

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

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

[Date approved: September 28, 2006]²

Bill No. and sponsor: S. 3610 (Mr. Robert Menendez of New Jersey).

Proponent name, location: Association of Food Industries, Inc., Neptune, NJ.

Other bills on product (109th Congress only): None.

Nature of bill: Temporary duty suspension through December 31, 2009.

Retroactive effect: None

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

Giardiniera (mixtures containing peppers, cauliflower, carrots, pickles, celery or other vegetables), prepared or preserved otherwise than by vinegar or acetic acid, not frozen (provided for in subheading 2005.90.97).

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

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

Giardiniera is a mixture of vegetables, including but not limited to peppers, cauliflower, carrots, pickles, and celery, typically prepared or preserved in vegetable oil, vinegar, or acetic acid. It is used as a canned vegetable side dish and on salad bars. Most canned giardiniera imports are reported to be in institutional-size containers that are used principally in the institutional and food-service trade. Canned giardiniera is imported principally from Italy, Spain, and Greece.

¹ Industry analyst preparing report: Tim McCarty (202-205-3324); Tariff Affairs contact: Jan Summers (202-205-2605).

² Access to an electronic copy of this memorandum is available at http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

Estimated effect on customs revenue:

HTS subheading: <u>2005.90.97</u>					
	2006	2007	2008	2009	2010
Col. 1-General rate of duty	11.2%	11.2%	11.2%	11.2%	11.2%
Estimated value <i>dutiable</i> imports ^{1/}	453,270	466,868	480,874	495,300	510,158
Customs revenue loss	\$50,766	\$52,289	\$53,858	\$55,474	\$57,138

^{1/} These figures are estimated dutiable values; they were calculated by adding together the dutiable import values for all products entered under this subheading from Italy, Spain, and Greece in 2005, then taking a 10-percent share of the collective values as representative of imports of giardiniera only in 2005. Projections were made for a 3-percent rise each year above the previous year's total. Source of estimated dutiable import data: Commission estimates based on official U.S. Government statistics for 2005.

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

Name of firm/organization	Date contacted	Claim US makes same or competing product(s)?	Submission attached?	Opposition noted?
			(Yes/No)	
Association of Food Industries (Proponent) Bob Bauer, 732-922-3008	08/21/2006	No	No	No
Schreiber Foods International Howard Schreiber, 201-327-3535	08/11/2006	No	No	No

Technical comments:³

It is suggested that the proposed article description be modified as shown on page 1 of this report, to be more consistent with normal tariff drafting practices. We note that vegetables prepared or preserved by vinegar or acetic acid fall under HTS heading 2001; we base the proposed description on available information from industry and Customs officials.⁴ We also note that, if any single vegetable predominates by weight in an imported vegetable mixture over the aggregate weight of all other vegetables, that single vegetable would likely determine classification of the mixture; if that single vegetable is named in another subheading of heading 2005, the mixture would probably be classifiable in that provision.

³ 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.

⁴ U.S. Customs and Border Protection National Import Specialist Stanley Hopard, 646-733-3029.

109TH CONGRESS
2^D SESSION

S. 3610

To suspend temporarily the duty on certain Giardiniera prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5 percent.

IN THE SENATE OF THE UNITED STATES

JUNE 29, 2006

Mr. MENENDEZ introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To suspend temporarily the duty on certain Giardiniera prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5 percent.

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 GIARDINIERA PREPARED OR PRE-**
4 **SERVED OTHERWISE THAN BY VINEGAR OR**
5 **ACETIC ACID IN CONCENTRATIONS LESS**
6 **THAN 0.5 PERCENT.**

7 (a) IN GENERAL.—Subchapter II of chapter 99 of
8 the Harmonized Tariff Schedule of the United States is

1 amended by inserting in numerical sequence the following
 2 new heading:

“ 9902.10.30	Giardiniera, containing red peppers and chili peppers, prepared or preserved otherwise than by vinegar, not frozen (provided for in subheading 2005.90.97)	Free	No change	No change	On or before 12/31/2009	”.
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3 (b) **EFFECTIVE DATE.**—The amendment made by
 4 subsection (a) applies to goods entered, or withdrawn from
 5 warehouse for consumption, on or after the 15th day after
 6 the date of the enactment of this Act.

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