BOTTLED GREEN OLIVES FROM SPAIN

Determination of the Commission in Investigation No. 104-TAA-22 Under Section 104(b) of the Trade Agreements Act of 1979, Together With the Information Obtained in the Investigation

USITC PUBLICATION 1531

MAY 1984

United States International Trade Commission / Washington, D.C. 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Alfred E. Eckes, Chairman

Paula Stern

Veronica A. Haggart

Seeley G. Lodwick

Susan W. Liebeler

David B. Rohr

Kenneth R. Mason, Secretary to the Commission

This report was prepared by--

Lowell Grant, Commodity-Industry Analyst
Alvin Macomber, Commodity-Industry Analyst
Jerry Tempalski, Economist
Marvin Claywell, Accountant
Frank Schuchat, Attorney
Lynn Featherstone, Supervisory Investigator

Address all communications to
Office of the Secretary
United States International Trade Commission
Washington, D.C. 20436

C O N T E N T S

CONTENTS

Tables

Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. Deletions are indicated by astericks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 104-TAA-22

BOTTLED GREEN OLIVES FROM SPAIN

Determination

On the basis of the record 1/ developed in investigation No. 104-TAA-22, the Commission determines, 2/ pursuant to section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. § 1671 note), that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports from Spain of bottled green olives, provided for in items 148.44, 148.48, and 148.50 of the Tariff Schedules of the United States, if the countervailing duty order covering those imports were to be revoked.

Background

The outstanding countervailing duty order on imports of bottled green olives from Spain was issued on September 12, 1974, 3/ as a result of an investigation that was conducted by the Department of the Treasury in response to a petition filed by the Green Olive Trade Association.

On April 23, 1982, the Government of Spain requested that the Commission review the outstanding order, pursuant to section 104(b)(1) of the act, to determine whether an industry in the United States would be materially injured or threatened with material injury, or whether the establishment of an industry in the United States would be materially retarded, by reason of

1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).
2/ Commissioners Haggart and Liebeler did not participate.
3/ The order was published as Treasury Decision 74-234 (39 F.R. 32904).

imports of bottled green olives from Spain if the outstanding countervailing duty order applicable to such olives were to be revoked. Accordingly, on January 19, 1984, the Commission instituted investigation No. 104-TAA-22.

Notice of the institution of the Commission's investigation and of a public hearing 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, D.C., and by publishing the notice in the Federal Register on January 25, 1984 (49 F.R. 3147). The hearing was held in Washington, D.C., on April 9, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission voted on this investigation in public session on May 8, 1984.

VIEWS OF THE COMMISSION 1/

We determine that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of an industry be materially retarded, by reason of imports of bottled green olives from Spain if the countervailing duty covering such imports were revoked.

A Commission determination under section 104 of the Trade Agreements Act of 1979 is prospective in nature. 2/ Under section 104, the Commission must predict the likely impact that imports covered by a countervailing duty order would have on the domestic industry if the order were to be revoked. In making this prospective analysis, it is necessary to consider, among other factors, the past and present performance of the domestic industry, and the conditions of competition in the relevant markets including the trend of imports while the order was in place.

Domestic industry and like product

The statute defines the term domestic 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 domestic production of that product." 3/ Like product is defined as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation." 4/

1/ Commissioner Haggart did not participate. Commissioner Liebeler had not joined the Commission by the date of the hearing and did not vote in this case.
2/ 19 U.S.C. § 1671 note.
3/ 19 U.S.C. § 1677(4)(A).
4/ 19 U.S.C. § 1677(10).

The imported merchandise which is the subject of the CVD order is bottled green olives. 5/ Olives imported in bulk are not covered by the order. Based on the information developed during this investigation, it is clear that Spanish-style green olives imported in bulk containers and domestic bottled green olives are different products. Until bulk olives are further reprocessed and repacked, whether in Spain or in the United States, they are not ready for retail sale or for human consumption and hence are not ready for sale to retailers or consumers. Imports of bottled green olives, however, are ready for immediate and direct competition with domestic bottled green olives. Since the like product is defined in terms of the imported merchandise, and the relevant imported merchandise is bottled green olives only, we consider the like product to be bottled green olives.

Domestic reprocessors and repackers obtain green olives in bulk containers almost exclusively from Spain, but to a minor extent from domestic olive producers located in California. 6/ The Spanish producers and exporters assert that domestic reprocessors and repackers are not an "industry" for purposes of the statute. We find, however, that the operations of domestic reprocessors do constitute a domestic industry for the following reasons: (1) the domestically added glass bottle is a major component of bottled green olives, and (2) the domestic processing activity is substantial.

First, the appearance of the olives within the glass bottle is an integral part of what a consumer purchases. The function of the bottle is not

---

5/ T.D. 74-234, reprinted in Report, Appendix D at A-44. See Transcript at 45.

6/ Report at A-16. Nearly all of the olives grown in the U.S. are processed into California-style black olives. Report at A-7. Domestically grown shipments of Spanish-style green olives were only 11-12 percent of U.S. consumption from 1981 to 1983. In recent years between four and 16 percent of the U.S. crop has been committed to Spanish-style olives. Report at A-14.

merely to act as a container or package, but is an essential part of this product. As conceded by counsel for the Spanish producers and importers, bottled green olives are an "impulse" purchase, and the consumer's decision to buy the product is "due primarily to their attractive unblemished red and green appearance which is readily visible through their attractive glass containers." 7/

Second, the domestic producer's operations can be distinguished from those of an importer by the extent of its production-related activity, consistent with past Commission investigations under other statutory provisions. 8/ 9/

Green olives in bulk containers are obtained by domestic reprocessors and repackers, almost exclusively from Spain, and by producers located in California, mostly from domestically grown olives. 10/ The olives are not ready for consumption at this stage. 11/ The olives arrive at the repacking

---

7/ Prehearing Brief of The Spanish Table Olive Exporters' Association, et al. at 13.

8/ When addressing the question of the nature and extent of domestic production-related activity and whether certain producers are part of a domestic industry, the Commission considers the context of the specific industry involved. The question is one of fact to be determined on a case-by-case basis. See Certain Radio Paging and Alerting Receiving Devices From Japan, Inv. No. 731-TA-102 (final), USITC Pub. 1410 (August 1983) at 10, n. 32; Heavyweight Motorcycles, and Engines and Power Train Subassemblies Therefor, Inv. No. TA-201-47, USITC Pub. 1342 (1983); Certain Cube Puzzles, Inv. No. 337-TA-112, USITC Pub. 1334 (1983).

9/ Commissioner Stern notes that the criteria enunciated by the Commission on the issue of the domestic industry under different statutory provisions are not necessarily controlling in the instant case under Section 104. Nevertheless, the finding that a domestic industry exists in this investigation is not inconsistent with her dissent based on this issue in Certain Cube Puzzles, supra. In that case, complainant's domestic operations consisted only of advertising, quality control, and packaging. However, in contrast to this case, where packaging is an integral, necessary part of the production process "such as placing liquids in containers," no significant value was added to the cube puzzles in the packaging process. See p. 4, Views of Commissioner Stern.

10/ Report at A-14-15.

11/ Transcript at 16.

facility in drums in a curing brine. The olives are first washed thoroughly to obtain purity. 12/ They are then inspected. Those olives with blemishes or which have been broken are sorted out. The remaining olives which meet inspection standards are readied for final repacking. The repacker prepares a clear brine solution (different from the curing brine) in which the olives will be packed. The olives and brine are then packed in various sized consumer jars.

In the case of imports of green olives in bulk, the domestic reprocessor and repacker must insure that all of the olives are thoroughly cleansed of the curing brine and inspected and sorted before being put into bottles. This is substantially more than any importer of bottled green olives must do. Repacking involves productive activities which add to the value of the bulk olives which are imported. According to counsel for the domestic reprocessors and repackers, the value added to the product in the United States is approximately 52.6 percent of the cost of the domestically bottled product. 13/

Thus, it is our view that a domestic industry exists consisting of the producers of bottled green olives.

The Spanish Table Olive Exporter's Association has suggested that in the circumstances of this case, application of the related parties provision of Title VII would appear to be particularly applicable. In this case, we believe it would impair our analysis if we excluded the data of those reprocessors and repackers who also import bottled green olives. 14/

12/ Transcript at 12.
13/ Prehearing Brief at Green Olive Trade Association, Exhibit 2.
14/ The statute gives the Commission discretion to determine when it is appropriate to exclude related parties. In the Senate Report on the Trade Agreements Act, the example posited for use of the provision is the case "where a U.S. producer is related to a foreign exporter and the foreign exporter directs his exports to the United States so as not to compete with his related U.S. producer." S. Rep. No. 279, 96th Cong. 1st Sess. at 83 (1979).

Condition of the industry

Usable data on the current condition of the domestic bottled green olive industry was not extensive in this investigation. The Commission found seven domestic firms processing domestic olives into bottled green olives, 15/ and about 60 firms that repack imported bulk olives in the United States. 16/ The original petitioner in 1973, the Green Olive Trade Association previously represented most of the olive importer-repackers, but now represents only two firms. 17/ Many of the larger importer-repackers have established operations in Spain which enable them to import olives in bulk or in bottles. 18/

Apparent consumption of bottled green olives increased annually from 87 million pounds in 1979 to 102 million pounds in 1983. 19/ Domestic shipments decreased from 46.3 million pounds in 1979 to 40.5 million pounds in 1981 before rising to 42.8 million pounds in 1983. 20/ Imports of bottled green olives from Spain have accounted for an increasing share of the domestic market, growing from 47 percent in 1979 to 58 percent in 1983. 21/ This occurred despite the existence of the outstanding order.

Usable data on capacity, capacity utilization, production, employment, and on many key income statement items was not forthcoming from most of the firms of the domestic industry. 22/ Financial data provided by seven firms are distorted by sales and profits from non-olive related operations of some of the firms. Available financial data on only the green olive operations

15/ Report at A-8.
16/ Report at A-8-9.
17/ Report at A-9.
18/ Report at A-8-9.
19/ Report at A-11.
20/ Id.
21/ Id.
22/ Report at A-22.

of some firms are not sufficient to be considered representative of the domestic industry. Therefore, due to the inconclusive nature of the data on the condition of the bottled green olive industry, our determination is based upon the analysis which follows on the likely effect of the removal of the order.

Likely effect of revocation of CVD order

Lacking representative data on the condition of the domestic industry, we have approached the question of the likely impact of the removal of the countervailing duty order by looking at conditions of competition in the bottled green olive market.

One of the major factors of competition is the price at which Spanish olives in bulk are sold for export to the United States. Over the last year, the high selling price has exceeded the low selling price by 36 percent for one olive type and by 57 percent for another type. 23/ These fluctuations make the timing of the buying decision an extremely important factor in the price of the olives; far more important than the existence of a 1.64 percent CVD deposit rate.

Secondly, the major importer-repackers have established operations in Spain to enable them to take advantage of timing, supply, and exchange rate variations in determining whether to import green olives in bulk, in bottles, or in some of each. Of the top three importers of bulk green olives from Spain which, combined, account for 38 percent of all such imports, two have operations in Spain enabling them to switch from bulk to bottled olive imports. 24/ The third is a broker who does not repack the olives.

23/ ACEMESA Post-Hearing Brief at 6.
24/ Report at A-8-9.

One of the two members of the association representing the domestic industry also imports bottled green olives from Spain. 25/

Third, because green olives are packed in glass, which is relatively heavy, transportation costs are very important. 26/ The domestic industry claimed that there is a natural freight advantage to importing bulk green olives from Spain for domestic processing and repacking versus bottled green olives, where the importer is paying freight on bottles as well as olives. The Commission was supplied estimates of comparative costs for U.S.-bottled and Spanish-bottled green olives sold in U.S. markets. 27/ The freight advantage of U.S. importer-repackers was conceded by the importers, but was claimed to be overcome by import advantages in labor, overhead, and material costs. 28/

Information obtained by the Commission on prices of bottled green olives in the U.S. market revealed consistent overselling of domestically produced olives by imports in large (88 ounce) glass bottles and consistent underselling in small (7 ounce) glass bottles. Furthermore, the margins of overselling by importers (averaging 12 percent on the 88 ounce bottles) and underselling (averaging 8 percent on the 7 ounce bottle) significantly exceeded the existing CVD deposit rate, indicating that removal of the existing CVD order would have little apparent effect on the pricing behavior and future import levels of bottled green olives from Spain.

25/ Report at A-23.
26/ Report at A-24.
27/ Report at A-30.
28/ A natural conclusion from the arguments of the domestic industry would be that, because of their freight advantage in importing in bulk, the domestic producers' price of smaller bottles of olives should be quite competitive versus the imported smaller bottles, and the domestic producers' price of large bottles would be less competitive versus imports.

In examining the likely impact of the imports upon removal of the countervailing duty order, the Commission usually considers the amount of the duty, its recent trend, and whether or not the subsidy countervailed is being phased out. 29/ In the instant case, the duty rate has decreased from 2.84 percent in 1979 to a 1.64 percent cash deposit rate effective November 9, 1983. 30/ The current cash deposit rate relates to an operating capital loan program which is currently being phased out. 31/

Based on an analysis of the factors of competition and trends of the existing countervailing duty rate, we conclude that removal of the existing CVD order would provide an insignificant economic advantage to importers of bottled green olives from Spain and that a significant portion of the domestic industry producing bottled green olives also imports bottled green olives from Spain. We therefore determine that the domestic industry producing bottled green olives would not be materially injured nor threatened with material injury by imports covered by the countervailing duty order should the order be revoked.

29/ See, the unanimous negative determination in Unprocessed Float Glass from Belgium and Italy, Inv. Nos. 104-TAA-11 and 12 (USITC Pub. 1344) (February 1983) at 8-9 and 11-13, Galvanized Fabricated Structural Steel Units from Italy, Inv. No. 104-TAA-4 (USITC Pub. 1204) (December 1981) (Views of Chairman Alberger and Commissioners Calhoun, Stern, and Eckes) at 6-7, Barley from France, Inv. No. 104-TAA-6 (USITC Pub. 1227) (March 1982) (Views of Chairman Alberger and Commissioners Calhoun, Stern, and Eckes) at 5, and Certain Spirits from Ireland, Inv. No. 104-TAA-3 (USITC Pub. 1165) (July 1981) (Views of Chairman Alberger and Commissioners Bedell and Stern) at 8.
30/ Report at A-5-6.
31/ Report at A-7.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On April 23, 1982, the United States International Trade Commission received a request 1/ from the Government of Spain for an investigation under section 104(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 1671) to determine whether an industry in the United States would be materially injured or threatened with material injury, or the establishment of an industry would be materially retarded by reason of imports of bottled green olives from Spain if the outstanding countervailing duty order applicable to such olives were to be revoked. 2/ Accordingly, on January 19, 1984, the Commission instituted investigation No. 104-TAA-22, Bottled Green Olives from Spain.

Notice of the institution of the Commission's investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of January 25, 1984 (49 F.R. 3147). 3/ A public hearing in connection with the investigation was held on April 9, 1984. 4/

The countervailing duty order of concern in this investigation evolved from a petition filed with the U.S. Treasury Department by the Green Olive Trade Association 5/ in 1973 alleging that the Government of Spain provided subsidies to manufacturers and/or exporters of bottled green olives. The Treasury Department announced in the Federal Register of July 6, 1974 (39 F.R. 26046), that it was investigating the allegations (under sec. 303 of the Tariff Act of 1930). On September 12, 1974, the Treasury Department published Treasury Decision 74-234 in the Federal Register (39 F.R. 32904) giving notice

---

1/ A copy of the letter requesting the investigation is presented in app. A.

2/ On Jan. 1, 1980, the Trade Agreements Act of 1979 (Public Law 96-39) became effective. That act provided, in sec. 104(b), that "In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 . . . which applies to merchandise which is the product of a country under the Agreement, and which is in effect on January 1, 1980, . . . the Commission, upon the request of the government of such a country . . . submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 (Jan. 1, 1980) shall . . . commence an investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked". The request from the Government of Spain was such a request. The act further provides in sec. 104(b) that the Commission shall issue its determination in regard to such investigation within 3 years following the receipt of a request from a government under the agreement.

3/ A copy of the Commission's notice of the investigation and scheduling of the hearing is presented in app. B.

4/ A list of witnesses appearing at the hearing is also presented in app. B.

5/ An association of importer-repackers.

of countervailing duties to be imposed by reason of the payment or bestowal of a bounty or grant upon the manufacture, production, or exportation of bottled green olives from Spain. Details of the net amount of the subsidy found and of subsequent reviews of the countervailing duty order are presented in the section of this report entitled "The Nature and Extent of the Subsidies."

Previous Commission Investigations on Olives

In response to a U.S. Senate resolution of October 17, 1966, the Commission completed an investigation under section 332 of the Tariff Act of 1930 with respect to the importation of olives into the United States, including (but not limited to) the conditions of competition in the United States between olives bottled or canned in the United States (whether or not grown in the United States) in containers suitable for retail sale and olives bottled or canned outside the United States and imported into the United States in containers suitable for retail sale. The report was sent to the Senate in March 1967 and showed, among other things, that an increasing share of U.S. imports of olives were being imported bottled. 1/ In response to a resolution of the U.S. Senate Committee on Finance of October 9, 1968, the Commission again instituted an investigation under section 332 (Investigation No. 332-57) to examine the effects of imported olives upon U.S. producers. The resolution directed, among other things, that the report include "the Commission's judgment regarding the actual and potential impact of imports of bottled or canned olives on the domestic growers, processors, packers, and repackers of olives." The investigation was suspended by the Commission at the request of the Committee on Finance in 1969 and never completed.

During 1980 and 1981, the Commission conducted investigations on eight of the nine items providing for olives in the Tariff Schedules of the United States (TSUS) to determine the probable economic effects of designating such TSUS items as eligible articles for purposes of the Generalized System of Preferences (GSP). 2/ As a result of these investigations and actions by the President, dried, not ripe olives (TSUS item 148.52) became an eligible article for purposes of the GSP; however, none of the articles subject to the countervailing duty order became eligible articles.

Description and Uses

Olives are the fruit of a subtropical, broad-leaved evergreen tree which has been cultivated extensively in the Mediterranean area for centuries. Olives mature on the tree in the fall season of the year but are harvested at various stages of maturity depending upon the intended use; as the fruit matures and darkens in color on the tree the oil content increases. Olives have two principal uses--they may be processed for food use, called table

---

1/ Olives, Report to the United States Senate on Investigation No. 332-51 under section 332 of the Tariff Act of 1930, TC Publication 200, March 1967.
2/ Reports to the President on Investigations Nos. TA-503(a)-6 and 332-107, and Investigations Nos. TA-503(a)-7 and 332-113.

olives, or they may be crushed for oil. In most olive-producing countries, the production of olives is used primarily for crushing into oil, whereas in the United States nearly all of the olive production is processed for table use. Table olives generally are prepared from fully developed but not ripe (immature) fruit, and ripe (mature) olives are used predominantly for expressing olive oil or preparing less common styles of table olives.

Olives are not consumed fresh because of their extreme bitterness. Processed olives for table use are consumed almost entirely as appetizers, condiments, or in salads or pizzas to add color and/or seasoning. Various consumers, often by ethnic group, prefer different styles (color and flavor) of olives. The differing styles depend primarily upon the type of processing undertaken and somewhat on the maturity of the fruit when harvested.

Green olives

Green, as used in the terminology of the Tariff Schedules of the United States, refers to the color of the olive when marketed and not to a degree of maturity. 1/ There are three styles of processed olives that are green, or predominantly green in color when marketed--Spanish-style, Sicilian-style, and California-style green ripe olives.

Manufacturing processes.--Spanish-style olives are processed from fully developed (but not ripe) fruit, which is green to straw yellow in color when harvested. The olives are first treated with a weak caustic solution of sodium or potassium hydroxide to remove most of the bitter flavor. After a series of rinses to wash away the caustic solution, the fruit is packed in casks, barrels, or vats, covered with salt brine, and fermented for a period extending from 2 to 12 months; the fruit is then ready for sale or packaging for sale. Spanish-style olives are always green in color when marketed. The great majority of Spanish-style olives are pitted, or pitted and stuffed with pimientos or other ingredients such as onions or almonds, before being marketed. The pitting, and in most cases the stuffing, of the olives are largely done by machine. Nearly all Spanish-style olives for retail or institutional sales are packed in glass bottles with a brine solution added.

Sicilian-style olives are processed from fully developed (but not ripe) olives. Such olives are prepared in a manner similar to Spanish-style olives, except that the treatment with a caustic solution is omitted in preparing Sicilian-style olives, resulting in a somewhat bitter flavor. Sicilian-style olives are green in color when marketed and may be packed in glass bottles. Sicilian-style olives generally are not stuffed and therefore are usually classified under TSUS item 148.44, but are of far less importance than Spanish-style olives that are also classified under this item.

California-style green ripe olives are prepared like California-style canned ripe olives (which are black in color), except that the aeration process used to darken (oxidize) the canned ripe olives is omitted, resulting

1/ Customs Appeals Decision in 1954, CAD 575.

in green-in-color, frequently mottled, olives which are canned in metal airtight containers. California-style olives, both green ripe and canned ripe (black) olives, are prepared from fully developed but not ripe fruit.

Types of products.--Bottled green olives, which are the subject of the countervailing duty order on olives from Spain, are green olives packed in glass containers, whether or not pitted, or pitted and stuffed, according to interpretations by the U.S. Customs Service. Virtually all of the Spanish-style olives imported in containers ready for sale to retail or institutional outlets are packed in glass. Pricing characteristics of individual packs vary by the size (volume) of the glass bottle, the shape of the bottle, the size of the olive, the form of the olive (whether whole, pitted, stuffed, sliced, or broken), and the type of packing (whether place-packed artistically in the bottle or thrown-packed). Because different olive varieties have clear differences in general characteristics, terms used in the trade for Spanish-style olives reflect these characteristics. Manzanilla is the name of an olive variety that generally produces smaller size olives; the term also may refer to Spanish-style olives of smaller sizes regardless of variety. Queens are Spanish-style olives of the larger sizes, typically produced from the Gordo variety. Packers carefully match olive size and container size to be complementary.

Black olives

Black olives prepared from fully developed but not ripe fruit, such as California-style canned olives and many Greek-style olives, obtain their coloring by oxidation during processing; they are frequently marketed as "ripe olives." Ripe olives in brine are prepared from olives that have been left on the tree to ripen until their flesh is soft, oily, and black. Few, if any, ripe olives are pitted or stuffed. They are processed in a brine solution for 8 months or more and the final product is a somewhat mushy, black olive having a wrinkled skin and a high oil content.

U.S. Tariff Treatment

Olives are provided for in subpart B, part 9, schedule 1, of the TSUS. The countervailing duty order applies to only bottled green olives (in brine), which are currently classifiable in TSUS items 148.44, 148.48, 1/ and 148.50. The rates of duty are 20 cents per gallon for TSUS item 148.44 and 30 cents per gallon for items 148.48 and 148.50. Item 148.44 provides for not ripe olives which are not pitted or stuffed; item 148.48 provides for ripe olives which are not pitted or stuffed; and item 148.50 provides for pitted or stuffed olives. 2/ The rates of duty applicable to these items are those orginally provided for in the Tariff Act of 1930; they apply to imports from all sources.

1/ TSUS item 148.48 is included in the U.S. Department of Commerce administrative review of the countervailing duty order. There are no known bottled green olives included in item 148.48.

2/ For the statutory descriptions, see excerpt from the Tariff Schedules of the United States Annotated (1984) in app. C.

The rate of duty applicable to olives in brine applies only to the olives and not to the brine. Accordingly, Customs officers are required to determine the number of gallons of olives exclusive of brine in each lot or entry of such merchandise in order to determine the dutiable quantity. The method currently in use is to determine the net drained weight of the olives in brine, which may be imported in barrels, casks, tins, jars, bottles, or other containers, and divide that by a standard pounds-per-gallon weight factor for the particular type of olive imported to arrive at the number of dutiable gallons. The number of pounds per gallon for olives in brine that is used by Customs to determine the dutiable quantity varies according to the country of origin and the type of olive imported, as shown in the following tabulation:

Country of origin and type of olive	Net pounds per drained gallon of olives
When from Spain or Portugal:	
If pitted	4.7
If whole, plain, or queen olives	5.7
If stuffed, broken, or sliced	6.0
When from Italy or Morocco:	
If pitted	5.7
If whole, or stuffed	6.0
When from Greece	6.5

Broken or sliced olives in brine are dutiable under the provisions for pitted or stuffed olives, TSUS item 148.50.

The Nature and Extent of the Subsidies

The first countervailing duty determination with respect to bottled green olives from Spain (Treasury Decision 74-234, 39 F.R. 32904) found the net amount of the subsidy to be 2.9 percent of the f.o.b. or ex-works price to the United States. The effective date of the countervailing duty was October 26, 1974. The U.S. Department of the Treasury declared a new countervailing duty rate of 1.14 percent of the f.o.b. or ex-works price effective June 10, 1978 (43 F.R. 25812). Effective January 17, 1979, Treasury declared the net amount of the subsidy to be 2.84 percent of the f.o.b. price to the United States (44 F.R. 3477). A copy of T.D. 74-234 and Treasury's notices of its declarations of the amounts of the Spanish bounties or grants is shown in appendix D.

The Department of Commerce has completed an administrative review of the countervailing duty order, resulting in the assessment of a countervailing duty of 2.70 percent of the f.o.b. invoice price on imports in 1980 and 2.44 percent of the f.o.b. invoice price on imports in 1981. 1/ Futhermore, effective November 9, 1983, a cash deposit of estimated countervailing duties applicable to imports of bottled green olives from Spain was set at 1.64 percent of the f.o.b. invoice price.

Thus, the amount of the subsidy has been found to have ranged from 2.90 percent to 1.14 percent, as follows:

Effective Date	Authority		Amount of subsidy (percent)
Oct. 26, 1974	T.D. 74-234		2.90
June 10, 1978	43 F.R. 25812		1.14
Jan. 17, 1979	44 F.R. 3477		2.84
Jan. 1-Dec. 31, 1980	48 F.R. 51501		2.70
Jan. 1-Dec. 31, 1981	48 F.R. 51501		2.44
Nov. 9, 1983	48 F.R. 51501	1/	1.64

1/ Cash deposit of estimated countervailing duties.

The Department of Commerce's administrative review of the countervailing duty order on bottled green olives from Spain covered the period January 1, 1980, through December 31, 1981. The review concentrated on three alleged Spanish subsidy programs: (1) A rebate upon exportation of indirect taxes, (2) an operating loans program, and (3) a minimum export price program. Details of these programs follow.

Rebate of indirect taxes

Spain uses a cascading tax system under which the Government levies a turnover tax on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation, the Spanish Government rebates all of the indirect taxes paid and certain final-stage taxes. The Department of Commerce regulations allow the rebate of only those taxes which are borne by inputs which are physically incorporated in the exported product. The Commerce examination concluded that in 1980 an overrebate (i.e., a subsidy) existed in an amount equal to 2.25 percent of the f.o.b. invoice price. Beginning January 1, 1981, Commerce found that the Spanish Government increased the turnover tax rate and

1/ Sec. 751 of the Tariff Act of 1930 (added by sec. 101 of the Trade Agreements Act of 1979) requires the Department of Commerce to make periodic reviews of net subsidy determinations for outstanding countervailing duty orders; the review for 1980 and 1981 is the first such review covering bottled green olives from Spain. Copies of the Commerce notice of preliminary results of administrative review of countervailing duty order (48 F.R. 34997) and the notice of final results of administrative review of countervailing duty order (48 F.R. 51501) are shown in app. E.

maintained the previous export rebate rate so that the net subsidy during 1981 attributable to tax rebates was zero percent.

Operating capital loans

The Spanish Government requires banks to set aside funds for short-term operating loans for designated classes of businesses. In 1980, the Government fixed the interest rates for such loans at a level below the legally established commercial rate. Commerce found that for 1980 the net subsidy under the program was equivalent to 0.45 percent ad valorem of the f.o.b. invoice price of exported bottled green olives. On March 1, 1981, the Spanish Government increased the interest rate on the short-term operating loans and eliminated the interest rate ceiling on commercial loans. Commerce found that for 1981 the net subsidy was 2.44 percent ad valorem of the f.o.b. invoice price; and an estimated 1.64 percent ad valorem since 1981. The operating capital loans program is being phased out.

Minimum export prices

The Spanish Government imposed a program of minimum export prices on bottled and bulk olives on November 1, 1979. The program ended December 31, 1980. The Department of Commerce did not find the minimum export pricing system to be a countervailable subsidy.

U.S. Market Environment

Olives are grown in the United States (virtually all in California) and processed into the various styles of prepared olives; however, nearly all of the U.S. output of olives is processed into California-style olives. Olives are imported into the United States, both in bulk containers (for repackaging here) and in retail or institutional-size containers; nearly all imported olives are Spanish-style, although various other styles are also imported.

U.S. repackers supplied virtually the entire U.S. retail and institutional market for Spanish-style olives prior to the mid-1960's. The repackers claim that they developed the glass jars and the U.S. market for Spanish-style bottled green olives, and that the Spanish have copied them. The repackers claim that they are domestic producers, providing more than a mere service, because the olives that they import in bulk are not in a condition suitable for immediate consumption and are processed and graded by them as well as packaged into consumer containers (transcript pp. 16 and 17). Domestic olive processors also produce bottled Spanish-style olives, but they say that they can not compete with the low-cost foreign olives effectively enough to increase their share of the market for the Spanish-style olive. Spanish exporters of Spanish-style green olives say that their olives are hand harvested and carefully handled so that the finished fruit has no blemishes and that because of soil and climate conditions in Spain their olives have a unique flavor preferred by consumers. They say that California-style olives are oxidized, turning them black, thus obscuring blemishes and eliminating the need for careful handling by California growers and processors. Repackers and importers of bottled Spanish-style olives claim that there is insufficient U.S. production of fresh olives to supply the U.S. market for Spanish-style olives. The Spanish exporters of bottled olives claimed that "the great bulk-bottled olive war of the late 60's and early 70's has been over for a decade now" (hearing testimony, conclusion, p. 17), thus the countervailing duty should be revoked as a matter of principal.

Processors of domestically grown olives

In California, 13 firms produce the total U.S. output of processed olives from domestically grown fruit, according to available information. 1/ During 1981-83, seven firms processed Spanish-style green olives. There were also seven firms that processed California-style black olives (the principal product of California olive processors), six of whom processed Spanish-style green olives. The larger firms in overall olive operations include two that are grower cooperatives, and another that is a multinational corporation with olive facilities in Spain; these three firms account for nearly * * * of the Spanish-style olive production. Of the other four Spanish-style processors, one processed Spanish-style olives exclusively. Five of the six firms that did not produce Spanish-style olives, all relatively small firms, produced primarily specialty olives such as Sicilian-style, Greek-style, or tree-ripened canned olives.

Domestic processors or handlers of California-style olives must meet size and grade requirements and other marketing policy regulations established by the California Olive Administrative Committee under the Federal marketing order for olives. 2/ Imports of olives, other than Spanish-style green olives, are subject to regulations under the marketing order. 3/ Olives "imported in bulk form and used in the production of any canned ripe olives are subject to" the applicable requirements of the marketing order as are the imported packaged canned ripe olives.

Repackers of imported bulk green olives

Importer-repackers receive olives in bulk containers, process them (wash, sort, and add brine to them), and package them in retail and institutional-size containers. 4/ About 60 firms repack imported bulk olives in the United States. Such firms tend to be concentrated in metropolitan areas, and there is usually one or more repackers located near most major U.S. population

---

1/ The Commission sent processor questionnaires to 13 firms in California; responses have been received from 9 firms and telephone followup calls were conducted with the other 4 firms.

2/ The Federal marketing order for olives is under authority of the Agricultural Marketing Agreement Act of 1937, as amended, 7 CFR 932.

3/ 7 CFR 944.401.

4/ Transcript of hearing pp. 16 and 17.

centers. Most of the firms also engage in processing or packing other products such as maraschino cherries or pickled articles, but olives are a major item for most olive repackers.

Spanish exports of bottled and bulk green olives are reported by export company and by customer in the Spanish publication Informaciones y Estadicas sobre la Aceituna. In 1983, this publication reported 60 U.S. importers of Spanish olives in bulk and the quantities exported to each firm. The largest volume importer, Tee Pee Olives, Inc., accounted for 16 percent of total U.S. imports of bulk olives in 1983; Tee Pee Olives, Inc., has a Spanish production affiliate which exports both bulk and bottled olives. The second leading importer listed is Kiwi Trading Co., accounting for 13 percent of total U.S. imports of bulk olives in 1983. Kiwi Trading Co. is a broker and does not repack olives. The third leading importer of bulk olives (Holsum Foods) has two repacking plants and accounted for 9 percent of total U.S. imports of bulk olives in 1983; this firm maintains a purchasing office in Spain and switches back and forth between bulk and bottled olive purchases depending on which is least costly. 1/ The fourth leading importer of bulk olives in 1983 was James P. Smith & Co., accounting for 5 percent of total U.S. imports of bulk olives; that firm has been in the olive repacking business for 153 years and is not affiliated financially with any firm in Spain. Its purchases of bulk olives are generally made through brokers. In 1983, 55 percent of the U.S. bulk-olive imports were accounted for by the eight largest volume importer-repackers, including the three repackers named above. The largest volume firms include firms whose only business is olive repacking, multiproduct food distributors, and chainstores.

The Green Olive Trade Association, the original petitioner regarding the countervailing duty on bottled green olives, previously represented most of the olive importer-repackers. Currently, the association has only two members, which together accounted for 6 percent of U.S. imports of bulk olives in 1983. 2/

Importers of bottled green olives

Bottled olives from Spain were imported by 84 firms during 1983. 3/ The largest volume importer (Durkee Famous Foods) accounted for 32 percent of the imports (on the basis of gross weight); that firm has production facilities in Spain. The next six leaders in terms of volume (the largest of which accounted for 10 percent of the imports) together accounted for 42 percent of such imports. Thus, the seven leading importers accounted for 74 percent of total U.S. imports of bottled green olives in 1983. Each of these firms is affiliated with Spanish production facilities. The eight and ninth largest importers (in terms of volume) are not affiliated with Spanish production facilities; together they accounted for 7 percent of U.S. imports of bottled olives in 1983.

1/ Telephone conversation between L. Grant of the Commission staff and Dave Katzuva of Holsum Foods on Mar. 5, 1984.

2/ The members are the James P. Smith & Co. and the L & S Packing Co.

3/ Based on Informaciones y Estadisticas Sobre la Aceituna.

Apparent U.S. consumption of bottled green olives

Virtually all bottled green olives consumed in the United States are Spanish-style olives. U.S. consumers of Spanish-style green olives seldom ever substitute other styles of green olives for them. Spanish-style green olives have a relatively broad market throughout the United States, for uses in salads, pizzas, luncheon meats, snacks, relishes, and similiar purposes. Nearly all Spanish-style green olives for retail and institutional consumers are packed in glass containers. 1/

Sicilian-style green olives are used mostly in salads by an ethnic group of consumers for the unique flavor characteristics of such olives. Industry sources indicate that only a very small percentage of the Sicilian-style olives are packed in glass containers. 2/ California-style canned ripe green olives have a flavor very similar to California-style canned ripe black olives, and because of the flavor differences between California-style and Spanish-style, the California-style green olives do not substitute for most of the uses for which consumers purchase Spanish-style green olives. California-style ripe green olives are seldom, if ever, packed in glass containers.

During 1979-83, the apparent U.S. consumption of Spanish-style bottled green olives increased from 87 million pounds (drained weight) in 1979 to 102 million pounds in 1983, or by 17 percent (table 1). The ratio of imports entered in bottles to apparent consumption of bottled green olives increased from 47 percent in 1979 to 58 percent in 1983. Similarly, the ratio of imports entered in bottles to the combined imports of green olives packed in the United States in bottles plus those entered in bottles rose from 54 percent in 1979 to 66 percent in 1983.

Virtually all of the growth in consumption has been accounted for by increased imports of Spanish-style green olives in bottles. In 1983, about 58 percent of the U.S. consumption of bottled green olives consisted of imports in bottles, 30 percent was of olives imported in bulk and domestically packed in bottles, and 12 percent was from domestically grown olives processed into Spanish-style bottled olives.

1/ * * * of U.S.-grown olives, * * *, is known to pack Spanish-style olives in retail-size metal cans; the volume of such output is less than * * * percent of the apparent U.S. consumption of bottled green olives. Also, it is believed that some quantities of Spanish-style green olives shipped to industrial users may be in containers other than glass bottles--the quantity is not known.

2/ Statement of * * *, a domestic processor of Sicilian-style olives from U.S. grown fruit, to Mr. Alvin Macomber of the Commission staff on Apr. 5, 1984, indicated that 99 percent of the Sicilian-style olives are sold in plastic buckets. The attorney representing the Spanish exporters of green olives indicated that he knew of no Sicilian-style bottled green olives exported from Spain to the United States.

Table 1.--Spanish-style bottled green olives: 1/ Estimated U.S. shipments from domestically grown olives, shipments from olives imported in bulk and domestically packed in bottles, imports for consumption of olives entered in bottles, and apparent U.S. consumption of bottled green olives, 1979-83 2/

Year	Estimated U.S. shipments from domestically grown olives 3/	Estimated U.S. shipments from olives imported in bulk and domestically packed in bottles 4/	Estimated U.S. imports for consumption of olives entered in bottles 4/	Apparent U.S. consumption of bottled green olives 5/	Ratio of imports entered in bottles to-- Combined imports of green olives domestically packed in bottles and those entered in bottles	Ratio of imports entered in bottles to-- Apparent U.S. consumption of bottled green olives
	1,000 pounds, net drained weight				percent	
1979	6/ 12,000	34,269	40,677	86,946	54	47
1980	6/ 12,000	33,490	43,087	88,577	56	49
1981	9,208	31,320	45,527	86,055	59	53
1982	14,636	27,692	51,821	94,149	65	55
1983	12,481	30,315	59,263	102,059	66	58

1/ Spanish-style olives account for virtually all of bottled green olives consumed in the United States. These data do not include Sicilian-style or other types of bottled green olives, as such types are not known to be imported from Spain.

2/ The basic data and computations used in preparing the estimates of production and imports are detailed in app. F.

3/ Based on Commission's questionnaire responses to production and inventory questions from 7 firms.

4/ Based on U.S. imports from Spain under TSUS items 148.44 and 148.50; during 1979-83, Spain accounted for 95 percent of the imports under these TSUS items.

5/ Includes U.S. exports of bottled green olives, which are negligible.

6/ Not reported; data are the annual average of the estimated shipments during 1981-83. California olives destined for processing into Spanish-style olives from the crops of 1979 and 1980 were 6 million and 35 million pounds (fresh weight), respectively, according to official statistics of the California Department of Agriculture.

Source: Compiled by the staff of the U.S International Trade Commission.

Channels of distribution

Bottled green olives are sold as grocery items at retail in various size containers and in institutional-size containers (generally 1 gallon). The various container sizes sold at retail include bottled whole (unpitted) olives, pitted olives, pitted-stuffed olives, and sliced or otherwise broken olives. Each grocery store generally sells several types of bottled green olives, usually along side other styles (often California-style), but usually only one brand. There is no generally recognized nationally distributed brand of bottled green olive. Many of the chainstores use their own private label. Chainstore buyers generally purchase their entire bottled green olive line from one source; thus, the seller generally must stock an entire line of olives. Bottled green olives can be stored for considerable periods, thus they can be warehoused without spoilage until needed.

Most of the bottled olives sold to retailers and institutional users are sold through food brokers (who usually handle a wide range of products). Food brokers normally do not take title to the olives; they arrange for the sale of olives to retail or institutional users by importers, repackers, or domestic producers. Food brokers generally receive a commission of 3 to 5 percent for their services. Some retailers import bottled olives directly from Spain and others import bulk olives directly from Spain and repack them for retail sale. Some packers and some importers of bottled olives also sell direct to certain retail and institutional accounts.

Spanish Producers and Exporters

The Spanish table-olive industry is made up of independent farmers and agricultural cooperatives at the grower level, processors, bottlers, and exporters. In some cases, some of these operations are at least in part vertically integrated through two or more levels of production.

Olives are grown in Spain on a large number of small farms which are diversified into several other crops. The fresh olives are delivered to an intermediary independent buyer, to a processor, or in the case of cooperatives, to the cooperative. The intermediary collects the small units of fresh olives and may ferment and store them in brine before delivering them to processors. According to Foreign Agricultural Service Attache reports, 1/ there are approximately 450 olive processors in Spain. The processor ferments, grades, pits, stuffs, and packages the olives for sale to the domestic market, other processors, bottlers, or exporters.

There are over 30 olive bottling facilities in Spain. Most olive bottlers are also processors and therefore process at least part of their own olive requirements for bottling, with most of their total olive requirement being bought in bulk from other processors over the course of the year between

1/ Foreign Agricultural Service, U.S. Department of Agriculture, Attache Reports SP0015 (Mar. 6, 1980), SP1018 (Feb. 23, 1981), SP2004 (Feb. 4, 1982), SP3023 (Mar. 29, 1983), and SP4016 (Feb. 23, 1984).

harvests. In some cases, bottlers also own olive orchards, which generally only supply a very small part of their olive requirements. Most olive bottlers also sell and export olives in bulk as well.

There are currently over 40 olive exporters, of which 28 export bottled olives, and 35 export olives in bulk. Of the 35 exporters of bulk olives, 18 do not export bottled olives; 3 of the 28 exporters of bottled olives exported no olives in bulk and 17 of the exporters shipped both bulk and bottled olives. 1/

Although virtually all olive exporters are also processors and/or bottlers, most rely upon other processors for the majority of their total olive requirements over the course of the crop year. Moreover (except for cooperatives), olives from an exporter's own trees usually account for a relatively small part of an exporters total olive exports. Although most exporters generally limit themselves to the export market, a few also sell olives to the Spanish domestic market. In addition to exporters, there are also representatives of foreign importers and supermarkets that buy directly in the Spanish market for export to their foreign principals. Prior to the mid-1960's virtually all olive exports from Spain to the United States were in bulk (except for placed-packed bottled olives). In 1966, a large-scale bottling facility was established in Spain by an affiliate of a U.S. firm. Since then (and following several unsuccessful attempts to legislate higher U.S. import duties on bottled olives) several U.S. firms have established or acquired Spanish affiliates with olive bottling facilities. Most of the bottled olive production in Spain reportedly is exported (mostly to the United States and Canada) with the olives for consumption in Spain and those exported from Spain to Western Europe reportedly being packed in plastic bags.

Consideration of Material Injury or Threat of Material Injury to an Industry in the United States if the Countervailing Duty Order Were To Be Revoked

U.S. growers and processors of U.S.-grown olives

Nearly all olives produced commercially in the United States are grown in California by about 1,500 active growers that deliver olives to the regulated handlers. 2/ About one-third of the growers, that produce nearly one-half of the olive volume, are members of grower cooperatives which process their own production; returns to these growers are based on the receipts of the finished product after processing. Returns to growers that deliver olives to the independent processors are generally based on negotiated prices for the fresh olives before processing.

1/ Posthearing brief of ACEMESA, dated Apr. 17, 1984.
2/ All handlers of California-style canned black olives are regulated under the Federal Marketing Order. The production of Spanish-style olives is not regulated.

The volume of olives processed in any year is largely dependent upon the quantity of fresh olives harvested; more than 99 percent of the crop goes into processed olives. The U.S. production of fresh olives for processing during 1979-83, as reported by the U.S. Department of Agriculture, was as follows:

	U.S. olive production for processing (million pounds, fresh weight)
1979	123
1980	217
1981	89
1982	292
1983	111

These data indicate that the U.S. production of fresh olives for processing fluctuates widely from year to year, owing to the alternate bearing nature of the olive trees. The 1982 production of 292 million pounds was an alltime record.

The decision to process any given lot of olives as Spanish-style olives is frequently made before the olives are harvested, and cannot be made later than the time of delivery of the olives to the processing plant, because of necessary brining procedures in committing to the production of Spanish-style olives. 1/ Once committed, the green olives cannot be converted to other processing styles. The processing time for Spanish-style green olives is generally 6 to 8 months and, subsequently, the olives may be held in their bulk containers for as long as 18 months to 24 months before bottling.

Nearly 10 percent of the U.S. olive crop over the long term has gone to the production of Spanish-style olives, although the amount committed from the annual crops in recent years has varied widely in both quantity and percentage terms, ranging from 16 percent of the total crop in 1980 (a large production year) to 4 percent of the crop in 1981 (a low production year). Each of the seven U.S. processors of Spanish-style olives during 1981-83 that were sent Commission questionnaires has supplied information (by questionnaire or by telephone) on their production and inventories of Spanish-style olives, as shown in table 2. These data are used to obtain estimated shipments of Spanish-style olives from domestically grown fruit. The shipments, which increased from 9 million pounds in 1981 to 15 million pounds in 1982, and then declined to 12 million pounds in 1983, represented, 11 percent, 16 percent, and 12 percent, respectively, of the annual apparent U.S. consumption of Spanish-style bottled green olives.

1/ Statements by Mr. Robert Rossio, president of the California Olive Association, to Mr. A. Macomber of the Commission staff, concerning aspects of Spanish-style olive production, on Apr. 23, 1984.

Table 2.--Spanish-style olives: U.S inventories, production, annual supply, and estimated shipments from U.S.-grown olives, 1981-83

(In thousands of pounds, net drained weight)

Year	Inventories at beginning of period: Green olives in bulk	Inventories at beginning of period: Packed	Packed in glass 1/: Production	Packed in glass 1/: Annual supply	Packed in glass 1/: Ending inventories	Estimated shipments
1981	36,253	10,129	10,203	20,332	11,124	9,208
1982	15,679	11,124	17,683	28,807	14,171	14,636
1983	21,004	14,171	7,646	21,817	9,336	12,481

1/ Includes small quantities packed in metal cans, estimated to range from * * * to * * * pounds shipped annually. Also includes some output in bulk sold to other firms that pack the olives in glass.

Source: Compiled from responses to questionnaires sent to domestic processors by the U.S. International Trade Commission.

Each processing firm's production or pack-out of Spanish-style bottled olives from domestically grown fruit often varies widely from year to year, owing to such factors as anticipated sales, inventories already packed, inventories in bulk that are both ready and not ready for packing, and management policies. However, the 3-year total of production of such Spanish-style olives by each firm is believed to be representative of each firm's position in the domestically grown Spanish-style olive-processing industry, as indicated in the following tabulation for 1981-83:

Firm	Quantity (1,000 pounds, drained weight)	Percent of total
* * *	***	***
* * *	***	***
* * *	***	***
* * *	***	***
* * *	***	***
* * *	***	***
* * *	***	***
Total	2/ 35,532	100

1/ Includes small quantities packed in metal cans.
2/ Includes some sold in bulk to olive bottlers.

* * * of the U.S. firms processing Spanish-style olives from domestically grown fruits, * * *, also imported Spanish-style olives in bulk for repacking. One of these firms, Early California Foods, also imported Spanish-style olives in bottles. The imports by these * * * firms, all from Spain, except about * * * pounds annually from Israel, are shown in the following tabulation for 1981-83:

	Bulk olives (1,000 pounds, drained weight)	Bottle olives (1,000 pounds, drained weight)
1981----------------------	***	***
1982----------------------	***	***
1983----------------------	***	***

U.S. repackers of imported bulk green olives into bottled green olives

Information for this section of the report was sought by sending questionnaires to 26 firms identified as repackers by the Green Olive Trade Association, ACEMESA, or an examination of the Custom's net import file. From the 26 questionnaires sent, 11 written responses were received. The 26 firms sent questionnaires were shipped 25.0 million pounds (net drained weight) of bulk olives from Spain in 1983, or 86 percent of the 29.2 million pounds of bulk olives shipped to U.S. importer/repackers (other than producers of domestically grown olives). 1/ Of the 11 firms responding to the questionnaire, usable data were obtained from 6 firms which together reported importing 7.2 million pounds (net drained weight) of bulk olives from Spain in 1983, or 25 percent of total Spanish bulk olive shipments to U.S. importer/repackers in that year. Data were reported on shipments, inventory, and capacity, for 1981-83, as follows:

Item	1981	1982	1983
Shipments-----------------1,000 lbs--	1/ 4,547	2/ 7,652	2/ 7,918
Shipments-------------1,000 dollars--	3/ 4,997	3/ 5,839	3/ 4,883
Capacity------------------1,000 lbs--	1/ 19,549	1/ 16,670	1/ 16,709
Inventory---------------------do----	1/ 2,146	2/ 2,639	2/ 2,397

1/ Data for 4 firms.
2/ Data for 5 firms.
3/ Data for 2 firms.

Many of the firms reported that olives are a small part of their business (even in the establishments which do the repacking) and that separate data on olives are not maintained. The largest repacker * * * imports both bulk and bottled olives from its Spanish affiliate and did not report separate data for its U.S. repacking operations. The second largest repacker * * *, which also imports bottled olives (but is not affiliated financially with Spanish firms),

1/ Based on data in Informaciones y Estadisticas sobre la Aceituna.

could report partial data for 1983 only. One firm * * * reported selling in bulk mainly to meatpackers. One firm * * * imports bulk olives but has another U.S. repacker pack them. Another firm * * * reports that they have "ceased to pack olives due to a competitive disadvantage."

U.S. imports

U.S. imports of olives in brine are dutiable at specific rates per net drained gallon. To obtain the dutiable quantities, the U.S. Customs Service converts the drained weight (pounds) of the imported shipment to drained gallons by established factors that depend on the country of origin and style of pack (see section on U.S. tariff treatment). For purposes of this report, the dutiable quantities (gallons) have been reconverted to pounds using representative factors for each TSUSA item number. Olives other than brined olives are dutiable at specific rates per pound and are reported in pounds.

All olives.--Spain is the predominant supplier of the U.S. imports of all olives and in 1983 accounted for 88 percent of the total, which was valued at $77 million (table 3). In 1983, imports under TSUS items 148.44 and 148.50 together, which are believed to include all of the imports of Spanish-style green olives, both bottled and bulk, accounted for 90 percent of the U.S. imports of all olives (table 4). 1/ In recent years, beginning in 1981 following the small 1981 olive crop in California, Spain began exporting to the United States canned (in metal containers) black olives in brine. U.S. imports of canned black olives in brine are said to be dutiable and reported statistically, for the most part, under TSUS item 148.44 if whole, and under TSUS item 148.50 if pitted or stuffed. 2/ Because imports of canned black olives from Spain at times use the word "ripe" on the label of the can in a manner similar to those canned in California, even though prepared from not ripe fruit, some of the imported canned black olives in brine have been reported under TSUS item 148.48, a provision for ripe olives.

Bottled green olives. U.S. imports under TSUS items 148.44 and 148.50 in containers each holding not more than 0.3 gallon are believed to consist almost entirely of Spanish-style bottled green olives, except for imports in 1982 and 1983 when some quantities of canned black olives in brine also entered under these tariff classes. U.S. imports of olives in containers of not more than 0.3 gallon declined from 38 million pounds, drained weight, in 1979 to 35 million pounds in 1981, then increased to 40 million pounds in 1982 and to 49 million pounds in 1983 (table 5). In 1983, Spain accounted for 99 percent of such imports, or 48 million pounds (table 6). Imports in containers of not more than 0.3 gallon each accounted for less than half (by quantity) and 59 percent (by value) of all imports of bottled and in-bulk olives under TSUS items 148.44 and 148.50.

1/ Imports of Spanish-style bottled green olives that contain any quantity of capers or vegetables other than pimientos are classified by Custom's ruling as edible preparations (TSUS 183.05) and thus are not subject to the countervailing duty; data on such imports are not available.

2/ Telephone conversations between Mr. A. Macomber of the Commission staff and * * *.

Table 3.--Olives, all forms 1/: U.S. imports for consumption, by principal sources, 1979-83

Source	1979	1980	1981	1982	1983
			Quantity (1,000 pounds)		
Spain	77,046	78,566	78,743	94,399	97,335
Greece	6,904	6,024	7,074	7,720	7,996
Israel	477	486	2,857	3,944	3,075
Moroc	1,699	1,694	1,916	2,206	2,193
Italy	201	229	303	556	636
Portugl	372	616	604	802	549
France	42	48	90	72	81
Mexico	903	796	382	336	1,564
All other	524	334	168	680	358
Total	88,168	88,792	92,136	110,715	113,787
			Value (1,000 dollars)		
Spain	69,143	71,859	69,141	85,064	67,932
Greece	4,344	4,422	4,996	5,438	5,078
Israel	300	383	1,834	2,703	1,718
Moroc	953	1,010	1,101	1,206	1,023
Italy	159	205	220	401	434
Portugl	188	309	313	524	332
France	52	77	102	90	131
Mexico	209	198	135	115	103
All other	381	246	123	530	277
Total	75,730	78,709	77,965	96,070	77,027
			Unit value (per pound)		
Spain	$0.90	$0.91	$0.88	$0.90	$0.70
Greece	0.63	0.73	0.71	0.70	0.64
Israel	0.63	0.79	0.64	0.69	0.56
Moroc	0.56	0.60	0.57	0.55	0.47
Italy	0.79	0.90	0.73	0.72	0.68
Portugl	0.51	0.50	0.52	0.65	0.61
France	1.24	1.59	1.13	1.24	1.61
Mexico	0.23	0.25	0.35	0.34	0.07
All other	0.73	0.73	0.73	0.78	0.77
Average	0.86	0.89	0.85	0.87	0.68

1/ Includes TSUS items 148.40 through 148.56; TSUS quantities converted.

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

Table 4. --Olives, all forms: U.S. imports for consumption, by TSUS item Nos., 1979-83

TSUS item No.	1979	1980	1981	1982	1983
	Quantity (1,000 pounds) 1/				
148.40	31	3	62	78	1,672
148.42	3,751	3,821	3,783	4,020	4,101
148.44	10,018	9,804	8,481	17,236	10,522
148.46	590	385	405	528	810
148.48	408	287	292	3,851	2,785
148.50	69,526	71,271	75,103	79,482	89,960
148.52	13	4	7	17	5
148.54	1,422	1,279	1,486	1,270	1,479
148.56	2,410	1,937	2,517	4,232	2,451
Total	88,168	88,792	92,136	110,715	113,785
	Value (1,000 dollars)				
148.40	16	2	34	58	197
148.42	2,357	2,706	2,586	2,792	2,614
148.44	5,932	6,175	5,166	8,602	4,909
148.46	360	275	284	397	576
148.48	214	189	214	3,480	1,986
148.50	64,479	67,098	66,985	77,292	64,376
148.52	11	6	5	10	5
148.54	806	797	941	777	807
148.56	1,555	1,461	1,750	2,663	1,556
Total	75,730	78,709	77,965	96,070	77,026
	Unit value (per pound)				
148.40	$0.52	$0.63	$0.54	$0.75	$0.12
148.42	.63	.71	.68	.69	.64
148.44	.59	.63	.61	.50	.47
148.46	.61	.71	.70	.75	.71
148.48	.52	.66	.73	.90	.71
148.50	.93	.94	.89	.97	.72
148.52	.85	1.48	.68	.57	.93
148.54	.57	.62	.63	.61	.55
148.56	.65	.75	.70	.63	.63
Average	.86	.89	.85	.87	.68

1/ TSUS quantities converted.

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

Table 5.--Olives, Spanish-style (TSUS items 148.44 and 148.50): U.S. imports for consumption, from all sources, by type of pack, 1979-83

Item	1979	1980	1981	1982	1983
	Quantity (1,000 pounds) 1/				
In containers each holding not more than 0.3 gallon:					
Whole (item 148.4420)	3,400	2,848	2,403	2,678	3,369
Pitted (item 148.5020)	5,479	1,300	1,048	1,589	2,129
Stuffed:					
Place packed (item 148.5065)	5,621	4,001	3,343	3,340	3,923
Other (item 148.5070)	23,962	26,264	28,497	32,579	39,154
Subtotal	38,462	34,412	35,291	40,186	48,575
In containers each holding more than 0.3 gallon:					
Whole (item 148.4440)	6,617	6,956	6,078	2/14,559	7,154
Pitted (item 148.5040)	2,843	3,653	2,909	3/ 6,008	5,719
Stuffed (item 148.5080)	31,621	36,053	39,306	35,966	39,035
Subtotal	41,081	46,663	48,293	56,533	51,908
Total	79,543	81,075	83,584	96,719	100,483
	Value (1,000 dollars)				
In containers each holding not more than 0.3 gallon:					
Whole (item 148.4420)	2,566	2,643	2,088	2,037	2,091
Pitted (item 148.5020)	7,014	1,468	1,176	1,941	1,937
Stuffed:					
Place packed (item 148.5065)	8,165	7,145	6,119	5,945	5,350
Other (item 148.5070)	25,710	30,657	30,094	35,682	31,499
Subtotal	43,455	41,913	39,477	45,605	40,877
In containers each holding more than 0.3 gallon:					
Whole (item 148.4440)	3,366	3,532	3,078	2/ 6,565	2,818
Pitted (item 148.5040)	1,875	2,272	2,094	3/ 6,078	4,296
Stuffed (item 148.5080)	21,716	25,556	27,502	27,646	21,294
Subtotal	26,957	31,360	32,674	40,289	28,408
Total	70,412	73,273	72,151	85,894	69,285
	Unit Value (per pound)				
In containers each holding not more than 0.3 gallon:					
Whole (item 148.4420)	$0.75	$ 0.93	$0.87	$0.76	$0.62
Pitted (item 148.5020)	1.28	1.13	1.12	1.22	.91
Stuffed:					
Place packed (item 148.5065)	1.45	1.79	1.83	1.78	1.36
Other (item 148.5070)	1.07	1.17	1.06	1.10	.80
Subtotal, average	1.13	1.22	1.12	1.13	.84
In containers each holding more than 0.3 gallon:					
Whole (item 148.4440)	.51	.51	.51	.45	.39
Pitted (item 148.5040)	.66	.62	.72	1.01	.75
Stuffed (item 148.5080)	.69	.71	.70	.77	.55
Subtotal, average	.66	.67	.68	.71	.55
Grand total, average	.89	.90	.86	.89	.69

1/ Official import data are reported in gallons. For this table such data have been converted to pounds by multiplying imports reported under TSUSA items 148.4420 and 148.4440 by a factor of 5.7, under TSUSA items 148.5020 and 148.5040 by 4.7, and under TSUSA items 148.5065, 148.5070, and 148.5080 by a factor of 6.0.

2/ Trade sources indicate that some quantities of olives entered under TSUSA item 148.4440 in 1982 were not Spanish-style olives but rather were olives temporarily preserved in brine and later processed into California-style canned olives.

3/ Trade sources indicate that some quantities of the olives entered under TSUSA item 148.5040 in 1982 were not Spanish-style green olives but rather were black canned olives in brine.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

Table 6.--Olives, Spanish-style (TSUS items 148.44 and 148.50): U.S. imports for consumption, from Spain, by type of pack, 1979-83

Item	1979	1980	1981	1982	1983
	Quantity (1,000 pounds) 1/				
In containers each holding not more than 0.3 gallon:					
Whole (item 148.4420)	3,198	2,573	2,191	2,519	3,210
Pitted (item 148.5020)	5,459	1,276	991	1,512	2,062
Stuffed:					
Place packed (item 148.5065)	5,611	3,992	3,343	3,332	3,913
Other (item 148.5070)	23,799	26,100	28,302	32,208	38,699
Subtotal	38,067	33,941	34,827	39,571	47,884
In containers each holding more than 0.3 gallon:					
Whole (item 148.4440)	4,646	5,274	3,794	2/ 12,208	5,767
Pitted (item 148.5040)	2,761	3,513	2,457	3/ 5,264	5,396
Stuffed (item 148.5080)	31,276	35,612	37,488	32,358	35,619
Subtotal	38,683	44,399	43,739	49,830	46,782
Total	76,750	78,340	78,566	89,401	94,666
	Value (1,000 dollars)				
In containers each holding not more than 0.3 gallon:					
Whole (item 148.4420)	2,445	2,506	1,913	1,906	1,989
Pitted (item 148.5020)	6,993	1,450	1,102	1,894	1,888
Stuffed:					
Place packed (item 148.5065)	8,156	7,130	6,118	5,934	5,334
Other (item 148.5070)	25,548	30,475	29,821	35,231	31,128
Subtotal	43,142	41,561	38,954	44,965	40,339
In containers each holding more than 0.3 gallon:					
Whole (item 148.4440)	2,541	2,718	1,873	2/ 5,362	2,009
Pitted (item 148.5040)	1,832	2,175	1,830	3/ 5,558	4,091
Stuffed (item 148.5080)	21,495	25,262	26,366	25,276	19,636
Subtotal	25,868	30,155	30,069	36,196	25,736
Total	69,010	71,716	69,023	81,161	66,075
	Unit Value (per pound)				
In containers each holding not more than 0.3 gallon:					
Whole (item 148.4420)	$0.76	$ 0.97	$0.87	$0.76	$0.62
Pitted (item 148.5020)	1.28	1.14	1.11	1.25	.92
Stuffed:					
Place packed (item 148.5065)	1.45	1.79	1.83	1.78	1.36
Other (item 148.5070)	1.07	1.17	1.05	1.09	.80
Subtotal, average	1.13	1.22	1.12	1.14	.84
In containers each holding more than 0.3 gallon:					
Whole (item 148.4440)	.55	.52	.49	.44	.35
Pitted (item 148.5040)	.66	.62	.74	1.06	.76
Stuffed (item 148.5080)	.69	.71	.70	.78	.55
Subtotal, average	.67	.68	.69	.73	.55
Grand total, average	.90	.92	.88	.91	.70

1/ Official import data are reported in gallons. For this table such data have been converted to pounds by multiplying imports reported under TSUSA items 148.4420 and 148.4440 by a factor of 5.7, under TSUSA items 148.5020 and 148.5040 by 4.7, and under TSUSA items 148.5065, 148.5070 and 148.5080 by a factor of 6.0.

2/ Trade sources indicate that some quantities of olives entered under TSUSA item 148.4440 in 1982 were not Spanish-style olives but rather were olives temporarily preserved in brine and later processed into California-style canned olives.

3/ Trade sources indicate that some quantities of the olives entered under TSUSA item 148.5040 in 1982 were not Spanish-style green olives but rather were black canned olives in brine.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

Bottled green olives packed in glass containers each holding more than 0.3 gallon, such as in 1/2-gallon glass jars or 1-gallon glass jars, are combined in the official import statistics with Spanish-style green olives entered in bulk containers of plastic, wood, or metal. Separate import data are not available on the volume of imports of bottled green olives in containers each holding more than 0.3 gallon. U.S. imports under TSUS items 148.44 and 148.50 in all types of containers each holding more than 0.3 gallon increased each year from 41 million pounds, drained weight, in 1979 to 57 million pounds in 1982, and then declined to 52 million pounds in 1983 (table 5). In 1983, Spain accounted for 90 percent of such imports, or 47 million pounds (table 6).

Customs districts.--U.S. imports of Spanish-style olives from Spain have been entered at more than 20 Customs districts 1/ throughout the United States. In 1983, the top four districts for imports in containers each holding not more than 0.3 gallon were New York, Norfolk, Los Angeles, and Baltimore, which together accounted for 81 percent of such imports. The top four districts for imports in containers each holding more than 0.3 gallon were New York, Baltimore, Houston, and Los Angeles, which together accounted for 53 percent of the imports in containers over 0.3 gallon. The lower concentration of imports in containers over 0.3 gallon in the top-ranked Customs districts probably indicates a relatively wide distribution in the United States of imports of Spanish-style olives in bulk for repacking.

Financial experience of U.S. producers of bottled green olives

The Commission sent questionnaires requesting financial information to 13 processors of domestically grown olives and to 26 repackers of imported bulk olives. Financial information was obtained from seven firms, only three of which reported separate data for bottled green olives only. Most U.S. producers of bottled green olives pack other products in addition to bottled green olives. Also, most of the producers do not maintain separate profit centers for bottled green olives alone.

The financial experience of the seven firms which provided data is summarized in table 7 for the years 1981-83. Two firms which reported the financial experience of their bottled green olive operations only * * * showed losses (for 4 of the 5 observations for which data were reported), ranging up to * * * percent of the value of the net sales. 2/ The only other firm which reported separate data for its bottled green olive operations * * * reported operating incomes equal to * * * percent of net sales for each of the three reporting periods. The other four firms, which reported their financial experiences for their overall operations only, reported incomes ranging from

1/ U.S. Customs district of entry, which may vary from the Customs district of unlading.

2/ The losses for * * * were after the deduction of officers' salaries of * * *. Also, * * * paid rent of * * * each year to * * *, a company affiliated by common ownership.

Table 7.--Income-and-loss experience of 7 firms which produce bottled green olives, 1981-83

* * * * * * * *

* * * percent of net sales to * * * percent of net sales. One of the firms * * * produces bottled green olives from domestically grown olives and imports bulk and bottled green olives from its Spanish affiliate; that firm reported net income * * * from * * * percent of net sales in 1981 to * * * percent in 1982 and then * * * to * * * percent in 1983. * * *, reported net income equal to * * * percent of net sales during 1981-83; net sales of green olives accounted for * * * percent of net sales of all products in 1981-83 and the firm reported substantial income other than operating income in each reporting period. Four of the seven firms providing financial experience * * * reported importing bottled green olives from Spain, with * * *, importing significant amounts.

An aggregation of the financial experience of firms which are a part of the domestic industry which may be affected by imports of bottled green olives from Spain should not include * * * (owing to its affiliation with * * *); * * * (because of its captive sales at constant markups); and * * * (because of its low ratio of olive sales to total sales and its nonoperating income which skews its financial experience). Aggregated financial experience of the remaining four firms which supplied data in response to the Commission's questionnaires follows:

	1981	1982	1983 1/
Net sales----1,000 dollars--	14,576	13,890	10,360
Net loss---------------do----	868	807	585
Ratio of net loss to net sales-----percent--	6.0	5.8	5.6

1/ Data are for 3 firms.

Prices

Bottled green olives are sold in the United States in institutional-size containers and retail-size containers. Institutional containers are purchased by restaurants and other large users of bottled green olives. The rest of the bottled green olives sold in the United States are packed in retail containers and are primarily purchased by grocery stores.

Institutional buyers generally buy the cheapest green olives that are available, regardless of type (manzanillas or queens). Restaurants generally use green olives as garnishments, appetizers, or in salads. Because of this, green olives are not generally moneymakers for institutional buyers: customers do not generally go to a restaurant and order green olives. Customers are not generally charged specifically for the green olives they consume. 1/ The two most popular sizes of institutional containers are the gallon (88 ounces, net drained weight) and the quart (22 ounces, net drained weight).

Green olives bottled for retail sale are generally in much smaller containers. Eye appeal is an important part of selling bottled green olives at the retail level. That is why some customers buy the more expensive placed-packed stuffed green olives rather than the less expensive thrown-packed stuffed green olives. Bottled green olives are packed in a number of retail sizes including the tall, thin refrigerator jars and the short, squat bucket jars.

Suppliers of bottled green olives have list prices for their products, but will sometimes sell below list to meet the competition. Suppliers generally do not have fixed discounts for volume purchases.

Most suppliers of bottled green olives carry a full line of green olive products (stuffed, pitted, whole, and salad) because they want to provide one-stop service for food brokers. Food brokers generally deal with a large number of products and do not want to have to deal with more than one bottled green olive supplier and thus rely on that supplier to provide all bottled green olives to the stores they service.

Bottled green olives are sold on a delivered basis. Because green olives are packed in glass and because glass is heavy, transportation costs play an important role in the price of green olives.

Prices for the two main types of Spanish-style green olives - manzanillas and queens - vary according to the size of the crop of each. In some years queens will be more expensive than manzanillas, whereas in other years manzanillas will be more expensive than queens. However, because queens and manzanillas are reasonably close substitutes, the price difference between the two is seldom very large.

Placed-packed stuffed green olives are generally the most expensive type of green olive, followed in order by thrown-packed stuffed olives, pitted olives, whole olives, and salad olives. The cost of neatly stacking green olives in a jar with the stuffing facing the glass causes the price of placed-packed green olives to be about 30 percent higher than the price of thrown-packed stuffed green olives.

The Commission requested that purchasers of bottled green olives provide quarterly data for January 1981-December 1983 on their average purchase price of five different types of bottled olives purchased either from Spanish

1/ Some pizza parlors sell green olives as a topping and charge specifically for green olives. Most institutional users of green olives, however, do not charge specifically for the green olives.

bottlers or from U.S. processors or repackers. 1/ The Commission received seven purchaser questionnaires that contained useful price information. 2/

Sufficient pricing information, however, has only been received on two types of bottled olives. Both types are pimiento-stuffed manzanillas. Prices for 7-ounce refrigerator jars are reported for a case of 12 jars, whereas prices for 88-ounce gallon jars are reported for a case of 4 jars.

The average price of a case of imported refrigerator jars was less than the average price of a case of U.S. produced/repacked refrigerator jars in all but one quarter in 1981-83 (table 8). On average, a case of the imported jars sold for about 8 percent less. The price of a case of both imported and U.S. produced/repacked refrigerator jars tended to be higher in 1982 than in either 1981 or 1983.

The average price of a case of imported gallon jars was consistently more than the average price of a case of U.S. produced/repacked gallon jars (table 8). A case of the imported jars sold for about 11.8 percent more on average. The difference in price was smaller in 1982 than in 1981.

1/ The Commission also requested that U.S. processors and repackers provide quarterly data for January 1981-December 1983 on their average selling price for five different types of bottled green olives. The Commission only received one processor and three repacker questionnaire responses that contained useful price information. These responses represent a small share of the olives sold in the United States and may not accurately reflect market prices.

2/ The Commission also received four questionnaire responses that contained nonmarket price information. The purchasers were affiliated with Spanish bottlers and generally reported internal transfer prices, not purchase prices.

Table 8.--Bottled green olives: U.S. purchasers' average prices 1/ paid for bottled green olives, by quarters, January 1981-December 1983

Period	Pimiento-stuffed manzanillas, thrown pack			
	7-oz. refrigerator jars		88-oz. gallon jars	
	U.S. produced or repacked	Imported	U.S. produced or repacked	Imported
	-----case of 12 jars-----		-------case of 4 jars-------	
1981:				
January-March	$8.32	$8.09	$22.85	$27.94
April-June	8.07	8.49	24.30	27.94
July-September	9.95	8.66	23.60	27.94
October-December	8.51	8.25	23.47	27.42
1982:				
January-March	9.00	8.63	24.03	26.90
April-June	9.95	8.82	25.11	27.36
July-September	10.07	8.70	27.33	27.55
October-December	9.28	8.90	27.76	27.82
1982:				
January-March	9.50	7.46	2/	24.74
April-June	8.55	7.86	2/	24.49
July-September	8.88	8.00	2/	23.00
October-December	2/	7.73	2/	23.29

1/ Weighted average of prices paid by purchasers of bottled green olives.
2/ Not available.

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

Exchange rates

The following tabulation, compiled from official statistics of the International Monetary Fund, shows nominal and real exchange-rate indexes for the U.S. dollar and the Spanish peseta during January 1981-December 1983, by quarters. The indexes are in terms of dollars per peseta (January-March 1981=100):

Period	Nominal exchange-rate index	Real exchange-rate index
1981:		
January-March	100.0	100.0
April-June	92.3	92.8
July-September	85.8	86.7
October-December	87.5	89.9
1982:		
January-March	83.1	88.1
April-June	79.3	85.9
July-September	75.0	82.0
October-December	70.1	78.2
1983:		
January-March	64.7	75.0
April-June	60.5	71.0
July-September	56.0	66.3
October-December	54.4	66.1

The nominal value of the peseta against the dollar fell 45.6 percent from January-March 1981 to October-December 1983. The value of the peseta fell in every quarter of 1981-83, with particularly sharp declines occurring in April-June 1981 and January-March 1983. The peseta is basically a floating currency, but the Spanish Government intervenes on occasion to smooth out any sharp fluctuations in the value of the peseta.

The real exchange-rate index, which takes into account differences in inflation rates in the United States and Spain, shows that the value of the peseta against the dollar fell 33.9 percent from January-March 1981 to October-December 1983. The fall in the real value of the peseta suggests that Spanish products have become more competitive in the United States since January-March 1981.

Spanish exports of bottled green olives

Data from Foreign Agricultural Service (FAS) attache reports 1/ indicate that in 1983 total Spanish exports of olives (bottled and bulk) amounted to 103,351 metric tons, of which 46,329 metric tons (or 45 percent) went to the United States. Italy, Saudi Arabia, France, and Canada were the other major markets, together accounting for 34 percent of Spain's exports. It is believed that about half of Spain's olive exports are in bottles, with 80-85 percent of those thrown packed. Stuffed olives account for one-third of the export output. About two-thirds of the total pack is pitted. 2/

1/ FAS attache report SP4016, Feb. 23, 1984.
2/ FAS attache report SP2004, Feb. 4, 1982.

The capacity of Spain to generate exports

Spain is the world's leading producer and exporter of table olives. In 1982, table olives were produced on 363,000 acres in Spain, down from 395,000 acres in 1981 and 413,000 acres in 1980 (table 9). In addition, Spain has substantial production of other olive varieties not on the approved list to be exported for table use but used for domestic consumption or the production of olive oil. In particular the hojiblanca variety is used for domestic table consumption in Spain and reportedly was authorized for export sales for table use effective January 1, 1984. 1/ There are an estimated 400,000 acres of the hojiblanca variety of olive in Spain.

Spanish production of table olives (which tends to be cyclical owing to the alternate-year bearing characteristics of the olive tree) ranged from 156,000 tons to 300,000 tons during 1979-83; the 300,000 tons produced in 1982 is a record high and the 156,000 tons produced in 1983 is the 5-year low. During the same period, exports of table olives from Spain ranged from 88,000 tons to 114,000 tons and Spanish consumption of table olives ranged from 54,000 tons to 188,000 tons. In years of large production, it is customary for a large part of the Spanish consumption of table olives to be crushed for the production of olive oil. The Spanish olive bottling industry reportedly has excess capacity. 2/ In 1982, 40 to 45 percent of Spain's exports of table olives were in bulk.

Other considerations concerning issues in the investigation

Postponement of decision requested.--The Green Olive Trade Association, the original countervailing duty petitioner in 1972, has requested the Commission in a letter dated August 30, 1983 (see prehearing staff report, p. A-62), and at the public hearing on April 9, 1984 (transcript, p. 16), to postpone a decision in this case until the U.S. Department of Commerce completes its countervailing review determinations for the years 1982 and 1983. 3/ By law, the Commission has until April 1985 to make its findings.

1/ Meeting between L. Grant and A. Macomber of the Commission staff and Robert D. Rossio, President of Lindsay Olive Growers, in Washington, D.C., on Feb. 14, 1984.
2/ Foreign Agricultural Service Attache Report SP 2023, Mar. 29, 1983, and transcript of hearing, p. 164.
3/ In addition (but not cited by the petitioner), a current bill, H.R. 4784 (The Trade Remedies Reform Act of 1984), would broaden the scope of and make procedural and administrative changes in, the countervailing duty and antidumping duty laws (Press Release No. 5-A, Committee on Ways and Means, on Apr. 11, 1984). The bill, as now drafted, may have some effects on Commerce's countervailing duty review procedures.

Table 9.--Table olives: Spanish acreage, production, exports, consumption, and yearend stocks, 1979-83

Year	Acreage		Production	Exports	Consumption	Yearend stocks
	Bearing	Nonbearing				
	-------Acres-------		---------------Short tons---------------			
1979	371,000	12,000	224,800	103,000	123,200	25,600
1980	413,000	12,000	199,600	87,700	119,100	14,300
1981	395,000	7,000	190,600	96,800	94,000	11,000
1982	363,000	20,000	299,700	104,400	188,400	17,600
1983	382,000	19,000	156,500	113,900	53,700	2,200

Source: Compiled from data contained in Foreign Agricultural Service, U.S. Department of Agriculture, Attache Reports SP0015 (Mar. 6, 1980), SP1018 (Feb. 23, 1981), SP2004 (Feb. 4, 1982), and SP3023 (Mar. 29, 1983), and SP4016 (Feb. 23, 1984).

Level of the countervailing duty.--The amount of the countervailing duty for 1981, the latest period for which the U.S. Department of Commerce has made a final determination in its administrative review on the level of Spanish subsidy, was 2.44 percent of the f.o.b. invoice price of Spanish bottled green olives exported to the United States in 1981 (48 F.R. 218 and app. E. of this report). For periods subsequent to 1981, the U.S. Customs Service has been instructed to collect a cash deposit of estimated countervailing duties of 1.64 percent. Based on statements in the record, these levels of countervailing duties might be judged to be significant or insignificant. Mr. Edward Culleton, President of James P. Smith & Co, said that without the countervailing duty his olive repacking company would be out of business (transcript, p. 21). Mr. Robert Rossio, President of the California Olive Association, urged that the countervailing duty be kept in place (transcript, p. 99) and that removing the countervailing duty "could mean $40 less per ton" to U.S. olive growers (transcript, p. 97). Mr. Emilio Camacho, Vice President of the Spanish Table Olive Exporters' Association, said that the amount of the countervailing duty is absolutely insignificant when viewed in the context of the widely fluctuating range of prices and other factors affecting the green olive trade (transcript, p. 129), including exchange-rate variations and packing cost differences (transcript, pp. 131-132). He reported, on the other hand, that they have appealed the Commerce Department's subsidy findings to the U.S. Court of International Trade (transcript, p. 127). (The complaint was filed Jan. 9, 1984, and challenges Commerce's data for 1980 and 1981). Early California Foods, in response to a question on the Commission's producer's questionnaire sent to them concerning what impact revocation would have on their firm, replied that "* * *."

The estimated amount of the countervailing duty collectable for the 1981 year, based on the 2.44 percent rate, the estimated quantity of bottled green olive imports in 1981 shown in table 1 (45,527,000 pounds), and the average unit value of imports in containers each holding not more than 0.3 gallon entered in 1981 shown in table 6 ($1.12 per pound) is $1.2 million.

<u>Bottled green olive imports</u>.--Data on U.S. imports of bottled green olives presented in table 1 of this report have been dependent to a significant degree upon records of Spanish exports to the United States, which have been supplied by the Spanish Table Olive Exporters' Association. The Association has requested confidential treatment for the numerical quantities and values of their exports, which have not been used in table 1. This dependence on foreign trade data stems from the complex duty structure for olives in brine in the TSUS. The TSUS provisions for olives do not distinguish between olives in brine provisionally preserved but not specially prepared for immediate consumption, as provided for in headnote 1(c) of subpart B, part 9, of Schedule 1, and olives in brine prepared for immediate consumption. Neither do the schedules for olives provide clearly for canned black ripe olives prepared from not ripe fruit, which is the the type of olive produced by the major U.S. olive industry in California. Thus, official U.S. import statistics for olives in brine combine in single tariff categories green olives both suitable and unsuitable for immediate consumption, and both canned black olives and bottled green olives. Significant imports of canned black olives began in 1982. Carefully prepared estimates of U.S. imports of bottled green olives are shown in appendix F.

<u>Comparative costs</u>.--Information was requested by the Commission at the public hearing on the comparative costs for U.S.-bottled and Spanish-bottled green olives sold in U.S. markets. Both the Green Olive Trade Association, for packing bottled olives in the United States, and ACEMESA, for packing bottled olives in Spain, have supplied the approximate 1983 costs per case for packing 10 ounce jars, 12 jars per case, of manzanilla olives, and offering them for sale in the United States, as shown in the following tabulation:

Item	Packed in the United States 1/	Packed in Spain 2/
Olives, f.o.b., Spain	$3.12	3/ $2.74
Freight	.61	1.05
Materials	2.60	1.70
Labor	.70	.20
Overhead	1.53	.64
Financing	.13	.05
Insurance, cartage, brokerage	.11	.15
U.S. specific duty	.39	.39
U.S. countervailing duty 4/	-	.09
Total	9.19	7.01

1/ Pre-hearing brief of the Green Olive Trade Association, exhibit 2.
2/ Post-hearing brief of ACEMESA, exhibit 2.
3/ The cost for olives used by ACEMESA was the same as that used by the GOTA, less an allowance for drums of $0.38.
4/ The countervailing duty rate used by ACEMESA appears to have been 1.64 percent ad valorem.

On the basis of information by the respective trade associations, and aside from the cost of the olives, U.S. packers have a cost disadvantage compared with Spanish packers of 90 cents per case for materials, 89 cents for overhead and 50 cents for labor, and U.S. packers have a cost advantage of 44 cents per case for freight and 9 cents for the existing countervailing duty.

APPENDIX A

LETTER REQUESTING THIS SECTION 104 INVESTIGATION

EMBAJADA DE ESPAÑA
WASHINGTON
CONSEJERO COMERCIAL

DOCKET NUMBER
819
Office of the Secretary
Int'l Trade Commission

OFICINA COMERCIAL

Ref. No. 455 MA/ngm

April 23, 1982

OFFICE OF THE SECRETARY
DOCKET/USITC
82 APR 23 P4:29
RECEIVED

Mr. Kenneth R. Mason
Secretary
International Trade Commission
701 E Street, N.W.
Washington, D.C. 20436

Dear Sir:

The Embassy of Spain has the honor of referring to the relevant provisions of the Trade Agreements Act of 1979 and to the Notice published in the Federal Register of April 19, 1982, by the Acting U.S. Trade Representative, by whereas Spain is, as of April 14, a "country under the Agreement".

Accordingly, the Embassy of Spain has the honor of requesting that injury review procedures pursuant to Section 104 (b) of the Trade Agreements Act of 1979 be granted to the following products originated in Spain and exported to the United States:

Olives
Footwear
Zinc
Ferroalloys

Sincerely yours,

Mariano García Muñoz
Counselor for Economic and Commercial Affairs.

APPENDIX B

THE COMMISSION'S NOTICE OF INVESTIGATION AND SCHEDULING OF HEARING AND LISTING OF WITNESSES APPEARING AT THE HEARING

[Investigation No. 104-TAA-22]

Bottled Green Olives From Spain

AGENCY: United States International Trade Commission.

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

EFFECTIVE DATE: January 19, 1984.

SUMMARY: Pursuant to section 104(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), the U.S. International Trade Commission is instituting this countervailing duty investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of bottled green olives from Spain which are covered by an outstanding countervailing duty order if that order were to be revoked. The investigation covers imports of bottled green olives as provided for in items 148.44, 148.48, and 148.50 of the Tariff Schedules of the United States.

FOR FURTHER INFORMATION CONTACT: David Coombs, Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-1376.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1974, the Department of the Treasury issued a countervailing duty order under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) on the subject bottled green olives imported from Spain (T.D. 74-234, 39 FR 32904). On January 1, 1980, the Trade Agreements Act of 1979 (Pub. L. 96-39) became effective. That act provided in section 104(b), that "In the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930 * * * which applies to merchandise which is the product of a country under the Agreement, and which is in effect on January 1, 1980 * * *, the Commission, upon the request of the government of such a country * * *, submitted within 3 years after the effective date of title VII of the Tariff Act of 1930 (January 1, 1980) shall * * * commence an investigation to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked." On April 23, 1982, the Commission received such a request from the Government of Spain.

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than 21 days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this 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 (19 CFR 201.16(c), as amended by 47 FR 33682, Aug. 4, 1982).

Staff Report

A public version of the staff report containing preliminary findings of fact in this investigation will be placed in the public record on March 23, 1984, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m., on April 9, 1984, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later the close of business (5:15 p.m.) on March 23, 1984. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on March 30, 1984, in room 117 of the U.S. International Trade Commission Building.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23, as amended by 47 FR 33682, Aug. 4, 1982). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 (19 CFR 207.22, as amended by 47 FR 33682, Aug. 4, 1982), and must be submitted not later than the close of business on April 4, 1984. Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on April 17, 1984.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 17, 1984. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's 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 to the Commission.

Any business information for which confidential treatment is desired shall 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 § 201.6 of the Commission's rules (19 CFR 201.6).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A, C, and D (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982) and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982).

This notice is published pursuant to § 207.30 of the Commission's rules (19 CFR 207.30).

Issued: January 20, 1984.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 84-2038 Filed 1-24-84; 8:45 am]

BILLING CODE 7020-02-M

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Bottled Green Olives from Spain

Inv. No. : 104-TAA-22

Date and time: April 9, 1984 - 10:00 a.m.

Sessions were held in connection with this investigation in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

IN OPPOSITION TO THE REVOCATION OF THE OUTSTANDING COUNTERVAILING DUTY ORDER:

Steptoe & Johnson--Counsel
Washington, D.C.
on behalf of

The Green Olive Trade Association

Edward Culleton, President, James P. Smith and Company, Inc.

Michael Sandler--OF COUNSEL

California Olive Association, Lindsay, California

Robert D. Rossio, President

IN SUPPORT OF THE REVOCATION OF THE OUTSTANDING COUNTERVAILING DUTY ORDER:

George V. Egge, Jr.--Counsel
Washington, D.C.
on behalf of

Aceitunas de Mesa, S.A. (ACEMESA), The Spanish Olive Exporters' Association and Durkee Famous Food Group of the SCM Corporation and other importers of bottled green olives from Spain

Emilio Camacho, Vice President of ACEMESA (accompanied by: Manuel Rodriquez and Frederico Ferrer)

George V. Egge, Jr.)
Marsha Echols) --OF COUNSEL

APPENDIX C

EXCERPT FROM THE TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1984)

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Subpart B. - Edible Fruits				
			Subpart B headnote: 1. For the purposes of this part -- (a) the term "fresh" covers fruit crude or in its natural state, whether green (immature) or ripe, and whether or not chilled (but not frozen), and includes fruit notwithstanding the use of nonpreservative coloring or other matter to maintain or improve its appearance; (b) the term "dried" means dried, desiccated, or evaporated; (c) the term "in brine" means provisionally preserved by packing in a preservative liquid solution such as water impregnated with salt or sulphur dioxide, but not specially prepared for immediate consumption; (d) the term "pickled" means prepared or preserved in vinegar or acetic acid whether or not packed in oil or containing sugar, salt, or spices; and (e) the term "prepared or preserved" covers fruit which is dried, in brine, pickled, frozen, or otherwise prepared or preserved, but does not cover fruit juices (see part 12A of this schedule), or fruit flours, peels, pastes, pulps, jellies, jams, marmalades, or butters (see subpart C of this part), or candied, crystallized, or glacé fruits (see subpart D of this part).				
			Apples, fresh, or prepared or preserved:				
	146.10	00	Fresh	Lb.	Free		0.5¢ per lb.
A	146.12	00	Dried	Lb.	0.75¢ per lb.		2¢ per lb.
	146.14	00	Otherwise prepared or preserved	Lb.	0.5¢ per lb.		2.5¢ per lb.
			Apricots, fresh, or prepared or preserved:				
	146.20	00	Fresh or in brine	Lb.	0.2¢ per lb.		0.5¢ per lb.
A*	146.22	00	Dried	Lb.	1¢ per lb.		2¢ per lb.
	146.24	00	Otherwise prepared or preserved	Lb.	35% ad val.		35% ad val.
	146.30	00	Avocados (alligator pears), fresh, or prepared or preserved	Lb.	6.5¢ per lb.	6¢ per lb.	15¢ per lb.
	146.31		If products of Cuba		Free (s)		
			Bananas, fresh, or prepared or preserved:				
	146.40	00	Fresh	Lb.	Free		Free
A	146.42	00	Dried	Lb.	1.3% ad val.		35% ad val.
A*	146.44	00	Otherwise prepared or preserved	Lb.	3% ad val.		35% ad val.

(s) = Suspended. See general headnote 3(b).

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

(1st supp. 1/6/84)

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1984)

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 9. - Edible Nuts and Fruits

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			Olives, fresh, or prepared or preserved:				
	148.40	00	Fresh	Lb.	5¢ per lb.		5¢ per lb.
			In brine, whether or not pitted or stuffed:				
			Not ripe and not pitted or stuffed:				
	148.42	00	Not green in color and not packed in airtight containers of glass, metal, or glass and metal	Gal. v Lb.	15¢ per gal.		20¢ per gal.
	148.44		Other		20¢ per gal.		20¢ per gal.
		20	In containers each holding not more than 0.3 gallon	Gal. v Lb.			
		40	In containers each holding more than 0.3 gallon	Gal. v Lb.			
			Ripe, but not pitted or stuffed:				
	148.46	00	Not green in color and not packed in airtight containers of glass, metal, or glass and metal	Gal. v Lb.	15¢ per gal.		30¢ per gal.
	148.48	00	Other	Gal. v Lb.	30¢ per gal.		30¢ per gal.
	148.50		Pitted or stuffed		30¢ per gal.		30¢ per gal.
			Pitted:				
		20	In containers each holding not more than 0.3 gallon	Gal. v Lb.			
		40	In containers each holding more than 0.3 gallon	Gal. v Lb.			
			Stuffed:				
			In containers each holding not more than 0.3 gallon:				
		65	Placed packed	Gal. v Lb.			
		70	Other	Gal. v Lb.			
		80	In containers each holding more than 0.3 gallon	Gal. v Lb.			
			Dried:				
A	148.52	00	Not ripe	Lb.	5¢ per lb.		5¢ per lb.
	148.54	00	Ripe	Lb.	2.5¢ per lb.		5¢ per lb.
	148.56	00	Otherwise prepared or preserved	Lb.	5¢ per lb.		5¢ per lb.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

(2nd supp. 4/9/84)

APPENDIX D

NOTICE OF COUNTERVAILING DUTIES TO BE IMPOSED (T.D. 74-234),NOTICE OF NEW RATE OF COUNTERVAILING DUTY (T.D. 78-167), AND NOTICE OF DECLARATION OF NET AMOUNT OF BOUNTY OR GRANT (T.D. 79-22)

(T.D. 74-234)

Countervailing duties—Bottled green olives from Spain

Notice of countervailing duties to be imposed under section 303, Tariff Act of 1930, by reason of the payment or bestowal of a bounty or grant upon the manufacture, production or exportation of bottled green olives from Spain.

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER 1—UNITED STATES CUSTOMS SERVICE

PART 159—LIQUIDATION OF DUTIES

In the Federal Register of July 6, 1974 (39 F.R. 26046), the Commissioner of Customs announced that information had been received in proper form pursuant to section 159.47(b) of the Customs Regulations (19 CFR 159.47(b)) which appeared to indicate that certain payments or bestowals made by the Government of Spain on the exportation from Spain of bottled green olives constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) upon the manufacture, production or exportation of the merchandise to which the payments apply. The notice provided interested parties 30 days from the date of publication to submit data, views, or arguments with regard to the existence or non-existence and the net amount of a bounty or grant. A subsequent notice (39 F.R. 30364) extended the period for comments an additional 14 days.

An investigation was conducted pursuant to section 159.47(c) of the Customs Regulations (19 CFR 159.47(c)).

After consideration of all information received, the United States Customs Service is satisfied that exports of bottled green olives from Spain are subject to bounties or grants within the meaning of section 303.

Accordingly, notice is hereby given that bottled green olives imported directly or indirectly from Spain, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of this notice in the Customs Bulletin, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303, the amount of the bounties or grants, under the information presently available, has been determined to be 2.9 percent of the f.o.b. or ex-works price to the United States.

Effective on the 31st day after the date of publication of the notice in the Customs Bulletin and until further notice, upon the entry for consumption of such dutiable bottled green olives imported directly or indirectly from Spain which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such bottled green olives from Spain.

The table in section 159.47 (f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "Country," the name "Spain" and by inserting for Spain the words "bottled green olives" in the column headed "Commodity," the number of this Treasury decision in the column headed "Treasury Decision," and the words "Bounty Declared—Rate," in the column headed "Action."

(R.S. 251, secs. 303, 624; 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624).

(APP-4-05)

VERNON D. ACREE,
Commissioner of Customs.

Approved September 9, 1974:
DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

[Published in the Federal Register September 12, 1974 (39 FR 32904)]

[4810-22]

[T.D. 78-167]

PART 159—LIQUIDATION OF DUTIES

Bottled Green Olives from Spain—New Rate of Countervailing Duty Declared

AGENCY: Customs Service, United States Treasury Department.

ACTION: Modification of Countervailing Duty Declared for Bottled Green Olives from Spain.

SUMMARY: This notice is to advise the public of the new rate of countervailing duty applicable to imports of bottled green olives from Spain. A countervailing duty is imposed when the Treasury Department determines that a bounty or grant is being paid to producers and exporters of merchandise. Based upon a review of further information received, the net amount of benefits given by the Government of Spain, which constitute bounties or grants upon the manufacture, production or exportation of bottled green olives, within the meaning of the countervailing duty law, has been determined to be 1.14 percent of the f.o.b. or ex-works price to the United States. Accordingly, effective today, bottled green olives from Spain will be subject to countervailing duty in accordance with this determination.

EFFECTIVE DATE: June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Director, Office of Tariff Affairs, United States Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C. 20220, telephone 202-566-8585.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 12, 1974 (39 FR 32904), notice was given (T.D. 74-234) that it had been determined that exports of bottled green olives from Spain are subject to bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that bottled green olives imported directly or indirectly from Spain, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of that notice in the Customs Bulletin, would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. In accordance with section 303, the amount of the bounties or grants, under the information then available, was determined to be 2.9 percent of the f.o.b. or ex-works price to the United States.

On the basis of a review of all of the information developed, the amount of indirect taxes directly related to the product or its components has been found to be 10.86 percent *ad valorem*. Accordingly, it has been determined that the net amount of bounty or grant being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Act, upon the exportation of bottled green olives from Spain is 1.14 percent. This amount represents the difference between the Desgravacion Fiscal rebate on 12 percent and the amount of indirect taxes found to be directly related to the product or its components.

Effective on June 15, 1978, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable bottled green olives imported directly or indirectly from Spain which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such bottled green olives from Spain.

§ 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting in respect of the commodity "Bottled green olives" and of the country "Spain", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "new rate" in the column headed "Action".

(R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

PETER D. EHRENHAFT,
Deputy Assistant Secretary of the Treasury.

JUNE 10, 1978.

[FR Doc. 78-16550 Filed 6-14-78; 8:45 am]

[4810-22-M]

[T.D. 79-22]

PART 159—LIQUIDATION OF DUTIES

Bottled Green Olives From Spain—Declaration of Net Amount of Bounty or Grant

AGENCY: Customs Service, United States Treasury Department.

ACTION: Net Amount of Bounty or Grant Declared.

SUMMARY: This notice is to advise the public of the decision to reinstate the basis for calculating the countervailing duty applicable to imports of bottled green olives from Spain which prevailed prior to the Treasury Department's decision with respect to the product announced on June 15, 1978 (43 FR 25812). A countervailing duty is imposed when the Treasury Department determines that a bounty or grant is being paid to producers and exporters of merchandise. Based upon a review of the decision made in June, the Treasury Department has determined that only those indirect taxes which are directly related to the product, in the sense that the tax is assessed on the exported product or its physical components or packing (making allowance for waste) may be considered as an offset against the benefits represented by the Desgravacion Fiscal. The net amount of benefits given by the Government of Spain which constitute bounties or grants upon the manufacture, production or exportation of bottled green olives, within the meaning of the countervailing duty law, has been determined to be 2.84 percent of the f.o.b. price to the United States. Accordingly, effective today, bottled green olives from Spain will be subject to countervailing duty in accordance with this determination.

EFFECTIVE DATE: January 17, 1979.

FOR FURTHER INFORMATION CONTACT:

James Lyons, Office of Tariff Affairs, United States Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, D.C. 20220, telephone 202-566-8256.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 12, 1974 (39 FR 32904), notice was given (T.D. 74-234) that it had been determined that exports of bottled green olives from Spain are subject to bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303).

At that time, notice was given that bottled green olives imported directly or indirectly from Spain, if entered for consumption or withdrawn from warehouse for consumption after the expiration of 30 days after publication of the notice in the Customs Bulletin would be subject to the payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed. The amount of the bounties or grants was determined to be 2.9 percent of the f.o.b. price to the United States.

As is indicated in the notice published contemporaneously, the Treasury Department has determined that the net amount of the bounty or grant being paid or bestowed, directly or indirectly within the meaning of section 303 of the Act, upon the exportation of bottled green olives from Spain should be that which was determined to exist prior to June 15, 1978 less adjustments for tax on export license. This amount 2.44 percent, represents the difference between the Desgravacion Fiscal net rebate and those amounts the Government of Spain has estimated is paid by the producers of bottled green olives or any prior stage producers in indirect taxes on any components that were physically incorporated in the exported product or its packing (making normal allowance for waste).

Effective on January 17, 1979, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable bottled green olives imported directly or indirectly from Spain which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such bottled green olives from Spain.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting in respect of the commodity "bottled green olives" and of the country "Spain", the number of this Treasury Decision in the column headed "Treasury Decision" and the words "new rate" in the column headed "Action". (R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2049, 19 U.S.C. 66, 1303, as amended, 1624).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 15, March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47) insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

DECEMBER 21, 1978.

[FR Doc. 79-1631 Filed 1-16-79; 8:45 am]

APPENDIX E

DEPARTMENT OF COMMERCE'S FEDERAL REGISTER NOTICES OF PRELIMINARY RESULTS OF ADMINISTRATIVE REVIEW AND FINAL RESULTS OF ADMINISTRATIVE REVIEW OF COUNTERVAILING DUTY ORDER

Federal Register / Vol. 48, No. 149 / Tuesday, August 2, 1983 / Notices 34997

Bottled Green Olives From Spain; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on bottled green olives from Spain. The review covers the period January 1, 1980 through December 31, 1981. As a result of the review, the Department has preliminarily determined the net subsidy for 1980 to be 2.70 percent *ad valorem*, and for 1981, 2.44 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 2, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1974, the Department of the Treasury ("Treasury") published in the Federal Register (T.D. 74-234, 39 FR 32904) an affirmative final countervailing duty determination on bottled green olives from Spain. The order became effective on October 25, 1974. The notice stated that the Government of Spain had provided bounties or grants on the manufacture, production or exportation of such merchandise within the meaning of section 303 of the Tariff Act of 1930 ("the Tariff Act").

On January 1, 1980, the provisions of title I of the Trade Agreements Act of 1979 ("the TAA") became effective. On January 2, 1980, the authority for administering the countervailing duty law was transferred from Treasury to the Department of Commerce ("the Department"). The Department published in the Federal Register of May 13, 1980 (45 FR 31455) a notice of intent to conduct administrative reviews of all outstanding countervailing duty orders. As required by section 751 of the Tariff Act, the Department has conducted an administrative review of the order on bottled green olives from Spain.

Scope of the Review

Imports covered by the review are bottled green olives, imported directly or indirectly from Spain. Such imports are currently classifiable under items 148.4420, 148.4440, 148.4800, and 148.5020 through 148.5080 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31,1981, and the following programs: (1) A rebate upon exportation of indirect taxes, under the Desgravacion Fiscal a la Exportacion; (2) an operating capital loans program; and (3) a minimum export price program, which the petitioner alleges conferred benefits to Spanish exporters of bottled green olives during the period of review.

Analysis of Programs

(1) *Desgravacion Fiscal a la Exportocion ("the DFE")*. Spain employs a cascading tax system. Under this system, the government levies a turnover tax ("IGTE") on each sale of a product through its various stages of production, up to (but not including) the final sale in Spain. Upon exportation of the product, the government, under the DFE, rebates both these accumulated IGTE indirect taxes and certain final stage taxes.

Although the Spanish government rebates upon exportation all indirect taxes paid under the cascading tax system, the Tariff Act allows the rebate of only the following: (1) Taxes borne by inputs which are physically incorporated in the exported product (see Annex 1.1 of part 355 of the Commerce Regulations) and (2) indirect taxes levied at the final stage (see Annex 1.2 of part 355 of the Commerce Regulations). If the tax rebate upon export exceeds the total amount of allowable indirect taxes described above, the Department considers the difference to be an overrebate of indirect taxes and, therefore, a subsidy.

Physical incorporation is a question of fact to be determined for each product in each case. In this case, the physically incorporated inputs are the raw materials previously allowed by Treasury. The rebate of two final stage taxes, the parafiscal tax on export licenses and the tax on freight and insurance, is also allowable when calculating whether or not there is an overrebate of indirect taxes under the DFE.

Based upon our analysis of the DFE and the allowable indirect taxes, we preliminarily determine that an overrebate upon export existed in 1980 in an amount equal to 2.25 percent of the f.o.b. invoice price of the merchandise.

As of January 1, 1981, the Spanish government increased the IGTE rate from 2.40 percent while maintaining the previous rate for the export rebate. Based upon our analysis of the indirect taxes on physically incorporated inputs and the two indirect taxes on the final product, we determine that the change in aggregate indirect tax incidence has eliminated the overrebate previously found countervailable; therefore, we preliminarily determine the net subsidy attributable to this program during 1981 to be zero percent.

(2) Operating Capital Loans. The Spanish government requires banks to set aside funds to provide short-term operating capital loans. These loans are granted for a period of less than one

year. In 1980, the Spanish government fixed the interest rate for such loans at 8 percent, which was 1.50 percent below the legally established commercial interest rate of 9.50 percent. Effective March 1, 1981, the Spanish government increased the interest rate on operating capital loans from 8 to 10 percent while eliminating the interest rate ceiling on comparable short-term commercial loans. To determine the interest rate on comparable commercial loans for the remaining ten months in 1981, we took the average national prime interest rate for loans of comparable length, added the prevailing interest charge over prime facing borrowers of average creditworthiness and added the legally established fees and commissions. Comparing this benchmark with the 10 percent interest rate established for the operating capital loans program, we found a differential of 9.45 percent after March 1.

The maximum loan principal available to a given exporter is determined as a percentage of the firm's previous year's exports. This amount may be increased if the firm holds a government-issued Exporter's Card. In the case of bottled green olives, maximum eligibility until November 1981 was 35 percent. Effective November 21, 1981, the Spanish government decreased the maximum eligibility (including Exporter's Card eligibility) to 28 percent. Because we have no information on actual use of this program, we assumed that the maximum allowable amount was borrowed. After prorating the interest rate differentials and eligibility levels prevailing in 1981, we preliminarily determine the net subsidy conferred under this program to be 0.45 percent *ad valorem* for 1980, and 2.44 percent *ad valorem* for 1981.

The Spanish government is currently phasing out its operating capital loans program. Since 1981, the maximum annual amount bottled green olive producers can borrow under this program has been reduced to 17.50 percent of their previous year's exports. Using the interest rate differential prevailing in 1982 (9.38 percent), and assuming, in the absence of knowledge of current usage levels, that the Spanish producers borrowed the maximum amount to which they were legally entitled as of January 1, 1983, we preliminarily determine, for purposes of cash deposits of estimated countervailing duties, that the net subsidy attributable to this program is 1.64 percent *ad valorem*.

(3) *Minimum Export Price.* On November 1, 1979, the Government of Spain imposed a minimum price support program on exports of olives, bottled or in bulk. The program was terminated at the end of 1980.

The petitioner, Green Olive Trade Association, contends that Spanish bottlers were able to purchase Spanish olives in bulk at a price lower than that available to U.S. bottlers which import Spanish olives in bulk, and that by mandating this price differential the Spanish government indirectly provided a countervailable domestic subsidy on the manufacture of bottled olives in Spain.

The Department does not consider a minimum price scheme which has the effect of increasing the export price of the article in question, in this case bottled olives, a countervailable subsidy.

Moreover, the fact that the government imposed a price floor on exports of olives shipped in bulk, which resulted in a higher price to U.S. bottlers, does not confer a subsidy on the production of Spanish bottled green olives. The cost inputs to a U.S. producer is not relevant here to the determination of whether a particular practice of a foreign government constituted a subsidy.

The petitioner also contends that the fact that Spanish bottlers were able to purchase bulk olives at the unregulated domestic price enabled them to reap large profit margins on their export sales. We fail to see how any countervailable benefit was conferred by these purchases of bulk olives since the prices were set without government direction and without any export preference.

The petitioner further asserts that most Spanish bottlers are subsidiaries of U.S. multinational corporations and that these corporations, using their large 1980 profits, have sold Spanish bottled green olives in the United States at very low prices in 1981. The issue raised here by the petitioner involves pricing behavior which is not properly examined in the context of a countervailing duty proceeding.

Accordingly, the Department preliminarily determines that the Spanish minimum export price support program did not confer a countervailable benefit upon the production or exportation of bottled green olives from Spain.

Verification

We verified data regarding the DFE program through inspection of government documents, on-site examination of company books and records and discussions with government and trade association officials. As for the operating capital loans program, the Spanish government denied us access to company-specific records for verification and did not permit trade association officials to discuss the program with us. Consequently, as mentioned above, we assume that the maximum allowable amount of operating capital loans was borrowed. We have calculated the benefit under this program using the best information available.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the aggregate net subsidy conferred during 1980 by the two programs is 2.70 percent *ad valorem*. For 1981, we preliminarily determine that the aggregate net subsidy conferred is 2.44 percent *ad valorem*.

Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 2.70 percent of the f.o.b. invoice price on all shipments of Spanish bottled green olives entered or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980 and 2.44 percent of the f.o.b. invoice price on all shipments exported on or after January 1, 1981 and on or before December 31, 1981.

The provisions of T.D. 74–234, T.D. 78–167 or T.D. 79–22 and section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties on all unliquidated entries of bottled green olives from Spain entered, or withdrawn from warehouse, for consumption prior to January 1, 1980, at the applicable rates set forth in T.D. 74–234, T.D. 78–167, or T.D. 79–22.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.64 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until the publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 26, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-20818 Filed 8-1-83; 8:45 am]

BILLING CODE 3510-25-M

Notices

Federal Register

Vol. 48, No. 218

Wednesday, November 9, 1983

DEPARTMENT OF COMMERCE

International Trade Administration

[C-469-021]

Bottled Green Olives From Spain; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On August 2, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on bottled green olives from Spain. The review covers the period January 1, 1980 through December 31, 1981.

We gave interested parties an opportunity to comment on our preliminary results. After review of all comments received, the final results are the same as the preliminary results.

EFFECTIVE DATE: November 9, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Silver or Joseph Black, Office of Compliance, Internatonal Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 34997) the preliminary results of its administrative review of the countervailing duty order on bottled green olives from Spain (39 FR 32904; September 12, 1974). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Spanish bottled green olives. Such merchandise is currently classifiable under items 148.4420, 148.4440, 148.4800, and 148.5020 through 148.5080 of the Tariff Schedules of the United States Annotated. The review covers the period January 1, 1980 through December 31, 1981 and three programs: (1) A rebate upon exportation of indirect taxes under the Desgravacion Fiscal a la Exportacion ("the DFE"); (2) an operating capital loans program; and (3) a minimum export price program.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received written comments from the Petitioner, the Spanish exporters and a bottled green olive importer in the United States.

Comment 1: The petitioner, the Green Olive Trade Association, asserts that the Department must investigate all of the "subsidies" alleged in the original 1973 countervailing duty petition. The petitioner argues that one program, the Export Investment Reserve, was specifically identified in the petition, and two other types of programs, preferential financing for plant expansion and regional financing assistance, are similar to allegations in the petition. The petitioner notes that the Department has, in a sense, investigated these programs through the questionnaire, by describing what constitutes subsidization, and by asking whether any subsidies, other than those specifically enumerated, are bestowed. Further, the Spanish government falsely responded to that question, ignoring those programs described in the petition.

Department's Position: Since the time of our questionnaire in February 1981, the petitioner has been aware, or should have been aware, that we had not asked questions about those programs, and could have called this fact to our attention. Because the original investigation occurred in 1973 and because the Department of the Treasury did not find countervailable the one program specifically indentified, the allegations are new, brought to our attention after the publication of our preliminary results. We will not now investigate them. We do, however, intend to examine the alleged three types of programs in our next administrative review. Finally, we have no evidence that the Spanish government falsely replied to our questionnaire.

Comment 2: The petitioner challenges our decision not to countervail the minimum export price program applicable from November 1, 1979 through December 31, 1980 to bulk and bottled green olive exports. The petitioner contends that, in spite of the weakness of the U.S. dollar against the Spanish peseta, Spanish bottlers during that period were able to sell bottled green olives at an artificially high export price because of their near monopoly position as sellers of bulk olives in the United States market and their ability to purchase bulk olives at prices lower than prices available to their U.S. competitors. By mandating this price differential, the Spanish government was able to place the Spanish bottled olive exporting industry at an advantage over U.S. competition without granting a direct export subsidy. Since the result is the same, the program must be a countervailable subsidy.

Department's Position: The Department does not consider the minimum export price program on bottled green olives to be a countervailable subsidy, because the program operates to increase the price of bottled olives exported to the U.S. Further, the minimum export price program on bulk olives does not confer a benefit on exports of bottled olives, as the Spanish domestic price of bulk olives is unregulated and not necessarily lower for exporters of bottled olives.

Comment 3: The petitioner maintains that the minimum export price for bottled green olives from Spain is similar to a program found counteravailable in the Department's investigation of nitrocellulose from France (48 FR 11971, March 22, 1983). In that case, the French government purchased military grade nitrocellulose at an artificially high price. The petitioner claims that the law does not distinguish between a subsidy "provided by the government" through government purchases of production and a practice "required by government action" as in the case of bottled green olives.

Department's Position: In the cited case, the Department determined on the basis of the best information available that the French government was "cross-subsidizing" industrial grade nitrocellulose by purchasing nitrocellulose for the military at inflated prices, augmenting the income of the manufacturer. The minimum price program, unlike the case of French nitrocellulose, involved no infusion of government funds; bottled and bulk olive consumers were not required to purchase at the higher price, but were free to buy or not buy at the elevated price.

Comment 4: The exporters claim that, in calculating the DFE overrebate, the Department should treat parafiscal taxes for certain government export inspection requirements (sanitary, "phytosanitary" and quality) as allowable indirect taxes applicable to the final stage product at the time of export.

Department's Position: We only allow the rebate of indirect taxes borne by those inputs which are physically incorporated in the final product and the rebate of final stage indirect taxes. Annex 1.1 of part 355 of the Commerce Regulations deems payments for services as not incorporated even if those services directly relate to the exportation of the merchandise. Although these parafiscal taxes are required for export of the final product, we consider these taxes for sanitary, "phytosanitary", and quality inspection actually to be payment for services performed by the government, and therefore not allowable in the calculation of the countervailable overrebate.

Comment 5: The exporters claim that the Department's calculation of the subsidy attributable to the operating capital loans program is inconsistent with our calculation in the final affirmative determinations for certain

Spanish steel products (47 FR 51433; November 15, 1982). The exporters argue that, in the steel cases, the Department looked only at loans repaid during the period of investigation. Because the loans here were approximately one year in length, a March 31, 1981 increase in interest differentials was not applicable to loans repaid during 1981, but would apply only to loans due for repayment beginning in March, 1982.

Department's Position: There is no inconsistency between our treatment of the operating capital loans program in this case and loans in the Spanish steel cases. In the steel cases, the Department used date of repayment only for calculation of the benefit from medium- and long-term loans. As we said in those cases (47 FR 51448), "in calculating the benefit from the operating capital loans, our calculations include the loans *obtained* in 1981. Therefore, we used the interest differential in effect in 1981 when these loans were received to calculate any benefit."

Comment 6: The exporters claim that our calculations are inconsistent with precedents set in Brazilian countervailing duty cases, in which the Department allocated the subsidy benefit on a pro rata basis for the time the loans were outstanding during the review period.

Department's Position: In order to calculate the prorated benefits from all short-term loans outstanding during the period of review, we need actual loan data, including principal amounts and dates of receipt and repayment. Although we requested this information from the Spanish government during the course of the current review, we did not receive it in a timely manner. Without such data, we cannot calculate the amount of preferential loans outstanding during the review period without engaging in purely speculative assumptions.

Comment 7: The exporters claim that the Department is overstating the benefit from the operating capital loans program in 1981. They assert that over half of the operating capital loans outstanding in 1981 were contracted for prior to the March 1, 1981 liberalization of commerical short-term interest rates. The interest differential for the earlier loans therefore was 1.5 percent. Further, any loans outstanding in the period January through June 14, 1981 could only have been contracted for in June, 1980; only after July 15, 1981 could such loans be obtained at times other than June of each year. Therefore, exporters could only benefit from the higher interest rate differential after July 15, 1981. The exporters argue that the Department should calculate the 1981 subsidy based on the interest rate differential in effect at the time receipt of loans outstanding in 1981 was possible (June, 1980 and after July 15, 1981), rather than on the basis of an average interest rate differential weighted by days in 1981.

Department's Position: The Department does use date of receipt of the loan in measuring the interest differential. The Spanish government did not respond to our request for actual loan data nor did it provide support for the claim that before July 15, 1981, all loans were granted in June. Therefore, as best information available, we assumed uniform borrowing throughout the period of review and maximum use of the program. The Department used a 1.5 percent differential for borrowings up to March 1, 1981.

Comment 8: The exporters suggest that the Department calculate the benefit from the operating capital loans in 1980 by dividing the interest savings on loans received from June 15, 1979 to June 14, 1980 by exports during that same period.

Department's Position: Again, the exporters are asking us to accept, without support, the fact that until July 15, 1981 loans were given only once a year, in June. In the absence of specific loan data showing dates of receipt and repayment, and based on the best information available, we have calculated the benefit from operating capital loans as though they were granted uniformly over the period of review.

Comment 9: The exporters contend that the commercial benchmark used by the Department is too high. They contest 2 percent of the Department's 2.5 percent addition to the average of the monthly prime rates for one-year loans because any exporter that could obtain any significant amount of financing under the operating capital loans program would have been able to obtain normal commercial credit at a rate no higher than prime. To support this contention, the Spanish embassy submitted 1981 Bank of Spain statistics on "free rates," which are rates charged for "loans made without the benefit of guarantees." The exporters argue that the fact that these free rates are within the range of published monthly prime rates for the same period demonstrates that only the legally established 0.5 percent addition to prime for fees and commissions is justified.

Department's Position: Since the preferential loans are given under a broad national lending program, we have used a national commercial interest rate as our benchmark. Additionally, because the operating capital loans program is not directed toward a particular group of exporters, we have used an average commercial rate (composed of prime plus 2.5 percent), and not a rate available to borrowers of better-than-average creditworthiness. Additionally, during verification, the government of Spain refused to allow the Department to gather information on comparable commercial loans. Absent that information and its verification we would not in any event presume and use a better average interest rate.

Comment 10: The exporters contend that various additional charges associated with preferential export financing raise the cost of the operating capital loans from a nominal rate (as of March 1, 1981) of 10 percent to an effective rate of 14–15 percent, as verified in the cases of potassium permanganate and prestressed wire strand from Spain, and in the verification report on ferroalloys from Spain, dated January 6, 1981.

Department's Position: The exporters have not provided us with any documentary evidence to corroborate their assertion. The verification reports cited by respondents show that the 14–15 percent figure arose during discussions with a U.S. bank official in Madrid, which does not constitute verification. The Department has never used the 14–15 percent figure cited by the exporters; instead, in the absence of documented evidence of additional interest charges, we have continued to use the published nominal rate of interest for such operating capital loans.

Comment 11: On February 23, 1983, the exporters submitted new information showing the amount of operating capital loans granted from July 1980 through June 1981 and from July 1981 through June 1982 to those firms Department representatives had visited in March 1982. The loan information indicated that firms had borrowed less than the maximum allowable amount assumed by the Department in the preliminary results.

Department's Position: During the March 1982 verifications, the Department attempted to collect information, and verify that information, on actual loans granted under the operating capital loans program. The government of Spain instructed the firms being verified not to cooperate on this matter. The Department views the February 1983 submission of this information untimely and we will not consider it.

Comment 12: The exporters provided a table constructing a theoretical maximum subsidy of 1.49 percent for 1981. They suggest that this rate be used for assessment for that year. The table assumes maximum eligibility for operating capital loans based on exports from a previous quarter. The benefit from the loans is prorated over the review period.

Department's Position: There is no information in the record of this case to support the assumption of eligibility for loans based on quarterly exports. Following past practice, we have calculated eligibility and benefits based on previous years' exports as the best information available. Further, as noted above, we cannot prorate loan benefits without actual loan data submitted on a timely basis.

Comment 13: The exporters contend that the deposit rate for the operating capital loans program should not have been based solely upon the maximum eligibility level for 1983 (17.5 percent). Because eligibility levels are based on previous year's exports, it should have been adjusted for the year-to-year growth in those exports as represented by 1980 and 1981 data.

Department's Position: As we stated in our final results of the administrative review of unwrought zinc from Spain (48 FR 35698; August 5, 1983), the exporters are asking us to predict the future value of bottled olive exports. The Department views such forecasting as inappropriate. We cannot make such an assumption for the remainder of 1983 and the beginning of 1984 based on any increase in 1981 exports when compared to 1980.

Comment 14: The exporters maintain that the duty deposit rate should be updated to reflect the current status of Spain's phase-out of the operating capital loans program, citing a 1982 regulation reducing maximum eligibility to 10.5 percent effective January 1, 1984.

Department's Position: As we stated in our final results of administrative review for ferroalloys from Spain (48 FR 34493; July 29, 1983) and unwrought zinc from Spain (48 FR 35689), it is our policy in setting the duty deposit rate to include timely corroborated reports of government actions, subsequent to the review period and already *in effect,* that affect the size of the benefits on future entries. Therefore, we have not incorporated the January 1, 1984 eligibility change in setting our deposit rate.

Comment 15: The importer, Durkee Famous Foods, contends that the information submitted by its supplier supports a lower calculated DFE overrebate than that determined by the Department.

Department's Position: Our uniform practice in reviewing the overrebate under the DFE is to calculate one country-wide rate. Durkee's argument does not convince us that we should deviate from that practice.

Final Results of the Review

After consideration of all of the comments received, we determine the aggregate net subsidy to be 2.70 percent *ad valorem* during 1980. For 1981, we determine the aggregate net subsidy to be 2.44 percent *ad valorem.*

The Department will instruct the Customs Service to assess countervailing duties of 2.70 percent of the f.o.b. invoice price on all shipments of Spanish bottled green olives entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980, and 2.44 percent of the f.o.b. invoice price for shipments exported on or after January 1, 1981 and on or before December 31, 1981.

Further, as provided for in section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.64 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is now beginning the next administrative review of the order.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: November 2, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-30380 Filed 11-8-83; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX F

COMPUTATIONS OF ESTIMATED IMPORTS OF BOTTLED GREEN OLIVES

Table F-1.--Olives in brine entered under TSUS items 148.44 and 148.50: U.S. imports for consumption and computations of estimated U.S. imports of Spanish-style green olives from Spain entered in bottles and in bulk that are repacked into bottles, 1979-83

Line	Item	1979	1980	1981	1982	1983
	Entered in containers each holding not more than 0.3 gallon:					
	Official U.S. import statistics, from 1/--					
1	All sources-----------1,000 lb, drained weight--	38,462	34,412	35,291	40,186	48,575
2	Sources other than Spain------------------do----	395	471	464	615	691
3	Spain-------------------------------------do----	38,067	33,941	34,827	39,571	47,884
4	Less USDA unofficial data for imports of black olives from Spain 2/ 1,000 lb, drained weight--	0	0	0	0	3/ 285
5	Estimated green olives from Spain (line 3 less line 4)-------------------------------do----	38,067	33,941	34,827	39,571	47,599
	Entered in containers each holding more than 0.3 gallon:					
	Official U.S. import statistics from 1/--					
6	All sources-----------1,000 lb, drained weight--	41,081	46,663	48,293	56,533	51,908
7	Sources other than Spain------------------do----	2,398	2,264	4,554	6,703	5,126
8	Spain-------------------------------------do----	38,683	44,399	43,739	49,830	46,782
9	Less USDA unofficial data for imports of black olives from Spain 2/ 1,000 lb, drained weight--	0	0	71	8,431	3/ 3,207
10	Estimated green olives from Spain (line 8 less line 9)------------------------------do----	38,683	44,399	43,668	41,399	43,575
11	Total green olive imports from Spain entered in both bottles and bulk containers-----------do----	76,750	78,340	78,495	80,970	91,174
	Share of U.S. imports entered in containers of--					
12	Not more than 0.3 gallon--------------percent--	50	43	44	49	52
13	More than 0.3 gallon------------------------do----	50	57	56	51	48
	Share of Spain's exports of green olives to the United States that were shipped in 4/--					
14	Bottles-------------------------------percent--	53	55	58	64	65
15	Bulk----------------------------------percent--	47	45	42	36	35
	Estimated U.S. imports of Spanish-style green olives entered in--					
16	Bottles (line 11 x line 14)------------------------	40,677	43,087	45,527	51,821	59,263
17	Bulk (line 11 x line 15)---------------------------	36,073	35,253	32,968	29,149	31,911
18	Not packed in bottles 5/---------------------------	1,804	1,763	1,648	1,457	1,596
19	Repacked into bottles (line 17 less line 18)----	34,269	33,490	31,320	27,692	30,315

1/ Compiled from official statistics of the U.S. Department of Commerce (see tables 5 and 6 in the report).

2/ Data are from U.S. Department of Agriculture (USDA) reports of canned black olives and olives in bulk that have been processed into California-style canned black olives (see table F-2 of this appendix).

3/ The share of the canned black olive imports that were in containers of not more than, or more than, 0.3 gallon is estimated by the Commission staff.

4/ Percentages are from the Spanish Table Olive Exporters Association as provided by the attorney for ACEMESA (the party for revocation of the countervailing duty); the numerical quantities of exports from Spain are contained in a confidential submission to the Commission dated Apr. 18, 1984.

5/ Olives not packed in bottles are estimated at 5 percent of the green olives entered in bulk from line 17. It was confirmed in responses to questionnaires sent by the Commission that some quantities of green olives imported in bulk and sold as green olives are not packed into glass bottles in the United States. Although exact estimates of such quantities were not obtained in this investigation, it is believed that the quantities of green olives imported in bulk that are sold to retail, institutional, or industrial users in ways other than packing in glass containers may range from 2 percent to more than 10 percent of such imports in bulk.

Source: Compiled by the staff of the U.S International Trade Commission, as noted.

Table F-2: U.S. imports from Spain of canned black olives and olives entered in bulk that were processed into California-style canned black olives, and estimated imports of such olives entered under TSUS items 148.44 and 148.50, 1981-83

(In thousands of pounds net drained weight)

Line	Item	1981	1982	1983
	U.S. imports of canned black olives, by style of pack: 1/ 2/			
1	Whole	***	***	***
2	Pitted	***	***	***
3	Limited sizes	***	***	***
4	Total	4/ ***	***	***
5	U.S. imports of olives entered in bulk that were processed into California-style canned black olives 1/ 5/	***	***	***
6	Total imports reported under inspections (line 4 plus line 5)	4/ 71	11,931	5,892
7	Less imports under TSUS item 148.48 estimated to have been canned black olives 6/	0	3,500	2,400
8	Estimated imports entered under TSUS items 148.44 and 148.50 (line 6 minus line 7)	4/ 71	8,431	3,492

1/ Compiled from inspections under the Federal marketing order for California-style olives. Import regulations for size and grade of such olives apply to both the canned olives and bulk olives that are subsequently canned into California-style olives. There were no reports of inspections under these regulations in 1980 or 1979.

2/ Imports, which were predominately in No. 10 cans (holding more than 0.3 gallon), are believed to have been reported under TSUS items 148.48, and 148.50.

3/ Less than 500 pounds.

4/ Includes small quantities from Portugal.

5/ Imports are believed to have been reported under TSUS item 148.44.

6/ TSUS item 148.48 provides for olives from ripe fruit, whereas California-style canned black olives are processed from not ripe fruit. See table 4 in the report for total imports under TSUS item 148.48.

Source: Compiled from unpublished data of the U.S. Department of Agriculture, Agriculture Marketing Service.