
1978-----	***	***	***
1979-----	***	***	***
Black pepper oleoresin:			
1975-----	***	***	***
1976-----	***	***	***
1977-----	***	***	***
1978-----	***	***	***
January-March--			
1978-----	***	***	***
1979-----	***	***	***
Total, all oleoresins:			
1975-----	***	***	55
1976-----	***	***	58
1977-----	***	***	56
1978-----	***	***	55
January-March--			
1978-----	***	***	54
1979-----	***	***	55

Source: Compiled from data submitted by 6 firms in response to questionnaires of the U. S. International Trade Commission.

Utilization of total oleoresin production capacity fluctuated within a narrow range during 1975-78 and January-March 1979, as decreases in the capacity utilization of black pepper oleoresin were compensated for by increases in production of other oleoresin. Production of and capacity to produce all oleoresins generally increased from 1975 to 1977, but dropped precipitously in 1978, although capacity utilization in the industry decreased only slightly in that year. * * *.

* * * * *

Employment and hours worked

The Commission collected employment data from U.S. producers of oleoresins, a summary of which is presented in table 5.

Table 5.--Average number of production and related workers producing oleoresins, and man-hours worked by them, 1975-78, January-March 1978, and January-March 1979

Item	1975	1976	1977	1978	January-March--	
					1978	1979
Average number of production and related workers-----	63	65	68	68	72	65
Man-hours worked by production and related workers-----	118,200	114,000	136,200	129,200	32,500	31,600
Average weekly hours per worker <u>1/</u> -----	37.5	35.1	40.1	38.0	36.1	38.9

1/ Based on a 50-week year.

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

The manufacture of oleoresins is a capital-intensive process, with relatively few employees actually allocated to production. The industry is also characterized by a relatively large number of nonproduction workers who are engaged in product development, testing, and quality control. The number of production and related workers increased slowly throughout 1975-78 and then declined in January-March 1979. Both hours worked and average hours per week per worker declined slightly in 1976 compared with figures in the previous year, increased noticeably in 1977, and then declined again in 1978.

Inventories

The Commission received inventory data from six U.S. producers of oleoresins. Data showing inventories of all oleoresins held by these respondents are given in table 6.

Table 6.--Oleoresins: U.S. producers' end-of-year inventories, 1975-78, January-March 1978, and January-March 1979

Year	Producers' inventories	Producers' shipments	Ratio of inventories to shipments
	<u>Pounds</u>	<u>Pounds</u>	<u>Percent</u>
1975-----	***	***	55.3
1976-----	***	***	67.2
1977-----	***	***	79.2
1978-----	***	***	60.2

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

The above data show inventories of all oleoresins rising sharply from 1975 to 1977, increasing from 55 percent of U.S. producers' shipments in 1975 to 79 percent in 1977. Inventories dropped sharply in 1978, decreasing to 60 percent of shipments in that year.

The inventory data, which show inventories as a high percentage of producers' shipments, do not represent an unusual situation in the industry. Raw spices, like any agricultural commodity, fluctuate in supply and price from crop year to crop year, and are generally harvested on a seasonal basis. Because of the variation in price, and because raw spice is a perishable item compared with spice oleoresin, which possesses long shelf life, producers may find it more economical to produce the oleoresin well in excess of immediate demand and then sell down inventory throughout the year. Furthermore, there are significant economies of scale associated with the oleoresin-manufacturing process, especially for those producers which utilize the continuous or one-step extraction process. Producers will attempt to make production runs of a particular spice oleoresin as long as possible, as interruption of a production run involves costly cleaning of the extractor and replacement of solvent in preparation for the extraction of a different spice. Hence, production runs of more than * * * pounds of even the minor spices are not unusual in the industry.

The Commission also gathered inventory data on selected oleoresins. Data showing inventories of black pepper oleoresin held by U.S. producers are given in table 7.

Table 7.--Black pepper oleoresin: U.S. producers' end-of-year inventories, 1975-78, January-March 1978, and January-March 1979

Year	Producers' inventories	Producers' shipments	Ratio of inventories to shipments
	Pounds	Pounds	Percent
1975-----	***	***	***
1976-----	***	***	***
1977-----	***	***	***
1978-----	***	***	***

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

* * * * *

Data showing the quantity of inventories of paprika oleoresins held by U.S. producers are given in table 8.

Table 8.--Paprika oleoresin: U.S. producers' end-of-year inventories, 1975-78, January-March 1978, and January-March 1979

Year	Producers' inventories	Producers' shipments	Ratio of inventories to shipments
	Pounds	Pounds	Percent
1975-----	***	***	***
1976-----	***	***	***
1977-----	***	***	***
1978-----	***	***	***

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

* * * * *

Profit-and-loss experience

The Commission received usable profit-and-loss data from five firms representing an estimated 97 percent of total industry shipments of oleoresins in 1978. Net sales of the respondent firms rose from \$12.9 million in 1976 to \$16.5 million in 1978, or by 28 percent, as shown in table 9.

The growth of the industry's net operating profit was even more marked than the growth of net sales. Net operating profit jumped 180 percent from 1976 to 1977, and increased again by 30 percent in 1978. The ratio of net operating profit to net sales also increased throughout the period, rising from 3.8 percent in 1976 to 8.7 percent in 1977 and 10.9 percent in 1978. One respondent firm reported an operating loss for the accounting year 1976; no firms reported an operating loss for the accounting years 1977 and 1978. From 1976 to 1977, and again from 1977 to 1978, four of the five respondents reported increased net operating profit, while one firm in each year reported reduced profit.

A major reason for the substantial growth in industry profit was the ability of the industry to control costs. Cost of goods sold increased by 17 percent from 1976 to 1977, while net sales for the same period increased 24 percent. The cost of goods sold actually decreased 0.4 percent from 1977 to 1978, while net sales increased 3.3 percent.

Table 9.--Profit-and-loss experience of 5 U.S. producers on their oleoresin operations, accounting years 1976-78

Item	1976	1977	1978
Net sales-----1,000 dollars--:	12,940	16,010	16,541
Cost of goods sold-----do----:	10,243	11,990	11,939
Gross profit-----do----:	2,697	4,020	<u>1/</u> 4,601
General, selling, and administrative expenses-----1,000 dollars--:	2,200	2,626	2,800
Net operating profit-----do----:	<u>1/</u> 498	<u>1/</u> 1,393	1,802
Net profit before taxes-----do----:	440	1,317	1,701
Ratio of net operating profit to net sales-----percent--:	3.8	8.7	10.9
Number of firms reporting operating losses-----:	1	0	0
Range of individual firms' sales:			
High-----1,000 dollars--:	***	***	***
Low-----do----:	***	***	***
Range of individual firms' net operating profit or (loss):			
High-----1,000 dollars--:	***	***	***
Low-----do----:	***	***	***
Number of firms reporting increases in net operating profit from previous year-----:	<u>2/</u>	4	4
Number of firms reporting decreases in net operating profit from previous year-----:	<u>2/</u>	1	1

1/ Because of rounding, figures may not add to the totals shown.

2/ Not available.

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

Consideration of the Causal Relationship Between Imports From India and the Alleged Injury

Market penetration of imports from India

The value of imports of oleoresins from India as a share of apparent U.S. consumption increased markedly from 1975 to 1976, rising from * * * percent of apparent consumption to * * * percent. Market penetration of imports from India rose to * * * percent in 1977 before decreasing * * * in 1978. The ratio of imports from India to apparent consumption for January-March 1979 decreased compared with imports in the corresponding period of 1978, dropping from * * * percent of consumption to * * * percent.

Data on apparent U.S. consumption are presented in table 10.

Table 10.--Oleoresins: U.S. producers' shipments, exports, imports, and apparent consumption, 1975-78, January-March 1978, and January-March 1979

Period	U.S. producers' shipments	Exports	Imports	Apparent consumption	Imports from India	Ratio of imports to apparent consumption	Ratio of imports from India to apparent consumption
	1,000 dollars				Percent		
1975-----	***	***	3,821	***	225	***	***
1976-----	***	***	6,935	***	839	***	***
1977-----	***	***	8,237	***	1,444	***	***
1978-----	***	***	8,583	***	1,429	***	***
Jan.-Mar.-							
1978-----	***	***	4,371	***	601	***	***
1979-----	***	***	2,572	***	440	***	***

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

Black pepper oleoresin accounted for an estimated * * * percent of apparent U.S. consumption of all oleoresins from 1976 to 1978, and for 88 percent of the total value of imports from India in those years. Data on apparent consumption of black pepper oleoresin, and the estimated share of imports from India to apparent U.S. consumption are presented in table 11 below.

Table 11.--Black pepper oleoresin: U.S. producers' shipments, exports, imports, and estimated apparent consumption, 1976-78, January-March 1978 and January-March 1979

Period	U.S. producers' shipments	Exports	Imports ^{1/}	Imports from India ^{2/}	Apparent consumption	Ratio of imports from India to apparent consumption	Ratio of imports from India to U.S. producers' shipments
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent	Percent
1976-----	***	***	***	736	***	***	***
1977-----	***	***	***	1,266	***	***	***
1978-----	***	***	***	1,253	***	***	***
Jan.-Mar--							
1978-----	***	***	***	527	***	***	***
1979-----	***	***	***	386	***	***	***

^{1/} Data on imports may be understated because data were obtained from responses to Commission questionnaires and may not represent all importers.

^{2/} Estimated by calculating the percentage of total imports that were accounted for by black pepper oleoresin in 1978 (87.7 percent) and applying that percentage to data for previous periods.

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.

* * * * *

Paprika oleoresin accounted for an estimated * * * percent of apparent U.S. consumption of all oleoresins from 1976 to 1978. Virtually all the paprika oleoresin imported to the United States is from Spain. Treasury made a final countervailing duty determination on February 28, 1979, that such imports were receiving a net bounty of 3.37 percent from the Spanish Government. There were no imports of paprika oleoresin from India.

Data on apparent U.S. consumption of paprika oleoresin and the share of apparent consumption accounted for by imports from 1976 to March 1979 are presented in table 12.

Table 12.--Paprika oleoresin: U.S. producers' shipments, exports, imports, and apparent consumption, 1976-78, January-March 1978, and January-March 1979

Period	U.S. producers' shipments	Exports	Imports ^{1/}	Apparent consumption ^{1/}	Ratio of imports to apparent consumption ^{1/}
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent
1976-----	***	***	4,792	***	***
1977-----	***	***	5,692	***	***
1978-----	***	***	5,931	***	***
Jan.-Mar.--					
1978-----	***	***	3,020	***	***
1979-----	***	***	1,777	***	***

^{1/} Estimated by calculating the percentage of paprika oleoresin accounted for by total imports in January-March 1979 and applying this percentage to data for previous periods.

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

Prices of spice oleoresins

Lowest net selling prices of three selected oleoresins were analyzed by the Commission. The amount of underselling or overselling of oleoresin imports from India and other countries as a percentage of the weighted average lowest net selling prices of domestic producers are given in tables 13-15.

Table 13.--Black pepper oleoresin: Weighted average lowest net selling prices of the U.S. produced products, imports from India, and imports from Singapore, and average margin of underselling (-) or overselling by imports from India and Singapore, by quarters, January 1976-May 1979

Period	Black pepper oleoresin, not decolorized, 40-percent piperine content					
	U.S.	Price of	Price of	Margin of under-		
	producers'	imports	imports	selling/overselling		
	price	from	from	India	Singapore	
	Per	Per	Per	Percent	Percent	
	pound	pound	pound			
1976:						
January-March-----	***	***	***	-7.5	***	
April-June-----	***	***	***	-9.1	***	
July-September-----	***	***	***	-6.7	***	
October-December-----	***	***	***	-1.1	***	
1977:						
January-March-----	***	***	***	0	***	
April-June-----	***	***	***	-1.0	***	
July-September-----	***	***	***	-2.0	***	
October-December-----	***	***	***	-4.3	***	
1978:						
January-March-----	***	***	***	-11.3	***	
April-June-----	***	***	***	-4.6	***	
July-September-----	***	***	***	.2	***	
October-December-----	***	***	***	-2.3	***	
1979:						
January-March-----	***	***	***	.5	***	
April-May-----	***	***	***	-1.7	***	

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

Black pepper oleoresin accounted for * * * percent of apparent U.S. consumption of all oleoresins from 1976 to 1978 and 88 percent of the total value of imports from India in those years. Significant quantities of black pepper oleoresin are also imported from Singapore.

* * * * *

Some industry sources estimate that ginger oleoresin ranks third in value of U.S.-produced oleoresins, behind paprika and black pepper oleoresins; it is the second largest oleoresin imported from India by value, accounting for 8.5 percent of that country's exports of all oleoresins to the United States in 1978. Ginger oleoresin from India entered the U.S. market in quantity in 1977, and undersold U.S.-produced ginger oleoresin throughout 1977 and January-June 1978 (table 14). In April-May 1979, imports from India were priced * * * percent higher than domestically produced ginger oleoresin.

Table 14.--Ginger oleoresin: Weighted average lowest net selling prices of the U.S.-produced product and imports from India, and average margin of underselling (-) or overselling by imports from India by quarters, January 1976-May 1979

Period	: Ginger oleoresin, 25-percent volatile oil minimum		
	: U.S. : producers'	: Price of : imports : from India	: Margin of : underselling/ overselling
	: <u>Price per</u> : <u>pound</u>	: <u>Price per</u> : <u>pound</u>	: <u>Percent</u>
1976:	:	:	:
January-March-----	*** :	1/ :	1/
April-June-----	*** :	1/ :	1/
July-September-----	*** :	1/ :	1/
October-December-----	*** :	1/ :	1/
1977:	:	:	:
January-March-----	*** :	*** :	***
April-June-----	*** :	*** :	***
July-September-----	*** :	*** :	***
October-December-----	*** :	*** :	***
1978:	:	:	:
January-March-----	*** :	*** :	***
April-June-----	*** :	*** :	***
July-September-----	*** :	*** :	***
October-December-----	*** :	*** :	***
1979:	:	:	:
January-March-----	*** :	*** :	***
April-May-----	*** :	*** :	***

1/ No sales of imports from India were reported during this period.

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

Paprika oleoresin is by far the most important oleoresin produced, accounting for an estimated * * * percent of the value of apparent U.S. consumption of all oleoresins from 1976 to 1978. Virtually all imports of paprika oleoresin come from Spain. India neither exports nor produces paprika oleoresin.

Table 15 shows that U.S.-produced paprika oleoresin had a price advantage over imports from Spain throughout most of the period January 1976 to June 1978, but that the competitive position of the U.S. producers has weakened significantly since July 1978.

Table 15.--Paprika oleoresin: Weighted average lowest net selling prices of the U.S.-produced product and imports from Spain, and average margin of underselling (-) or overselling by imports from Spain, by quarters, January 1976-May 1979

Period	Paprika oleoresin, 100,000 color-value equivalent		
	U.S. producers'	Price of imports from Spain	Margin of underselling/overselling
	Price per pound	Price per pound	Percent
1976:			
January-March-----	***	***	11.0
April-June-----	***	***	8.2
July-September-----	***	***	6.3
October-December-----	***	***	5.4
1977:			
January-March-----	***	***	7.6
April-June-----	***	***	14.7
July-September-----	***	***	10.2
October-December-----	***	***	-2.2
1978:			
January-March-----	***	***	18.2
April-June-----	***	***	16.2
July-September-----	***	***	0.6
October-December-----	***	***	-4.5
1979:			
January-March-----	***	***	-5.0
April-May-----	***	***	-6.9

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

Prices of raw spices

The principal raw material used in the production of oleoresins is the raw spice, which is purchased in whole form from foreign sources or through brokers in the United States. Most spices are imported, and purchased by contract or on the spot market. It is estimated that the cost of the raw spice accounts for about 72 percent of the cost of black pepper oleoresin, 70 percent of that of paprika oleoresin, and 75 percent of that of ginger oleoresin.

The prices of spices vary with the vagaries of supply and demand, and there has been a history of wide price fluctuation. Table 16 presents prices for some of the more common raw spices utilized in the production of oleoresins.

Table 16.--Raw spices: Quarterly average of New York spot prices, of specified spices January 1976-March 1979

(Per pound)

Period	Cochin ginger from India	Lamong black pepper from Indonesia	Malabar black pepper from India
1976:			
January-March-----	\$0.64	\$0.81	\$0.82
April-June-----	.64	.84	.88
July-September-----	.71	.85	.88
October-December-----	.85	.96	1.01
1977:			
January-March-----	.85	1.12	1.14
April-June-----	.97	1.18	1.18
July-September-----	1.07	1.04	1.05
October-December-----	1.06	1.12	1.12
1978:			
January-March-----	.94	1.25	1.25
April-June-----	.91	1.15	1.15
July-September-----	.91	.90	.94
October-December-----	.85	.90	.99
1979:			
January-March-----	.71	.87	1.07

Source: Chemical Marketing Reporter, various issues.

Lamong black pepper from Indonesia, which is the chief raw material used by domestic producers of black pepper oleoresin, undersold Malabar black pepper from India throughout most of the period January 1976-March 1979. The margin of underselling increased markedly in the last 9 months, from 4 percent in July-September 1978 to 19 percent in January-March 1979. Importers of black pepper oleoresin advised at the Commission's hearing that the margin of underselling of the Indonesian pepper provided the domestic producers of black pepper oleoresin with a competitive advantage. ^{1/} Domestic purchasers of imported spices, however, are required by the Food and Drug Administration to process only food-grade raw spices, whereas Indian producers are subject to no such restrictions. This requirement may offset any cost advantage accruing to U.S. producers due to the price spread between Lampong and Malabar black pepper.

Cochin ginger from India is the principal raw material used by U.S. producers in the production of ginger oleoresin; it rose to more than \$1 a pound in the last 6 months of 1977 but has since declined in unit value.

^{1/} Transcript of the hearing, pp. 99, and 160.

Lost sales

Domestic producers of oleoresins were requested to supply evidence of sales lost to imports of oleoresins from India. No firm furnished specific information; one firm, * * * furnished a list of 12 purchasers to which it had reduced sales of black pepper oleoresin since 1975. The company advised that these reduced sales might be attributable to the purchasers buying oleoresins imported from India.

Purchaser questionnaires were directed to the 12 firms. Of these, 11 responded to the questionnaire. Six reported that they purchased oleoresins from intermediaries that are domestic flavor houses, and were unable to identify the country source of the oleoresin. Three firms reported that they had purchased imports from India but that they had not purchased black pepper oleoresin in significant quantity from * * * or other domestic producers. Two firms reported that they had reduced their purchases of domestic black pepper oleoresin in favor of the product imported from India. One of these respondents stated that the most important factor in its decision was price; the other stated that its decision was based on price and quality coequally.

Two of the respondents which advised the Commission that they had not purchased significant quantities of black pepper oleoresin from domestic producers -- Quality Control Spice Co., and Morrell Chemical Co.-- submitted posthearing statements to the Commission citing the superior quality of the Indian product as the primary consideration in their purchasing decisions.

APPENDIX A

Treasury Department letter to the
Commission concerning oleoresins from India



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

APR 2 1979

DOCKET NUMBER
#567
Office of the Secretary Int'l. Trade Commission

Dear Mr. Chairman:

In accordance with section 303(b) of the Tariff Act of 1930, as amended, you are hereby advised that a bounty or grant is being paid with respect to oleoresins imported from India and entered under TSUS item number 450.20, which merchandise from said country is accorded duty-free treatment.

Attached is a copy of the notice of "Final Countervailing Duty Determination" in this case which sets forth the bases of my decision. The U.S. Customs Service will make available to the U.S. International Trade Commission as promptly as possible its files on the instant bounties being paid or bestowed for the Commission's use in the investigation as to whether an industry in the United States is being, or likely to be, injured, or is prevented from being established by reason of the importation of this merchandise into the United States.

Because some of the data in this file is regarded by Customs to be of a confidential nature, it is requested that the Commission consider all information therein contained for the official use of the Commission only, and not to be disclosed to others without prior clearance from Customs.

Sincerely,


Robert H. Mundheim

The Honorable
Joseph O. Parker
Chairman, U.S. International
Trade Commission
Washington, D.C. 20436

Attachment

APPENDIX B

**U.S. International Trade Commission Notice
of investigation and hearing concerning investigation**

No. 303-TA-10

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[303-TA-10]

OLEORESINS FROM INDIA

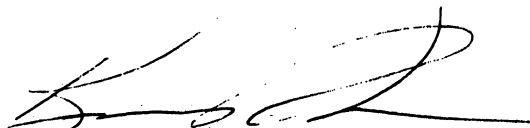
Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on April 4, 1979, that a bounty or grant is being paid with respect to oleoresins imported from India, entered under item 450.20 of the Tariff Schedules of the United States and accorded duty-free treatment, the United States International Trade Commission on April 13, 1979, instituted investigation No. 303-TA-10 under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the investigation will be held in the Commission's Hearing Room, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on Tuesday, May 22, 1979. All persons shall have the right to appear by counsel or in person, to present evidence and be heard. Requests to appear at the public hearing shall be filed with the Secretary of the Commission at his office in Washington, D.C. not later than noon, Thursday, May 17, 1979.

In addition to, or in lieu of, an appearance at the hearing, interested persons are requested to submit to the Commission, in writing, any information pertinent to whether an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation of oleoresins from India. Written statements should be addressed to the Secretary of the Commission at the Commission's office in Washington, D.C., and should be submitted not later than June 1, 1979.

By order of the Commission.



Kenneth R. Mason
Secretary

