

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 109th Congress¹**

[Date approved: July 26, 2005]²

Bill No. and sponsor: H.R. 1700 (Rep. Pascrell); 109th Congress.

Proponent name, location: Association of Food Industries, Inc.
3301 RT 66, Ste. 205, Bldg. C
Neptune, NJ 07753

Other bills on product (109th Congress only): H.R. 1698 (Rep. Pascrell).

Nature of bill: Temporary duty suspension through December 31, 2008.

Retroactive effect: None.

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

Capers, prepared or preserved by vinegar, in immediate containers each holding more than 3.4 kg (provided for in subheading 2001.90.10).

Check one: Same as that in bill as introduced
 Different from that in bill as introduced (explain differences in Technical comments section).

Product information, including uses/applications and source(s) of imports:

Capers are the unripened flower buds of *Capparis spinosa*, a prickly, perennial shrub-like plant. It measures about 3 feet tall and has small, green herb buds that are harvested by hand.³ Capers are used in a number of classic French sauces (rémoulade, ravigote, Tartare).⁴ Major world producing countries include Spain, France, Italy, Greece, Algeria, Egypt, Morocco, Tunisia, Cyprus, and Iran.⁵ Production data for these countries are not available. Areas with intensive caper cultivation include Spain (2,600 hectares) and Italy (1,000 hectares).

Total U.S. imports of capers, both dutiable and nondutiable, in 2004 under HTS subheading 2001.90.10 were about \$3.8 million.⁶ Turkey and Spain account for a significant share of imports, while other suppliers include Italy, Morocco, and Turkey. Some U.S. food processors repackage imported capers under a domestic private label. Information on U.S. caper growing and processing is not available. Caper

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

² A copy of this memorandum is available at www.usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

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

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

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

⁶ In 2003, total imports under subheading 2001.90.10 were \$4,629,287.

plants are grown in the United States for sale by retail nurseries, primarily for use in landscaping and as ornamental plants.⁷ Other limited information suggests that capers may be grown in small quantities as a food crop in northern California.⁸ The California Agriculture Statistics Service reports no documented commercial caper production.⁹

Estimated effect on customs revenue:

For this analysis, dutiable U.S. imports for 2005-2009 are projected assuming a simple linear trend from reported import values in recent years. The Commission’s estimates of the potential reduction in tariff revenue take into account likely shipments from countries eligible for special rates of duty; in doing so, it is assumed that all shipments reported as products of Morocco in recent years would become eligible for duty-free entry under the U.S.-Morocco Free Trade Agreement once it is implemented.¹⁰

HTS subheading: 2001.90.10					
	2005	2006	2007	2008	2009
Col. 1-General rate of duty (AVE) <u>1/</u>	8%	8%	8%	8%	8%
Estimated value <i>dutiable</i> imports <u>2/</u>	\$1,398,000	\$1,467,900	\$1,541,000	\$1,618,400	\$1,700,000
Customs revenue loss <u>3/</u>	\$111,840	\$117,432	\$123,280	\$129,472	\$136,000

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

The table lists the industry representatives contacted by the Commission and the submissions received in 2004, in response to similar bills of the 108th Congress. (See H.R. 5017 and H.R. 5018 (108th Congress, Rep. Pascrell) available at the Commission’s website.¹¹) All submissions received by the Commission are attached in the appendices to this report.

⁷ Telephone interview with Randy Baldwin at San Marcos Growers in Santa Barbara, CA, on Sept. 28, 2004, and also Bill Nelson at Pacific Tree Farms in Chula Vista, CA, on Sept. 30, 2004.

⁸ Ibid.

⁹ Telephone interview with Bill Grigg, California League of Food Processors, based on information obtained from staff at the California Agriculture Statistics Service.

¹⁰ Moroccan imports have been declining but were entered with payment of the general duty rate. In 2003, Morocco accounted for just \$10,000 of dutiable U.S. imports, and in 2004 for only \$2,000 of such imports, under HTS subheading 2001.90.10 and no shipments under the GSP program.

¹¹ Access to electronic copies of these memos is available at http://www.usitc.gov/tata/hts/other/rel_doc/bill_reports/108c.htm.

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?
			(Yes/No)	
Steve Hofmann, Sandler, Travis & Rosenberg, 1300 Pennsylvania Ave., Ste 400, Washington, DC 20004, Ph: 202-216-9307 Representing: Association of Food Industries, Inc., 301 RT 66, Ste. 205, Bldg. C, Neptune, NJ 07753, Ph: 732-922-3008	9/28/2004	No	Yes	No
Barbara Harloe, World Finer Foods, Inc., 300 Broadacres Dr., Bloomfield, NJ 07003, Ph: 973-338-0300 ext. 129	10/20/2004	No	Yes	No
Randy Baldwin, San Marcos Growers, 125 S. San Marcos Rd., Santa Barbara, CA 93111, Ph: 805-683-1561	9/28/2004	No	No	No
Bill Nelson, Pacific Tree Farms, 4301 Lynwood Dr., Chula Vista, CA 91910, Ph: 619-422-2400.	9/30/2004	No	No	No
Bill Grigg, California League of Food Processors, 980 9 th St., Ste 230, Sacramento, CA 95814, Ph: 916-444-9260	9/29/2004	No	No	No
Gary Nelson, California Ag Statistics Service, 650 Capitol Mall, Sacramento, CA 95814, Sacramento, CA 95812, Ph: (916) 498-5161	9/29/2004	No	No	No

Technical comments:¹²

It is suggested that the article description be amended as shown on page one. Inserting “immediate” in the article description before the word “containers” would track exactly the language of the permanent tariff provision applicable to the subject goods, and adding the word “each” is a clarification that appears in many tariff descriptions. Omitting the reference to acetic acid would accord with Food and Drug regulations that do not allow acetic acid to be used on products for consumption as food.

¹² The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

109TH CONGRESS
1ST SESSION

H. R. 1700

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2005

Mr. PASCRELL introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CERTAIN CAPERS.**

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

“	9902.20.03	Capers, prepared or pre- served by vinegar or acetic acid, in containers holding more than 3.4 kg (provided for in subheading 2001.90.10)	Free	No change	No change	On or before 12/31/2008	”.
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1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) applies to articles entered, or withdrawn
3 from warehouse for consumption, on or after the 15th day
4 after the date of the enactment of this Act.

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