Raw In-Shell Pistachios from Iran

Investigation No. 731-TA-287 (Second Review)

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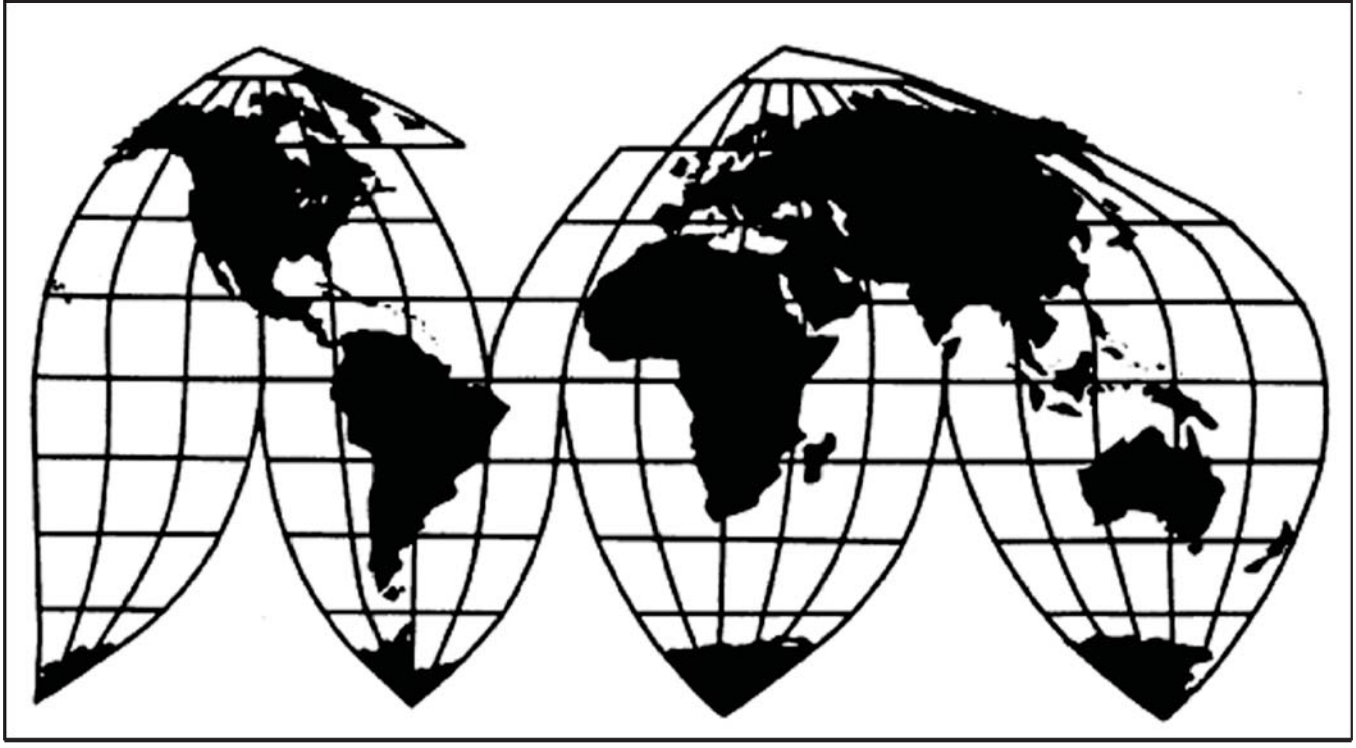
U.S. International Trade Commission



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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-287 (Second Review)

Raw In-Shell Pistachios from Iran

DETERMINATION

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that revocation of the antidumping duty order on raw in-shell pistachios from Iran would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

BACKGROUND

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted this review on April 1, 2016 (81 FR 18882) and determined on July 5, 2016 that it would conduct a full review (81 FR 45306, July 13, 2016). Notice of the scheduling of the Commission's review 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, DC, and by publishing the notice in the *Federal Register* on December 15, 2016 (81 FR 90867) (as revised effective March 7, 2017 (82 FR 14031, March 16, 2017)). The hearing was held in Washington, DC, on April 27, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Views of the Commission

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Tariff Act"), that revocation of the antidumping duty order on raw in-shell pistachios ("pistachios") from Iran would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

I. Background

In July 1986, the Commission determined that an industry in the United States was threatened with material injury by reason of imports of pistachios from Iran that the U.S. Department of Commerce ("Commerce") had determined were sold in the United States at less than fair value ("LTFV").[1] Commerce issued an antidumping duty order as well as a countervailing duty order on pistachios from Iran in July 1986.[2] Shortly thereafter, the President imposed an embargo on imports from Iran, which remained in effect until April 28, 2000, when the embargo was lifted on foodstuffs, including pistachios.[3]

In 2005, the Commission conducted its first five-year review of the antidumping duty order and, following a full review, concluded that revocation of the order would likely lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.[4] Commerce issued a continuation of the order in January 2006.[5] In 2010, the President signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which imposed an embargo on food products from Iran that remained in effect until January 2016.[6]

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[1] *In-Shell Pistachio Nuts from Iran*, Inv. No. 731-TA-287 (Final), USITC Pub. 1875 at 3 (July 1986) ("*Original Determination*").

[2] 51 Fed. Reg. 25,922 (July 17, 1986). In the concurrent countervailing duty investigation, the Commission was not required to make an injury determination since Iran was not a signatory to the General Agreement on Tariffs and Trade (GATT). Because Iran is not a member of the World Trade Organization, the countervailing duty order is not subject to five-year reviews, and remains in place. The Uruguay Round Agreements Act Statement of Administrative Action ("SAA"), H.R. Rep. No. 103-316, vol. I at 942 (1994). In addition to the countervailing duty order in effect on raw in-shell pistachios from Iran, there is a separate countervailing duty order on roasted in-shell pistachios from Iran that has been in effect since 1986, and is likewise not subject to five-year reviews. Confidential Report ("CR") at I-5 to I-6; Public Report ("PR") at I-4.

[3] 52 Fed. Reg. 41,940 (Oct. 30, 1987); 65 Fed. Reg. 25642 (May 3, 2000); CR at IV-2 n.3; PR at IV-2 n.3.

[4] *Raw In-Shell Pistachios from Iran*, Inv. No. 731-TA-287 (Review) USITC Pub. 3824 (Dec. 2005) ("*First Review*").

[5] *Continuation of Antidumping Duty Order on Certain In-Shell Pistachios from Iran*, 71 Fed. Reg. 94 (Jan. 3, 2006).

[6] CR at I-1 n.2; PR at I-1 n.2; *see* EDIS Document No. 612626.

The Commission instituted this second five-year review on April 1, 2016.[7] Wonderful Pistachios & Almonds LLC ("Wonderful"), a domestic producer of pistachios, and the American Pistachio Growers ("APG"), a trade association whose members are domestic producers of pistachios, filed responses to the notice of institution. Nima Trading Company ("Nima"), an importer of pistachios from Iran, and the Iran Pistachio Association ("IPA"), a trade association representing pistachio growers in Iran, also filed responses to the notice of institution.[8] On July 5, 2016, the Commission found the domestic interested party group response to be adequate and the respondent interested party group response to be inadequate. It determined to conduct a full review in light of changes in the conditions of competition in the pistachio market in the United States and Iran since the first five-year review.[9] The Commission received prehearing and posthearing submissions from Wonderful and APG (collectively, "domestic producers"). The Commission also received prehearing and posthearing submissions from Commercial Arman Pegah Co. ("Arman Pegah"), an Iranian producer of subject merchandise.[10] Domestic producers and Arman Pegah participated in the hearing.

U.S. industry data are based on the questionnaire responses of 98 U.S. growers of pistachios that are believed to have accounted for approximately 50 percent of domestic production of pistachios in 2014-2016, and nine U.S. processors of pistachios that are believed to have accounted for more than 75 percent of U.S. processing of pistachios in 2015. U.S. import data are based on Commerce's official import statistics. Foreign industry data are based on publicly available information and the questionnaire response of one producer and exporter of pistachios in Iran, which accounted for an estimated *** percent of total production of pistachios in Iran in 2016.[11]

II. Domestic Like Product and Industry

A. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."[12] The Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and

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[7] *Raw In-Shell Pistachios from Iran: Institution of a Five-Year Review,* 81 Fed. Reg. 18,882 (Apr. 1, 2016).

[8] *Explanation of Commission Determinations on Adequacy* (EDIS Doc. 585367). Neither Nima nor IPA submitted questionnaire responses or participated in this review after the adequacy stage.

[9] *Explanation of Commission Determinations on Adequacy (*EDIS Doc. 585367).

[10] Arman Pegah submitted Final Comments that were not accepted because they were not in conformity with the Commission's rules. *See* EDIS Document No. 613243. We note that the Final Comments submitted by APG contained new factual information, and pursuant to 19 C.F.R. § 207.68(b) of the Commission's rules, we have disregarded the portions of APG's Final Comments on pages 4-5 and 5-6 that contained such new factual information.

[11] CR at I-12; PR at I-11.

[12] 19 U.S.C. § 1677(4)(A).

uses with, the article subject to an investigation under this subtitle."[13] The Commission's practice in five-year reviews is to examine the domestic like product definition from the original investigation and consider whether the record indicates any reason to revisit the prior findings.[14]

Commerce has defined the imported merchandise within the scope of the order under review as follows:

> The products covered by the order are raw, in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells, and edible meats from Iran. This merchandise is provided for in subheading 0802.51.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.[15]

Raw in-shell pistachios have been harvested, hulled, dried, and graded, but not salted, dyed, or roasted. Such pistachios must be further dried or roasted before being made available to consumers; there is no retail market for raw in-shell pistachios.[16] The U.S. Department of Agriculture ("USDA") establishes standards for grades of pistachios, ranging from colossal (less than 18 nuts per ounce) to small (more than 30 nuts per ounce).[17]

In the original investigation and first review, the Commission defined the domestic like product as raw in-shell pistachios, coextensive with Commerce's scope. It found that both imported and domestic pistachios had the same characteristics, although there were a variety of grades and sizes. The Commission found that all pistachios had the same use, specifically, consumption as a snack food.[18]

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[13] 19 U.S.C. § 1677(10); *see*, *e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *Nippon Steel Corp. v. United States*, 19 CIT 450, 455 (1995); *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996); *Torrington Co. v. United States*, 747 F. Supp. 744, 748-49 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991); *see also* S. Rep. No. 249, 96th Cong., 1st Sess. 90-91 (1979).

[14] *See*, *e.g.*, *Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (July 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

[15] *Certain In-Shell (Raw) Pistachios From the Islamic Republic of Iran: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 81 Fed. Reg. 51,857 (Aug. 5, 2016) (footnote omitted).

[16] CR at I-16, I-23; PR at I-14, I-20.

[17] CR at I-18 to I-19; PR at I-16. The typical ounce count for pistachios in the United States is 21-25 nuts per ounce, which is what most domestic producers produce. Transcript of Hearing ("Hearing Tr.") at 67 (Hohmann).

[18] *Original Determination*, USITC Pub. 1875 at 5; *First Review*, USITC Pub. 3824 at 5.

In this review, domestic producers argue that the Commission should continue to define the domestic like product as pistachios, coextensive with Commerce's scope.[19] They assert that there have been no material changes in the product or in the manner in which pistachios are grown, harvested, packaged, and sold since 1986.[20]

The record does not contain any information suggesting that the pertinent product characteristics of pistachios have changed since the prior proceedings.[21] In light of the foregoing, we define the domestic like product as raw in-shell pistachios, coextensive with Commerce's scope.

B. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product."[22] In defining the domestic industry, the Commission's general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

1. Grower/Processor Issues

In cases involving processed agricultural products, section 771(4)(E) of the Tariff Act authorizes the Commission to include growers of a raw agricultural input within the domestic industry producing the processed agricultural product if:

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[19] Wonderful's Prehearing Brief at 6.

[20] Wonderful's Prehearing Brief at 6. Arman Pegah asserts that the Commission should define the domestic like product as being limited to those pistachios that meet U.S. food safety and quality requirements. Arman Pegah's Posthearing Brief at 4-5. However, the Commission's domestic like product analysis focuses on distinctions between domestically produced products. *See*, *e.g.*, *Large Residential Washers from China*, Inv. No. 731-TA-1306 (Preliminary), USITC Pub. 4591 at 10 (Feb. 2016). Arman Pegah does not explain how its proposed like product definition would apply to domestically produced products, all of which must meet U.S. food safety requirements before they can be sold for consumption. *See* CR at IV-17 to IV-19; PR at IV-10 to IV-12; Hearing Tr. at 58-59 (Coleman). Instead, Arman Pegah seeks to distinguish among imported products, and thereby effectively limit the scope definition. *See* Arman Pegah's Posthearing Brief at 5 (discussing only Iranian product). The Commission must accept Commerce's definition of the scope of merchandise sold at less than fair value. *See, e.g.*, *Hosiden Corp. v. Advanced Display Mfrs.*, 85 F.3d 1561, 1568 (Fed. Cir. 1996). Consequently, Arman Pegah's argument does not provide a basis for finding a clear dividing line between domestically produced products.

[21] *See generally* CR at I-16 to I-24; PR at I-14 to I-20.

[22] 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 are applicable to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. *See* 19 U.S.C. § 1677.

(a) the processed agricultural product is produced from the raw product through a single continuous line of production,[23] and

(b) there is a substantial coincidence of economic interest between the growers and producers of the processed product based upon the relevant economic factors.[24]

In the original investigation, the Commission defined the domestic industry producing the domestic like product as "those producers that grow pistachio nuts and those firms that process the pistachio nuts from hulling through grading."[25] It found that the production process involved a single continuous line of production, that the pistachios were not transformed into a different article in the process and remained substantially unchanged, and that there was a common economic interest between the growers and the processors.[26] In the first review, the Commission again defined the domestic industry as including both growers and processors, finding that the record contained no new information that would warrant a reconsideration of the definition of the domestic industry.[27]

In this review, Wonderful states that it agrees with this definition and that there is no information on the record which warrants reconsideration of the domestic industry definition.[28] Respondent has not challenged this definition.[29] There are no related party issues in this review.[30]

Virtually all pistachios that are harvested in the United States are devoted to the production of raw in-shell pistachios.[31] The record continues to indicate a substantial degree of

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[23] The statute provides that the processed product shall be considered to be processed from the raw product in a single, continuous line of production if:

(a) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

(b) the processed agricultural product is produced substantially or completely from the raw product.

19 U.S.C. § 1677(4)(E)(ii).

[24] In addressing coincidence of economic interest under the second prong of the test, the Commission may, in its discretion, consider price, added market value, or other economic interrelationships. Further:

(a) if price is taken into account, the Commission shall consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

(b) if added market value is taken into account, the Commission shall consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

19 U.S.C. § 1677 (4)(E)(iii).

[25] *Original Determination*, USITC Pub. 1875 at 7.

[26] *Original Determination*, USITC Pub. 1875 at 7.

[27] *First Review,* USITC Pub. 3824 at 5.

[28] Wonderful's Prehearing Brief at 6-7.

[29] *See* Arman Pegah's Prehearing Brief at 12.

[30] *See* CR at I-35 to I-36; PR at I-29.

[31] CR at I-23; PR at I-20.

vertical integration between U.S. growers and U.S. processors of pistachios.[32] Several of the larger growers have related processing operations, and there continues to be a single continuous line of production from growing through processing.[33] Wonderful, which was responsible for *** percent of reported U.S. processing of pistachios in 2016,[34] engages in both growing and processing of pistachios. Wonderful is a group of companies under common control that collectively conduct growing, harvesting, processing, and marketing of pistachios.[35] One of Wonderful's related companies is Wonderful Nut Orchards LLC, a grower and harvester that accounted for *** percent of reported production by U.S. growers in 2016.[36]

In light of the information on the record and absent any contrary argument, we again define the domestic industry as consisting both of firms that grow pistachios and firms that process the pistachio nuts from hulling through grading.

III. Revocation of the Antidumping Duty Order Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[37] The SAA states that "under the likelihood standard, the Commission will engage in a counterfactual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports."[38] Thus, the likelihood standard is prospective in nature.[39] The U.S. Court of International Trade has found that

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[32] CR at I-32 to I-33; PR at I-27 to I-28.

[33] CR at III-22; PR at III-16.

[34] CR/PR at Table I-6.

[35] CR at I-33; PR at I-27 to I-28.

[36] CR/PR at Table I-5; CR at I-33; PR at I-27.

[37] 19 U.S.C. § 1675a(a).

[38] SAA at 883-84. The SAA states that "{t}he likelihood of injury standard applies regardless of the nature of the Commission's original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed." *Id*. at 883.

[39] While the SAA states that "a separate determination regarding current material injury is not necessary," it indicates that "the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued {sic} prices for the domestic like (Continued…)

"likely," as used in the five-year review provisions of the Act, means "probable," and the Commission applies that standard in five-year reviews.[40]

The statute states that "the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time."[41] According to the SAA, a "'reasonably foreseeable time' will vary from case-to-case, but normally will exceed the 'imminent' timeframe applicable in a threat of injury analysis in original investigations."[42]

Although the standard in a five-year review is not the same as the standard applied in an original investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to "consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[43] It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if an order is revoked or a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).[44] The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission's determination.[45]

In evaluating the likely volume of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed

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(…Continued)
product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked." SAA at 884.

[40] *See NMB Singapore Ltd. v. United States*, 288 F. Supp. 2d 1306, 1352 (Ct. Int'l Trade 2003) ("'likely' means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"), *aff'd mem.*, 140 Fed. Appx. 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (2002) ("more likely than not" standard is "consistent with the court's opinion;" "the court has not interpreted 'likely' to imply any particular degree of 'certainty'"); *Indorama Chemicals (Thailand) Ltd. v. United States*, 26 CIT 1059, 1070 (2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); *Usinor v. United States*, 26 CIT 767, 794 (2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[41] 19 U.S.C. § 1675a(a)(5).

[42] SAA at 887. Among the factors that the Commission should consider in this regard are "the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities." *Id*.

[43] 19 U.S.C. § 1675a(a)(1).

[44] 19 U.S.C. § 1675a(a)(1). Commerce has not made duty absorption findings. *See* CR at I-14 n.24; PR at I-13 n.24.

[45] 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.[46] In doing so, the Commission must consider "all relevant economic factors," including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.[47]

In evaluating the likely price effects of subject imports if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[48]

In evaluating the likely impact of imports of subject merchandise if an order under review is revoked and/or a suspended investigation is terminated, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to the following: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.[49] All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry. As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders under review and whether the industry is vulnerable to material injury upon revocation.[50]

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[46] 19 U.S.C. § 1675a(a)(2).

[47] 19 U.S.C. § 1675a(a)(2)(A-D).

[48] *See* 19 U.S.C. § 1675a(a)(3). The SAA states that "{c}onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices." SAA at 886.

[49] 19 U.S.C. § 1675a(a)(4).

[50] The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission "considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports." SAA at 885.

B. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if an order is revoked, the statute directs the Commission to consider all relevant economic factors "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[51] The following conditions of competition inform our determination.

1. Sanctions on Iran

The United States first imposed sanctions on Iran in 1979 during the Iran Hostage Crisis.[52] In October 1987 the United States imposed an embargo on imports from Iran, which remained in effect until April 2000, when the embargo was lifted on foodstuffs, including pistachios.[53]

In 2010, the President signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which imposed an embargo on food products from Iran, including pistachios.[54] On July 14, 2015, Iran and the P5+1 (the five permanent members of the United Nations ("UN") Security Council plus Germany) reached a Joint Comprehensive Plan of Action, which provided Iran broad relief from certain sanctions related to Iran's nuclear program. On January 16, 2016 ("Implementation Day"), upon certification that Iran had complied with the stipulated nuclear dismantlement commitments, U.S. waivers of relevant sanctions took effect, relevant U.S. executive orders were revoked, and corresponding UN and European Union ("EU") nuclear-related sanctions were lifted.[55] The U.S. embargo on food products from Iran, including pistachios, ended in January 2016.[56]

Not all U.S. sanctions on Iran were lifted on Implementation Day. Sanctions triggered by several statutory authorities and executive orders remain in place.[57] A general ban on U.S. trade with and investment in Iran, including regulations barring transactions between U.S. and Iranian banks, also remains in place.[58]

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[51] 19 U.S.C. § 1675a(a)(4).

[52] CR at IV-21; PR at IV-12.

[53] 52 Fed. Reg. 41,940 (Oct. 30, 1987); 65 Fed. Reg. 25642 (May 3, 2000); CR at IV-2 n.3; PR at IV-2 n.3. During the pendency of the trade embargo on foodstuffs from Iran from 1987 to 2000, the antidumping duty order was not reviewed. The first five-year review of the antidumping duty order was instituted in March 2005 because it had been five years since the embargo was lifted. CR at I-3 to I-4; PR at I-2 to I-3.

[54] CR at I-1 n.2; PR at I-1 n.2; *see* EDIS Document No. 612626.

[55] CR at IV-21; PR at IV-12 to IV-13.

[56] CR at I-1 n.2; PR at I-1 n.2.

[57] U.S. sanctions triggered by the designation of Iran as a state sponsor of terrorism remain in place, as do sanctions designed to discourage Iran's support for terrorism, human rights abuses, interference in specified countries in the region, and its missile and advanced (nonnuclear) weapons programs. CR at IV-22 to IV-25; PR at IV-13 to IV-16.

[58] CR at IV-22; PR at IV-13.

Financial and banking sanctions have been implemented primarily by the U.S. Department of Treasury through the Iran Transaction Regulations. U.S. banks are prohibited from dealing directly with Iranian banks. They may send funds to Iran for permitted transactions, but such funds must be channeled through an intermediary financial institution such as a European bank. Additionally, U.S. banks are prohibited from dealing with any foreign bank that has facilitated or transacted business with sanctioned entities.[59]

2. Demand Conditions

In the first review, the Commission found that demand for pistachios depended on the level of demand for further processed and downstream products that incorporated them, and that consumer demand in the United States for pistachios had increased since the original investigation.[60]

In this review, the record indicates that U.S. demand for pistachios continues to be driven by demand for downstream products that incorporate them. Responding domestic processors and purchasers reported that raw in-shell pistachios are used to produce roasted pistachios and/or raw pistachios without shells.[61] The majority of responding U.S. processors and a plurality of responding U.S. purchasers indicated that demand in the United States has increased since January 1, 2011, and is expected to continue to increase.[62] The data in the record show that apparent U.S. consumption declined by 8.8 percent during the 2014-2016 period of review, declining from 154.8 million pounds in 2014 to 133.3 million pounds in 2015, and then increasing to 141.2 million pounds in 2016.[63]

3. Supply Conditions

Pistachio trees are grown in arid regions with warm or temperate climates as they require long hot summers and a period of cold temperatures for fruit maturation.[64] Pistachio

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[59] CR at IV-22; PR at IV-13.

[60] *First Review,* USITC Pub. 3824 at 8.

[61] CR at I-19, II-8; PR at I-16 to I-17, II-6.

[62] CR/PR at Table II-3.

[63] CR/PR at Tables I-8, C-1. The record in this review contains data on both a crop year basis and a calendar year basis, depending on the data source. *See, e.g.,* CR/PR at Table I-7. The pistachio crop year in the United States begins on September 1 and ends on August 31 of the following year. It thus incorporates a harvest which takes place in September/October and the time in which that new crop is marketed. The pistachio crop year in Iran begins on October 1 and ends on September 30 of the following year. CR at I-20 n.32; PR at I-17 n.32. In this review, we have considered data pertaining to both crop years and calendar years but rely primarily on calendar year data because, unlike data for crop year 2015/2016, they incorporate the 2016 harvest.

[64] CR at I-17; PR at I-16.

trees are alternate bearing, meaning they produce a heavy crop one year ("on-year") and a lighter crop the next ("off-year").[65]

In the original investigation, the Commission noted that the nature of the production cycle required that analysis of much of the relevant data, especially production and shipment data for growers and processors, focus on changes from one on-year to another on-year and from one off-year to another off-year, as year-to-year changes could be misleading.[66] The Commission found that Iran was the largest global producer of pistachios.[67] It observed that the first commercial crop of pistachios in the United States was harvested in 1976.[68]

In the first review, the Commission again took into account the cyclical nature of pistachio crops. It also observed that, in a change from the original period of investigation, the domestic industry operated on a two-year marketing cycle, in which processors generally held enough inventory from on-year harvests to supply demand during off-years, permitting more stable supply and prices.[69] The Commission again found that Iran was the largest producer of pistachios in the world and observed that the United States was the second largest producer, with the majority of production located in California. It found that domestic capacity and capacity utilization increased during the period of review.[70]

In this review, we find that pistachios continue to be produced on an alternate year cycle and that Iran and the United States continue to be the two largest global producers of pistachios.[71] U.S. growers produced 201.8 million pounds of pistachios in 2014, 94.2 million pounds in 2015, and 340.4 million pounds in 2016, while U.S. processors produced 341.6 million pounds in 2014, 193.1 million pounds in 2015, and 580.2 million pounds in 2016.[72] U.S. growers have indicated that the 2015 harvest was the lowest in history due to weather conditions, a severe shortage of water, and the fact that it was already an off-year, while the 2016 harvest was the largest in history.[73] U.S. processors practice a "carry-in" and "carry-out" process in which they store pistachios in inventory when the harvest is higher in volume ("carry-in") in order to maintain a consistent supply ("carry-out") during years with a lower harvest.[74] U.S. processors supplied 99.8 percent of the U.S. market in 2014, and 99.6 percent in both 2015 and 2016.[75]

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[65] CR at I-18; PR at I-16.

[66] *Original Determination*, USITC Pub. 1875 at 8.

[67] *Original Determination*, USITC Pub. 1875 at 12.

[68] *Original Determination*, USITC Pub. 1875 at 5.

[69] *First Review,* USITC Pub. 3824 at 8-9.

[70] *First Review,* USITC Pub. 3824 at 8.

[71] CR/PR at Table IV-5; CR at I-18; PR at I-16.

[72] CR/PR at Tables III-5, III-6.

[73] CR at III-7 to III-8, III-10; PR at III-4, III-7; Hearing Tr. at 89 (Matoian).

[74] CR at III-17; PR at III-13. Information in the record indicates that the industry in Iran does not engage in any substantial carry-out and carry-in process to smooth out supply. CR at IV-17; PR at IV-10; Hearing Tr. at 49 (Hohmann); *see* Wonderful's Prehearing Brief at Exhs. 9-10.

[75] CR/PR at Table C-1.

There were no subject imports during the period of review,[76] and there were very small quantities of nonsubject imports, primarily from Turkey.[77]

4. Substitutability Conditions

In the first review, the Commission stated that the available data indicated that there would be a high degree of substitutability between domestic and imported pistachios.[78]

In this review, we find that there is at least a moderate degree of substitutability between domestically produced pistachios and subject merchandise.[79] All responding U.S. purchasers and a majority of responding U.S. processors reported that domestically produced pistachios were sometimes interchangeable with pistachios from Iran.[80] Four U.S. purchasers reported that pistachios from Iran differ from domestically produced pistachios on the basis of color and size, while one U.S. processor reported that high oil and aflatoxin levels in pistachios from Iran limit their interchangeability with domestically produced pistachios.[81] While the record indicates that pistachios from Iran tend to be smaller in size than domestically produced pistachios, there also appears to be some overlap in size and quality between subject imports and the domestic product.[82]

Purchasers reported that price, availability, product consistency, and reliability of supply were very important factors in purchasing decisions.[83] Ten of 12 responding purchasers indicated that they usually or sometimes purchase the lowest priced product.[84] Processors and

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[76] CR/PR at Table IV-1. For most of the period of review, imports of subject merchandise were barred by a trade embargo, which was lifted on January 16, 2016.

[77] The market share of all nonsubject imports was 0.2 percent in 2014 and 0.4 percent in both 2015 and 2016. CR/PR at Tables I-9, IV-1.

[78] *First Review*, USITC Pub. 3824 at 9. The Commission did not make any specific findings in the original investigation about substitutability between domestically produced pistachios and imported pistachios. It observed that direct pricing comparisons of domestic and imported pistachios were difficult because of the wide variety of pistachio sizes and the lack of conformity of size categories, noting that most Iranian pistachios were in a smaller size category than most domestically produced pistachios and often required additional processing to remove foreign debris. *Original Determination*, USITC Pub. 1875 at 13 and n.36.

[79] *See* CR at II-10; PR at II-7.

[80] CR/PR at Table II-9.

[81] CR at II-17; PR at II-12 to II-13. Despite the responses from U.S. purchasers discussed herein, no U.S. purchaser reported that it had actual marketing/pricing knowledge of pistachios from Iran, given the long absence of these products from the U.S. market. CR at II-11; PR at II-8.

[82] Hearing Tr. at 35 (Cohen), 67-68, 81, 103 (Hohmann). As previously discussed, USDA has issued quality standards for grades of pistachios, specifying basic requirements as well as tolerances with respect to different kinds of defects. *See* Wonderful's Posthearing Brief at Exh. 3. Both Arman Pegah and the IPA have likewise published grade standards specifying tolerances for different kinds of defects. *See* Wonderful's Posthearing Brief at Exhs. 4-5.

[83] CR/PR at Table II-6.

[84] CR at II-12; PR at II-9.

purchasers were split on whether or not factors other than price were significant when comparing domestically produced pistachios and pistachios from Iran.[85]

5. Other Conditions

In the first review, the Commission observed that pistachios are potentially susceptible to aflatoxin contamination. Aflatoxins are naturally occurring toxins found in mold and are linked to liver and kidney cancer.[86] The Commission stated that the maximum tolerance for domestically produced pistachios was 15 parts per billion ("ppb") pursuant to a California pistachio producers' marketing order, although the limit for imports was 20ppb.[87] The Commission also found that aflatoxin tolerances in the U.S. market were higher than those in certain third-country markets, including the EU.[88]

Aflatoxin contamination remains a concern for the pistachio industry in this review. Currently, the aflatoxin contamination limit on all pistachios sold in the United States (whether domestically produced or imported) is 15ppb.[89] All imported lots of pistachios into the United States are sampled to ensure they do not exceed the aflatoxin limit.[90] The EU's aflatoxin limit for in-scope pistachios is now more stringent at 10ppb.[91] While China's aflatoxin allowable limits for pistachios are reportedly lower than those for the U.S. and EU markets, the rate of testing of pistachio imports that enter China is reported to be very low.[92]

C. Likely Volume of Subject Imports

In the original investigation, the Commission found that the volume of subject imports had increased dramatically since the first embargo on trade with Iran was lifted in 1981. It found that subject imports rapidly gained market share during the same period.[93]

In the first review, the Commission observed that there had been virtually no subject imports after the order was imposed. It found that there had been minimal imports in 2002

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[85] CR/PR at Table II-10. Three of five reporting U.S. processors reported that differences other than price were always or frequently significant, while the other two reported that such differences are sometimes or never significant. Reporting U.S. purchasers were evenly split, with two reporting that such differences were frequently significant, and two reporting that such differences were sometimes or never significant. *Id.*

[86] CR at I-20 n.33; PR at I-17 n.33.

[87] *First Review*, USITC Pub. 3824 at 9.

[88] *First Review,* USITC Pub. 3824 at 9.

[89] CR at IV-18; PR at IV-10 to IV-11.

[90] CR at IV-18 to IV-19; PR at IV-11.

[91] CR at IV-18; PR at IV-11; *see* EDIS Document No. 611814.

[92] CR at IV-18; PR at IV-11; Hearing Tr. at 76 (Hohmann), 143 (Ketabi).

[93] *Original Determination*, USITC Pub. 1875 at 11-12. During the original period of investigation, subject imports from Iran increased from 4.1 million pounds in 1982 to 25.8 million pounds in 1985. *Id.* at 11.

and 2003, but no subject imports in other years since 1986.[94] The Commission considered the existing countervailing duty order on raw in-shell pistachios from Iran, observing that Commerce's subsequent administrative reviews had found subsidy rates substantially lower than those found in the original investigation, and finding that the record indicated that the amount of subsidies provided to the Iranian pistachio industry had declined or ceased. The Commission found that the volume of subject imports would likely be significant if the antidumping duty order were revoked, given the large size and export orientation of the subject industry in Iran, the substitutability of domestic and subject products, and trade restrictions in the EU market related to aflatoxin contamination.[95]

In this review, we find that should the order be revoked, the likely volume of subject imports from Iran would be significant. There were no subject imports in the U.S. market during the period of review. We observe that there was a trade embargo in effect until January 2016, which prohibited the importation of pistachios from Iran for most of the period of review. Our data regarding the Iranian pistachio industry are limited; Arman Pegah, which accounted for an estimated *** percent of Iranian pistachio production in 2016, is the only subject producer that submitted a questionnaire response.[96] The IPA, which claims to represent hundreds of industry participants in Iran,[97] stated in its response to the Commission's notice of institution that "there has never been, nor exists to the present day, any entity in Iran (neither public nor private) that has the capacity to gather the required data and information to produce a definitive, accurate and precise figure for the annual national production volume of this commodity {in-scope pistachios}, as is done in the USA."[98]

The available information indicates that Iran is one of the two largest producers of pistachios in the world, along with the United States.[99] According to USDA data, Iran produced 374.8 million pounds of pistachios in crop year 2013/2014, 507.1 million pounds in crop year

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[94] As noted above, the Commission's first five-year review was initiated five years following the lifting of the embargo on foodstuffs from Iran, which lasted from 1987 to 2000.

[95] *First Review*, USITC Pub. 3824 at 12.

[96] CR at IV-6; PR at IV-4 to IV-5.

[97] Iran Pistachio Association's Response to Notice of Institution at 1 (EDIS Document No. 580007). The IPA appears to have largely supplanted the Rafsanjan Pistachio Producers Cooperative, which was reportedly the largest Iranian exporter of pistachios at the time of the original investigation. *See* CR at IV-13 to IV-14; PR at IV-7 to IV-8.

[98] Iran Pistachio Association's Response to Notice of Institution at 1 (EDIS Document No. 580007). The IPA stated in its response to the notice of institution that it wanted to participate in the investigation and was willing to provide the Commission with available data and information, *id*. at 1, 8, but it did not participate after submitting the response, and provided no additional information to the Commission.

[99] CR at IV-12; PR at IV-6. Turkey and Syria are also relatively large producers of pistachios, with Turkey accounting for some of the minimal nonsubject imports during the period of review, but the industries in Turkey and Syria generally focus on their home markets and export relatively small volumes of pistachios. *See* CR/PR at Tables IV-1, IV-5; CR at IV-26; PR at IV-16.

2014/2015, and 463.0 million pounds in crop year 2015/2016.[100] The available information shows that the pistachio industry in Iran is large and likely to remain so in the foreseeable future. In 2016, the Iranian industry grew pistachios on an estimated 741,316 acres.[101] While the Iranian pistachio industry is large, it is also relatively fragmented, with many small producers.[102] Iranian pistachio production has grown steadily since the original period of investigation, increasing from an average of 78 million pounds per crop year in the original investigation to 463.0 million pounds in crop year 2015/2016.[103] The principal pistachio-producing area in Iran has been the Kerman province in southeastern Iran, in which water shortages have reportedly curtailed production in recent years. However, the decline in production in the Kerman province has been balanced by production increases in other provinces, thus enabling Iranian production to remain high. Consequently, any water shortages in Kerman are not likely to prevent the Iranian industry from continuing to be one of largest producers of pistachios in the world.[104]

Furthermore, the record indicates that the Iranian pistachio industry is highly export oriented, and is one of the leading pistachio exporters in the world.[105] USDA data indicate that the Iranian industry exported over 80 percent of its production in crop years 2013/2014 and 2014/2015, and over 90 percent of its production in crop year 2015/2016.[106] Annual pistachio exports from Iran substantially exceeded apparent U.S. consumption in each year of the period of review.[107] Arman Pegah reported *** home market shipments during the period of review, and reported exporting *** percent of its production in 2015, and over *** percent of its production in 2014 and 2016.[108] The available information indicates that, unlike U.S. processors, pistachio producers in Iran do not engage in significant carry-in and carry-out practices and thus must sell each year's harvest promptly, with the primary destinations for Iranian pistachios being export markets.[109] Moreover, we observe that pistachios from Iran and the United States compete head-to-head in markets such as the EU and China, [110] and are likely to do so in the U.S. market in the event of revocation.

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[100] CR/PR at Table IV-5.

[101] CR at IV-13; PR at IV-7. By comparison, the United States reported pistachio-bearing acreage of 233,000 acres in 2015. *Id.* at IV-13 n.16; PR at IV-7 n.16.

[102] CR at IV-14; PR at IV-8.

[103] CR at IV-12; PR at IV-6.

[104] CR at IV-13; PR at IV-7; *see* Arman Pegah's Prehearing Brief at Annex 13 (indicating that 40 percent of Iran pistachio production was moved to other regions such as Khorassan and Yazd).

[105] CR at IV-15; PR at IV-8.

[106] According to USDA data, Iran exported 304.5 million pounds of pistachios in crop year 2013/2014, 422.6 million pounds in crop year 2014/2015, and 418.9 million pounds in crop year 2015/2016. CR/PR at Table IV-5.

[107] *Compare* CR/PR at Table IV-5 *with* CR/PR at Table I-8.

[108] CR/PR at Table IV-3.

[109] CR at IV-17; PR at IV-10; Hearing Tr. at 49 (Hohmann).

[110] Hearing Tr. at 35 (Cohen); 38-39 (Zion); 93 (Hohmann).

In addition to being highly export oriented, the record shows that subject Iranian producers view the U.S. market as attractive and have a strong incentive to direct exports to the U.S. market if the order is revoked. The U.S. market is one of the world's largest, with prices that are frequently higher than those in other export markets such as the EU and China.[111] Iranian producers have exhibited a substantial interest in the U.S. market, with one U.S. processor reporting that it had recently received three offers to sell from Iranian pistachio exporters.[112] Arman Pegah reported that it has ***, and that in the event of revocation, it ***.[113] [114]

Arman Pegah argues that the volume of subject imports from Iran will not be significant if the order is revoked because Iranian producers have very limited ability to produce and export pistachios complying with the stricter standards in OECD countries such as the United States, and most Iranian pistachio production can only be exported to non-OECD countries (*e.g.,* China) with less strict standards.[115] Arman Pegah, which accounted for an estimated *** percent of total production of pistachios in Iran in 2016,[116] based this argument on estimates from its own experience and commercial practices,[117] and its representative acknowledged that there are no official OECD standards or requirements for imports of pistachios.[118] The record as

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[111] Hearing Tr. at 104 (Hohmann). Available average unit value (AUV) data in the record indicate that AUVs for U.S. shipments by U.S. producers were substantially higher than AUVs for imports from the United States into China for each year of the 2014-2016 period. *Compare* CR/PR at Table III-7 *with* CR/PR at Table IV-8. AUVs for U.S. shipments by U.S. producers were higher than AUVs for imports from the United States into the EU in 2014 and 2015; however, in 2016, the AUV for U.S. shipments by U.S. producers was lower than the AUV for imports from the United States into the EU. *Compare* CR/PR at Table III-7 with CR/PR at Table IV-7. We recognize that differences in AUVs may reflect differences in product mix.

[112] Hearing Tr. at 32 (Keenan).

[113] Arman Pegah's Foreign Producers' Questionnaire at 7, 12-13 (EDIS Document No. 602996).

[114] We again note that there is a countervailing duty order on raw in-shell pistachios from Iran that is not subject to review, which would remain in effect if the antidumping duty order were revoked. However, the record indicates that many or most of the Iranian subsidy programs as to which Commerce originally imposed countervailing duties are no longer in place. The parties appear to agree that the countervailing duty order no longer has a significant disciplining effect on Iranian producers. *See* Hearing Tr. at 115 (Connelly); 198 (Ketabi); Wonderful's Posthearing Brief, Answers to Commissioner Questions at 24-26 (response to Commissioner Johanson). In light of the contrary testimony of its witness, Mr. Ketabi, we do not find persuasive the assertion in Arman Pegah's posthearing brief that the countervailing duty order remains an appreciable barrier for Iranian exporters entering the U.S. market. *See* Arman Pegah's Posthearing Brief at 13. Accordingly, we find that the existence of the countervailing duty order would not prevent Iranian producers from exporting to the U.S. market in the event of revocation of the antidumping duty order.

[115] Arman Pegah's Prehearing Brief at 15-18; Arman Pegah's Posthearing Brief at 9-10.

[116] CR at IV-6; PR at IV-5.

[117] *See, e.g.,* Arman Pegah's Prehearing Brief at 16-17 and Annex 8; Hearing Tr. at 140-141 (Ketabi).

[118] Hearing Tr. at 140 (Didierlaurent); *see* Arman Pegah's Posthearing Brief at 15.

a whole provides no basis for concluding that Arman Pegah's experience is applicable to the Iranian pistachio industry generally. On the contrary, available information in the record indicates that Iranian producers have exported substantial quantities of pistachios to the EU market, with the volume of imports from Iran into the EU market steadily increasing each year from 2012 to 2016.[119] Indeed, U.S. pistachio exporters have reported that they compete head-to-head with Iranian pistachio exporters in the EU market.[120] Thus, the record indicates that Iranian subject producers have demonstrated a substantial ability to export to the EU during the period of review, and would likely have a comparable ability to export to the U.S. market in the event of revocation of the order.

Arman Pegah also argues that stringent U.S. sanitary/phytosanitary requirements with respect to aflatoxin contamination will substantially restrict imports of pistachios from Iran from entering the U.S. market.[121] While the parties differ as to the relative stringency of such requirements in different export markets, the record indicates that the EU also has highly stringent requirements for aflatoxin contamination.[122] Those requirements have not prevented Iranian producers from exporting increasing volumes of pistachios to the EU market during the period of review, and U.S. sanitary/phytosanitary requirements are accordingly not likely to prevent subject imports from Iran from entering the U.S. market in the event of revocation.[123]

Notwithstanding the U.S. embargo on imports of pistachios from Iran that was lifted (along with some other sanctions on Iran) in January 2016, Arman Pegah contends that the continued existence of other financial sanctions will prevent Iranian exporters from supplying the U.S. market in the event of revocation.[124] While the existence of such other sanctions may require some additional efforts by Iranian producers to export to the United States, the record indicates that those sanctions are not likely to preclude exporters of subject merchandise from participating in the U.S. market. Indeed, after the embargo was lifted in January 2016, imports of out-of-scope shelled pistachios began entering the U.S. market for the first time since 2010, and those imports continued in the first quarter of 2017.[125]

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[119] The quantity of imports from Iran into the EU market increased from 30.2 million pounds in 2012 to 42.1 million pounds in 2016, while the market share of imports from Iran in the EU increased from 25.9 percent in 2012 to 34.7 percent in 2016. CR/PR at Table IV-7. Respondent has presented information purporting to show that Iranian exports to the EU are capped and have been limited to less than 30 percent of the EU market, Arman Pegah's Prehearing Brief at 17-18 and Annex 10, but Global Trade Atlas data sourced from Eurostat indicate that imports from Iran into the EU exceeded this market share in 2016. CR/PR at Table IV-7.

[120] Hearing Tr. at 35 (Cohen); 38-39 (Zion); 93 (Hohmann).

[121] Arman Pegah's Prehearing Brief at 18-20; Arman Pegah's Posthearing Brief at 25-26.

[122] CR at IV-17 to IV-21; PR at IV-10 to IV-12.

[123] Iran has undertaken several long-standing programs to reduce aflatoxin levels in pistachios produced in Iran, and to provide greater inspection and oversight of pistachios for export. CR at IV-20; PR at IV-11 to IV-12; *see* Hearing Tr. at 180 (Ketabi).

[124] Arman Pegah's Posthearing Brief at 10-11.

[125] CR at IV-2; PR at IV-1 to IV-2. The record indicates that some small and medium-sized European banks are now willing to provide letters of credit and export financing for Iranian exporters to (Continued…)

As discussed above, the subject industry in Iran is large and highly export oriented. We find that subject producers in Iran would likely direct significant volumes of pistachios to the U.S. market should the antidumping duty order be revoked, based on the attractiveness of the U.S. market, the expressed interest of subject producers in entering the U.S. market, and the rapid increase in subject imports during the original period of investigation. We therefore conclude that the volume of subject imports of pistachios would likely be significant, both in absolute terms and relative to U.S. consumption, upon revocation of the order.[126]

D. Likely Price Effects

In the original investigation, the Commission found underselling by subject imports from Iran, stating that prices for subject imports were consistently and significantly below prices for domestic pistachios. It stated that, while direct comparisons of domestic and imported pistachios were difficult due to the wide variety of pistachio sizes and lack of conformity of size categories, declining price trends for both domestic and imported pistachios were unmistakable. The Commission concluded that that subject imports had depressed domestic prices.[127]

In the first review, the Commission found that pistachios were a commodity product and that price was an important factor in purchasing decisions. It found that U.S. prices for domestically produced pistachios had increased since the original investigation. The Commission observed that the evidence on the record indicated that subject imports had used low prices to gain market share in the Chinese market at the expense of imports from the United States, and that available price data from third country markets indicated that pistachios from Iran were sold at lower prices than comparable domestically produced pistachios in the U.S. market. The Commission concluded that revocation of the order would likely lead to

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(…Continued)
the United States. *See* Wonderful's Posthearing Brief at 9 and Exh. 10. Arman Pegah also speculates that the U.S. sanctions that were lifted might be reimposed by the United States in the future pursuant to a "snapback" mechanism under certain circumstances, and that such a snapback could preclude U.S. imports of pistachios from Iran. Arman Pegah's Posthearing Brief at 32-33. Our analysis, however, must be based on the available information provided in the record, and not on speculation. *See* CR at IV-22; PR at IV-13.

[126] We have also examined inventories in our analysis of the likely volume of subject imports. The one Iranian producer that responded to the Commission's questionnaire reported end-of-period inventories of *** pounds in 2014, *** pounds in 2015, and *** pounds in 2016. CR/PR at Table IV-3. No U.S. importers reported inventories of subject merchandise. CR at IV-6; PR at IV-4.

With respect to the potential for product shifting, the one Iranian producer that responded to the Commission's questionnaire reported that it *** switch production from pistachios to other products. CR at II-8; PR at II-6.

We note that there is no indication in the record that pistachios from Iran are subject to any antidumping or countervailing duty orders or proceedings in any markets other than the United States. CR at IV-26; PR at IV-16.

[127] *Original Determination*, USITC Pub. 1875 at 13-14.

significant underselling by subject imports as well as significant price depression or suppression within a reasonably foreseeable time.[128]

In this review, as previously discussed, we find that there is at least a moderate degree of substitutability between domestically produced pistachios and subject merchandise, and that price is an important factor in purchasing decisions with respect to pistachios.

Given the absence of subject imports from the U.S. market during the period of review, the record does not contain any price comparisons of subject imports and domestically produced pistachios in the U.S. market during the period of review.[129] The record indicates, however, that subject pistachios from Iran and pistachios produced in the United States compete on the basis of price in third-country markets such as the EU and China.[130]

In light of the Iranian industry's export orientation and large production, the substitutability between domestically produced pistachios and subject merchandise, and the importance of price in purchasing decisions, Iranian exporters have the same incentive to undersell the domestic product to gain U.S. market share as they did at the time of the original investigation. Increased volumes of low-priced subject imports would require the domestic industry either to cut prices or forego price increases to compete with the subject imports, or to lose sales. Should the antidumping duty order be revoked, it is likely that the same adverse price effects, such as price depression, that were present before the order went into effect, would recur in the United States.

Accordingly, we find that subject imports from Iran would likely undersell the domestic like product to a significant degree and likely have significant price depressing or suppressing effects upon revocation of the order, within a reasonably foreseeable time.

E. Likely Impact

In the original investigation, the Commission found that the domestic industry lost market share and its condition declined steadily throughout the period of investigation despite increases in U.S. consumption, production, and shipments. It also found that both U.S. growers and U.S. processors experienced declines in profitability.[131] The Commission concluded that the domestic industry was threatened with material injury by reason of subject imports, in light of the domestic industry's deteriorating condition, the rapid increase in the volume of subject imports, the significant buildup of inventories of subject merchandise, the enormous capacity

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[128] *First Review,* USITC Pub. 3824 at 13.

[129] The record does contain pricing data for domestically produced pistachios. Prices for those products fluctuated between 2014 and 2016. CR/PR at Table V-3.

[130] *See* Hearing Tr. at 35 (Cohen); 38-39 (Zion); APG's Prehearing Brief at Exh. 15; Wonderful's Posthearing Brief at Exh. 1. While the parties have made arguments and submitted data regarding the relative prices of Iranian product and U.S. product in these other markets, we do not draw any conclusions from those data as to whether underselling in the U.S. market is likely. CR at V-10; PR at V-5.

[131] *Original Determination,* USITC Pub. 1875 at 8-10.

of the Iranian pistachio industry, the consistent underselling by subject imports, and the steadily declining prices in the U.S. market.[132]

In the first review, the Commission found that the domestic industry was not vulnerable, given its substantial market share and shipments, as well as its favorable employment and financial data. However, the Commission found that if the order were revoked, there would likely be a significant increase in the volume of subject imports, which would likely undersell the domestic like product and significantly depress or suppress U.S. prices. The Commission concluded that this would likely lead to erosion of the domestic industry's U.S. market share, and declines in production, shipments, sales, profitability, capital expenditures, and employment.[133]

In this review, the domestic industry's performance reflects the fact that the "off-year" harvest in 2015 was relatively small, while the "on-year" harvest in 2016 was large, but the marketing season for the September/October 2016 harvest had yet to be concluded during the period of review.[134] Both U.S. growers and U.S. processors experienced large increases in production in 2016 and overall in the period of review, but these increases did not translate into improved financial performance in 2016, as much of the 2016 harvest remained to be marketed and U.S. processors' end-of-period inventories increased substantially.

U.S. Growers[135]

U.S. growers' production was 201.8 million pounds in 2014, 94.2 million pounds in 2015, and 340.4 million pounds in 2016.[136] Their farming acreage dedicated to pistachio trees increased from 88,008 acres in 2014 to 90,729 acres in 2015 and 95,000 acres in 2016.[137] U.S. growers' yield per acre (in pounds per acre) was 2,294 in 2014, 1,038 in 2015, and 3,583 in 2016.[138] Their net sales quantity declined from 194.4 million pounds in 2014 to 96.7 million pounds in 2015, and then increased to 327.0 million pounds in 2016.[139]

The number of production-related workers ("PRWs") that U.S. growers employed increased from 3,218 in 2014 to 3,401 in 2015 and 3,498 in 2016.[140] Hours worked increased

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[132] *Original Determination,* USITC Pub. 1875 at 14.

[133] *First Review,* USITC Pub. 3824 at 14.

[134] CR at III-7 to III-8, III-10; PR at III-4, III-7; Hearing Tr. at 89 (Matoian). The United States pistachio crop year begins on September 1 and ends on August 31 of the following year, covering a harvest that takes place in September/October and the time in which that new crop is marketed. CR at I-20 n.32; PR at I-17 n.32.

[135] The Commission received questionnaire responses from 98 growers, which are believed to have accounted for approximately 50 percent of U.S. production of pistachios in 2014-2016. CR at I-28; PR at I-23.

[136] CR/PR at Table III-5.

[137] CR/PR at Table III-5.

[138] CR/PR at Table III-5.

[139] CR/PR at Table III-11.

[140] CR/PR at Table III-9.

from 2.9 million hours in 2014 to 3.0 million hours in 2015 and 3.3 million hours in 2016.[141] Wages paid increased from $32.6 million in 2014 to $35.3 million in 2015 and $39.8 million in 2016.[142] Productivity (in 1,000 pounds per hour) declined from 69.6 in 2014 to 30.9 in 2015, and then increased to 102.7 in 2016.[143]

U.S. growers' financial indicators declined between 2014 and 2015, and did not fully return to 2014 levels in 2016. Revenues declined from $672.6 million in 2014 to $459.4 million in 2015, and then increased to $616.7 million in 2016.[144] Operating income declined from $395.1 million in 2014 to $180.8 million in 2015, and then increased to $295.6 million in 2016.[145] The operating income margin declined from 58.7 percent in 2014 to 39.4 percent in 2015 and then increased to 47.9 percent in 2016.[146] U.S. growers' capital expenditures increased from $30.7 million in 2014 to $51.4 million in 2015 and $59.5 million in 2016.[147] Research and development ("R&D") expenses declined from $*** in 2014 to $*** in 2015, and then increased to $*** in 2016.[148]

U.S. Processors[149]

U.S. processors experienced increases in capacity, production, and capacity utilization during the period of review. U.S. processors' capacity increased by 12.9 percent during the period of review, increasing from 664.2 million pounds in 2014 to 735.1 million pounds in 2015 and 750.1 million pounds in 2016.[150] Production, despite annual fluctuations, increased by 69.8 percent from 2014 to 2016, declining from 341.6 million pounds in 2014 to 193.1 million pounds in 2015, and then increasing to 580.2 million pounds in 2016.[151] Capacity utilization declined from 51.4 percent in 2014 to 26.3 percent in 2015, and then increased to 77.3 percent in 2016.[152]

Despite the large increase in production in 2016, U.S. processors' net sales quantity declined by 8.5 percent during the period of review, from 289.2 million pounds in 2014 to 277.4 million pounds in 2015 and 264.7 million pounds in 2016.[153] U.S. shipments declined by 9.1 percent during the period of review, from 154.6 million pounds in 2014 to 132.8 million pounds

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[141] CR/PR at Table III-9.
[142] CR/PR at Table III-9.
[143] CR/PR at Table III-9.
[144] CR/PR at Table III-11.
[145] CR/PR at Table III-11.
[146] CR/PR at Table III-11.
[147] CR/PR at Table III-15.
[148] CR/PR at Table III-15.
[149] The Commission received questionnaire responses from 9 processors, which are believed to have accounted for over 75 percent of U.S. processing of pistachios during 2015. CR at I-34; PR at I-28.
[150] CR/PR at Tables III-6, C-1.
[151] CR/PR at Tables III-6, C-1.
[152] CR/PR at Tables III-6, C-1.
[153] CR/PR at Tables III-12, C-1.

in 2015, and then increasing to 140.6 million pounds in 2016.[154] U.S. processors' share of apparent U.S. consumption was 99.8 percent in 2014 and 99.6 percent in both 2015 and 2016.[155] U.S. processors' ending inventories increased by 66.9 percent during the period of review, declining from 285.2 million pounds in 2014 to 220.4 million pounds in 2015 and then increasing to 475.9 million pounds in 2016.[156]

U.S. processors' employment increased by 25.7 percent during the period of review, from 1,610 PRWs in 2014 to 1,637 PRWs in 2015 and 2,023 PRWs in 2016.[157] Hours worked increased by 22.3 percent during the period of review, declining from 3.2 million hours in 2014 to 3.1 million hours in 2015, and then increasing to 4.0 million hours in 2016.[158] Wages paid increased by 46.4 percent during the period of review, increasing from $44.3 million in 2014 to $46.3 million in 2015 and $64.8 million in 2016.[159] Productivity (in 1,000 pounds per hour) declined from 105.7 in 2014 to 62.0 in 2015, and then increased to 146.7 in 2016.[160]

U.S. processors' financial indicators declined. Revenues declined by 17.2 percent during the period of review, from $1.44 billion in 2014 to $1.41 billion in 2015 and $1.2 billion in 2016.[161] Total cost of goods sold ("COGS") increased from $1.2 billion in 2014 to $1.3 billion in 2015, and then declined to $1.1 billion in 2016.[162] The ratio of COGS to net sales increased from 85.3 percent in 2014 to 90.8 percent in 2015 and 92.3 percent in 2016.[163] Operating income declined by 72.7 percent during the period of review, from $162.9 million in 2014 to $79.4 million in 2015 and $44.4 million in 2016.[164] The operating income margin declined from 11.3 percent in 2014 to 5.6 percent in 2015 and 3.7 percent in 2016.[165] U.S. processors' capital expenditures declined by *** percent during the period of review, from $*** in 2014 to $*** in 2015 and $*** in 2016.[166] R&D expenses increased from $*** in 2014 to $*** in 2015 and $*** in 2016.[167]

We find that the domestic industry is not vulnerable.[168] The domestic industry maintained a U.S. market share of over 99.5 percent during the period of review, it had a large

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[154] CR/PR at Tables I-8, C-1.
[155] CR/PR at Tables I-9, C-1.
[156] CR/PR at Tables III-8, C-1.
[157] CR/PR at Tables III-10, C-1.
[158] CR/PR at Tables III-10, C-1.
[159] CR/PR at Tables III-10, C-1.
[160] CR/PR at Tables III-10, C-1.
[161] CR/PR at Tables III-12, C-1.
[162] CR/PR at Tables III-12, C-1.
[163] CR/PR at Tables III-12, C-1.
[164] CR/PR at Tables III-12, C-1.
[165] CR/PR at Tables III-12, C-1.
[166] CR/PR at Tables III-16, C-1.
[167] CR/PR at Table III-16.
[168] Chairman Schmidtlein and Commissioner Williamson find that the domestic industry is vulnerable and therefore do not join this paragraph. As noted above, the industry's financial performance deteriorated significantly throughout the period of review. Domestic growers and (Continued…)

harvest in 2016 that resulted in period highs for production in 2016 for both growers and processors, and employment indicators were positive for both growers and processors during the period of review. While both growers and processors appeared to experience declines in their financial performance over the period of review, this reflects the fact that the marketing season for the September/October 2016 harvest was far from concluded at the end of the period of review in December 2016, as indicated by the large increase in U.S. processors' end-of-period inventories in 2016.

As explained above, we have found that revocation of the order would likely result in a significant increase in the volume of low-priced subject imports that would likely have adverse price effects on the domestic industry. The likely significant volume of the subject imports would likely have an adverse impact on the production, shipments, sales, market share, and revenues of the domestic industry. These reductions would likely have a direct adverse impact on the industry's profitability and employment, as well as its ability to raise capital and make and maintain necessary capital investments. We therefore conclude that subject imports from Iran would likely have a significant impact on the domestic industry upon revocation of the order within a reasonably foreseeable time.

We have also considered the role of nonsubject imports in the U.S. market. Nonsubject imports had a minimal and steady presence in the U.S. market during the period of investigation, and at such levels they are unlikely to have the significant price effects and impact on the domestic industry that we have indicated that subject imports are likely to cause.[169]

Accordingly, we find that revocation of the antidumping duty order on pistachios from Iran would likely have a significant impact on the domestic industry.

IV. Conclusion

For the above-stated reasons, we determine that revocation of the antidumping duty order on pistachios from Iran would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

(…Continued)
processors experienced declines in operating income, net sales value, net income, and in their ratio of operating income to net sales. The more comprehensive data in the record for U.S. processors show that their operating income declined by 72.2 percent between 2014 and 2016, their gross profits declined by 56.6 percent, their net income declined by 84.1 percent, and their operating income margin declined by 7.6 percentage points. CR/PR at Table C-1. Pricing data show that the U.S. processors' prices declined throughout 2016, and their COGS to net sales ratio increased from 85.3 percent in 2014 to 92.3 percent in 2016, which indicates that domestic producers are already experiencing a cost/price squeeze. CR/PR at Tables III-12, V-3. The industry reported a historically large harvest in 2016, which means there should already be ample supply of pistachios in the market, and a significant volume of low-priced subject imports would likely exacerbate the declines the industry has already been experiencing.

[169] The market share of nonsubject imports was 0.2 percent in 2014 and 0.4 percent in both 2015 and 2016. CR/PR at Tables I-9, C-1.

PART I: INTRODUCTION

BACKGROUND

On April 1, 2016, the U.S. International Trade Commission ("Commission" or "USITC") gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"),[1] that it had instituted a review to determine whether revocation of the antidumping duty order on raw in-shell pistachios ("pistachios") from Iran would likely lead to the continuation or recurrence of material injury to a domestic industry.[2] [3] On July 5, 2016, the Commission determined that it would conduct a full review pursuant to section 751(c)(5) of the Act.[4] The following tabulation presents information relating to the background and schedule of this proceeding:[5]

[1] 19 U.S.C. 1675(c).

[2] *Raw In-Shell Pistachios From Iran; Institution of a Five-Year Review*, 81 FR 18882, April 1, 2016. All interested parties were requested to respond to this notice by submitting the information requested by the Commission. An import ban on pistachios from Iran became effective on September 29, 2010. While the import ban remained in effect, 19 U.S.C. 1675(c)(7) provided that the five-year period from the date of Commerce's prior determination to continue the order would be tolled. The second five-year review of the order could not be initiated by Commerce until two months after the import ban was lifted (see 75 FR 67081, November 1, 2010). The import ban was lifted effective January 21, 2016 (*See* Iran Transactions and Sanctions Regulations, 81 FR 3330, January 21, 2016).

[3] In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of the five-year review of the subject antidumping duty order concurrently with the Commission's notice of institution. *Initiation of Five-Year ("Sunset") Review*, 81 FR 18829, April 1, 2016.

[4] *Raw In-Shell Pistachios From Iran; Notice of Commission Determination To Conduct a Full Five-Year Review*, 81 FR 45306, July 13, 2016. The Commission found that the domestic interested party group response to its notice of institution was adequate. Although the Commission received a response to its notice of institution from respondent interested parties, the Commission found that the respondent interested party group response was inadequate. However, the Commission found that other circumstances warranted conducting a full review.

[5] The Commission's notice of institution, notice to conduct a full review, scheduling notice, and statement on adequacy are referenced in appendix A and may also be found at the Commission's web site (internet address *www.usitc.gov*). Commissioners' votes on whether to conduct an expedited or full review may also be found at the web site. The list of witnesses that appeared at the Commission's hearing is presented in appendix B.

Effective date	Action
July 17, 1986	Commerce's antidumping duty order on pistachios from Iran (51 FR 25922)
October 29, 1987	Import embargo on pistachios from Iran (52 FR 41940, October 30, 1987)
April 28, 2000	Import embargo on pistachios from Iran lifted (65 FR 25642, May 3, 2000)
March 1, 2005	Commerce's initiation (70 FR 9919) and Commission's institution (70 FR 9976) of first five-year review
January 3, 2006	Commerce's first continuation of the antidumping duty order on pistachios from Iran (71 FR 94)
September 29, 2010	Import ban on pistachios from Iran (75 FR 59611, September 28, 2010)
January 21, 2016	Import ban on pistachios from Iran lifted (81 FR 3330)
April 1, 2016	Commerce's initiation (81 FR 18829) and Commission's institution (81 FR 18882) of second five-year review
July 5, 2016	Commission's determination to conduct full five-year review (81 FR 45306, July 13, 2016)
August 5, 2016	Commerce's final results of expedited five-year review of the antidumping duty order (81 FR 51857)
December 9, 2016	Commission's scheduling of the second five-year review (81 FR 90867, December 15, 2016)
March 7, 2017	Commission's revised schedule (82 FR 14031, March 16, 2017)
April 27, 2017	Commission's hearing
June 2, 2017	Commission's vote
June 26, 2017	Commission's determination and views

The original investigation

On September 26, 1985, a petition was filed with Commerce and the Commission by counsel on behalf of the California Pistachio Committee ("CPC"); Blackwell Land Co.; California Pistachio Orchards; Keenan Farms Inc.; Kern Pistachio Hulling & Drying Co-Op; Los Rancho de Poco Pedro; Pistachio Producers of California; and T. M. Duche Nut Co., Inc. The petitioners alleged that an industry in the United States was materially injured and threatened with material injury by reason of imports from Iran of raw in-shell pistachio nuts, which were being, or were likely to be sold in the United States at less than fair value ("LTFV"). On May 23, 1986, Commerce made a final affirmative determination of sales at LTFV regarding subject imports from Iran.[6] On July 14, 1986, the Commission published its final affirmative injury

[6] *Certain In-Shell Pistachios From Iran Final Determination of Sales at Less Than Fair Value*, 51 FR 18919, May 23, 1986. The final weighted-average antidumping duty margin was 241.14 percent *ad*

(*continued*...)

determination in the Federal Register.[7] On July 17, 1986, Commerce published an antidumping duty order on the imports of subject merchandise from Iran.[8]

The first five-year review

The Commission initiated its first five-year review of the antidumping duty order on raw in-shell pistachios from Iran on March 1, 2005.[9] Although the antidumping duty order on pistachios had been in place since 1986, due to a U.S. trade embargo with Iran from 1987-2000,[10] the antidumping duty order was not previously reviewed. The first five-year review was initiated in March 2005 because it had been five years since the embargo was lifted. On June 6, 2005, the Commission determined that it would conduct a full review.[11] On December 19, 2005, the Commission issued its determination that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States.[12]

On October 4, 2005, Commerce published the final results of its expedited review of the antidumping duty order on raw in-shell pistachios from Iran. Commerce determined that revocation of the antidumping order on raw in-shell pistachios from Iran would likely lead to continuation or recurrence of dumping at a weighted average margin of 241.14 percent ad valorem for Rafsanjan Pistachio Producers Cooperative ("RPPC"), Tehran Negah Nima Trading Co., Inc. ("Nima")/Maghsoudi Farms ("Maghsoudi"), Nima/Razi Domghan Agricultural and Animal Husbandry Co. ("Razi"), and all other Iranian growers, producers, and exporters of raw

(…*continued*)
valorem for Rafsanjan Pistachio Producers Cooperative and all other manufacturers, producers, and exporters of raw in-shell pistachios from Iran.

[7] The Commission determined that an industry in the United States was threatened with material injury by reason of imports from Iran of pistachio nuts, not shelled. *In-Shell Pistachio Nuts From Iran*, 51 FR 25408, July 14, 1986; *In-Shell Pistachio Nuts from Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, pp. 1-2.

[8] *Antidumping Duty Order; Certain In-Shell Pistachios From Iran*, 51 FR 25922, July 17, 1986.

[9] *Raw In-Shell Pistachios From Iran*, 70 FR 9976, March 1, 2005.

[10] In 1987, President Ronald Reagan found that the government of Iran was actively supporting terrorism as an instrument of state policy, and had conducted aggressive and unlawful military action against non-belligerent shipping in the Persian Gulf region. Accordingly, on October 29, 1987, the President issued Executive Order 12613 imposing an import embargo on Iranian-origin goods and services (52 FR 41940, October 30, 1987). Section 505 of the International Security and Development Cooperation Act of 1985 ("ISDCA") was utilized as the statutory authority for the embargo which gave rise to the Iranian Transactions Regulations ("ITR"), Title 31 Part 560 of the U.S. Code of Federal Regulations.

[11] *Raw In-Shell Pistachios From Iran*, 70 FR 35116, June 16, 2005.

[12] *Raw In-Shell Pistachios From Iran, Determination*, 70 FR 76076, December 22, 2005; *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-2.

in-shell pistachios.[13] On January 3, 2006, Commerce issued its notice to continue the antidumping duty order.[14]

RELATED INVESTIGATIONS

Concurrent with the filing of the antidumping petition on imports of raw in-shell pistachios from Iran in September 1985, the petitioners filed a countervailing duty petition concerning imports of raw in-shell pistachio nuts and certain roasted in-shell pistachios from Iran. On March 11, 1986, Commerce published a countervailing duty order (C-507-501) on raw in-shell pistachios, finding a countervailing duty rate of 99.52 percent ad valorem.[15] In February 1986, petitioners filed an additional countervailing duty petition with respect to imports of roasted in-shell pistachios from Iran. On October 7, 1986, Commerce published a countervailing duty order (C-507-601) on roasted in-shell pistachios, finding a countervailing duty rate of 317.89 percent ad valorem.[16] The Commission was not required to make an injury determination concerning the countervailing duty petitions since Iran was not a "country under the Agreement" with the meaning of 701(b) of the Act, as amended.

In its final countervailing duty determinations on raw in-shell pistachios, Commerce found that eight Iranian government programs conferred countervailable bounties or grants to growers of pistachios in Iran. In its final countervailing duty determinations on roasted in-shell pistachios, Commerce found that seven Iranian government programs conferred countervailable bounties or grants to producers of roasted in-shell pistachios in Iran. Information regarding these programs found by Commerce to be countervailable is presented in table I-1.

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[13] *Certain In-Shell Pistachios from Iran; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 70 FR 57855, October 4, 2005.

[14] *Continuation of Antidumping Duty Order on Certain In-Shell Pistachios from Iran*, 71 FR 94, January 3, 2006.

[15] *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; In-Shell Pistachios From Iran*, 51 FR 8344, March 11, 1986.

[16] *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Roasted In-Shell Pistachios From Iran*, 51 FR 35679, October 7, 1986.

Table I-1
Raw and roasted in-shell pistachios: Iranian government programs determined by Commerce to confer bounties or grants

Programs	Estimated net bounty or grant (percent ad valorem)
Raw in-shell pistachios:	
Preferential Exchange Rate	10.00
Foreign Currency Retention Scheme	46.86
Price Support/Guaranteed Purchase of All Production	7.11
Preferential Provision of Fertilizer and Machinery	7.11
Preferential Credit	7.11
Tax Exemptions	7.11
Preferential Provision of Water and Irrigation	7.11
Preferential Provision of Technical Support	7.11
Total	99.52
Roasted in-shell pistachios:	
Foreign Exchange Benefits for Exporters	277.99
Price Supports and/or Guaranteed Purchase of All Production	6.65
Preferential Provision of Fertilizer and Machinery	6.65
Preferential Credit	6.65
Tax Exemptions	6.65
Provision of Water and Irrigation at Preferential Rates	6.65
Technical Support	6.65
Total	317.89

Source: 51 FR 8345, March 11, 1986; and 51 FR 35679, October 7, 1986.

Since the imposition of the countervailing duty order on raw in-shell pistachios in March 1986, Commerce has issued final results on one new shipper review and three administrative reviews of the countervailing duty order on raw in-shell pistachios from Iran and two new shipper reviews and two administrative reviews of the countervailing duty order on roasted in-shell pistachios from Iran. Information regarding Commerce's new shipper and administrative reviews related to the countervailing duty orders is presented in table I-2.

Table I-2
Raw and roasted in-shell pistachios: Final results of Commerce's new shipper reviews and administrative reviews relating to countervailing duty orders

Date results published	Period of review	Exporter/producer	Net subsidy rate (percent ad valorem)
Raw in-shell pistachios			
New shipper reviews:			
01/31/2003 68 FR 4997	10/01/2000-09/30/2001	Nima/Maghsoudi	23.18
Administrative reviews:			
07/11/2003 68 FR 41310	01/01/2001-12/31/2001	RPPC	49.77
09/13/2005 70 FR 54027	01/01/2003-12/31/2003	Nima/Razi	0.00
06/29/2006 71 FR 37056	01/01/2004-12/31/2004	Nima	71.10
Roasted in-shell pistachios			
New shipper reviews:			
01/31/2003 68 FR 4997	10/01/2000-09/30/2001	Nima/Maghsoudi	21.68
02/25/2008 73 FR 9993	01/01/2006-12/31/2006	Ahmadi's Agricultural Productions, Processing and Trade Complex ("Ahmadi")	0.00
Administrative reviews:			
05/12/2006 71 FR 27682	01/01/2003-12/31/2003	Nima/Razi	0.00
11/13/2006 71 FR 66165	01/01/2004-12/31/2004	Nima	66.50

Source: Cited Federal Register notices.

SUMMARY DATA

Table I-3 presents a summary of data from the original investigation concerning the antidumping duty order on raw in-shell pistachios from Iran, as well as a summary of data from the first five-year review and the current second five-year review.

Table I-3
Pistachios: Comparative data from the original investigation, first five-year review, and current second five-year review, crop years 1985/86 and 2004/05, and calendar year 2016

Item	Original investigation	First review	Second review
	1985/86	2004/05	2016
Quantity (1,000 pounds); value (1,000 dollars); unit value ($/lb.); shares (percent)			
U.S. consumption quantity	61,061	166,254	141,168
Share of U.S. consumption quantity:			
U.S. producers' share	56.3	99.8	99.6
U.S. importers' share:			
Iran	42.3	0.0	0.0
Turkey	(1)	0.2	0.3
All other sources	1.4	0.0	0.1
Total imports	43.7	0.2	0.4
U.S. consumption value	(1)	(1)	602,509
Share of U.S. consumption value:			
U.S. producers' share	(1)	(1)	99.6
U.S. importers' share:			
Iran	(1)	(1)	0.0
Turkey	(1)	(1)	0.3
All other sources	(1)	(1)	0.1
Total imports	(1)	(1)	0.4
U.S. imports from			
Iran:			
Quantity	25,841	0	0
Value	33,868	0	0
Unit value	$1.31	$0	$0
Turkey:			
Quantity	28	395	444
Value	48	1,068	1,616
Unit value	$1.71	$2.70	$3.64
All other sources:			
Quantity	809	6	172
Value	1,112	17	526
Unit value	$1.37	$2.60	$3.06
All countries:			
Quantity	26,678	402	616
Value	35,028	1,084	2,143
Unit value	$1.31	$2.70	$3.48

Table continued on next page.

Table I-3--Continued
Pistachios: Comparative data from the original investigation, first five-year review, and current second five-year review, crop years 1985/86 and 2004/05, and calendar year 2016

Item	Original inv. 1985	First review 2004/05	Second review 2016
Quantity (1,000 pounds); value (1,000 dollars); unit value ($/lb.); shares (percent)			
U.S. industry:			
Capacity (quantity)	58,841	311,210	750,142
Production (quantity)	24,912	193,785	580,196
Capacity utilization (percent)	52.6	62.3	77.3
U.S. shipments:			
Quantity	15,171	110,883	16,819
Value	(1)	230,627	62,735
Unit value	(1)	$2.08	$3.73
Ending inventory quantity	24,884	39,887	475,947
Inventories/total shipments (percent)	270.2	23.5	138.4
Production workers	1,631	843	2,023
Hours worked (1,000)	2,318	992	3,954
Wages paid (1,000 dollars)	20,921	9,566	64,790
Hourly wages	$9.03	$9.64	16
Productivity (1,000 pounds per hour)	10.7	127.1	147
Financial data:			
Net sales:			
Quantity	(1)	148,996	264,671
Value	13,868	298,690	1,193,942
Unit value	(1)	$2.00	$4.51
Cost of goods sold	11,820	274,418	1,102,079
Gross profit or (loss)	2,048	24,272	91,863
SG&A expense	(1)	(1)	47,459
Operating income or (loss)	870	10,213	44,404
Unit COGS	(1)	$1.84	$4.16
Unit operating income	(1)	$0.07	$0.17
COGS/sales (percent)	85.2	91.9	92.3
Operating income or (loss)/sales (percent)	6.3	3.4	3.7

[1] Not available.

Note.—Due to rounding, data may not sum to totals shown.

Source: *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, tables 2, 4, 8, 11, 15, 17, and page A-17; *Raw In-Shell Pistachios From Iran, Inv. No. 731-TA-287 (Review),* USITC Publication 3824, December 2005, table I-2 and IV-1; and compiled from data submitted in response to Commission questionnaires.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory criteria

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation "would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury."

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury—

> *(1) IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--*
>
> > *(A) its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,*
> > *(B) whether any improvement in the state of the industry is related to the order or the suspension agreement,*
> > *(C) whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and*
> > *(D) in an antidumping proceeding . . ., (Commerce's findings) regarding duty absorption . . ..*
>
> *(2) VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--*
>
> > *(A) any likely increase in production capacity or existing unused production capacity in the exporting country,*
> > *(B) existing inventories of the subject merchandise, or likely increases in inventories,*
> > *(C) the existence of barriers to the importation of such merchandise into countries other than the United States, and*
> > *(D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.*

(3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--

> *(A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and*
> *(B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.*

(4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to–

> *(A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,*
> *(B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and*
> *(C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.*

The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.

Section 752(a)(6) of the Act states further that in making its determination, "the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement."

Organization of report

Information obtained during the course of the review that relates to the statutory criteria is presented throughout this report. A summary of trade and financial data for pistachios as collected in the review is presented in appendix C. U.S. industry data are based on

the questionnaire responses of 98 U.S. growers of pistachios[17] that are believed to have accounted for approximately one-half of U.S. production of raw in-shell pistachios during 2014-16[18] and 42.1 percent of total domestic acreage on which pistachios were grown in 2015,[19] as well as 9 U.S. processors of pistachios that are believed to have accounted for more than three-fourths of U.S. processing of raw in-shell pistachios during 2015.[20] U.S. import data and related information are based on Commerce's official import statistics.[21] Foreign industry data and related information are based on publicly available data compiled by USDA and the Global Trade Atlas, as well as the questionnaire response of one responding producer of pistachios in Iran, which accounted for an estimated *** percent of total production in Iran and ***

[17] Several responses representing separate acreage tracts were consolidated by Commission staff to prevent double-counting and to facilitate accurate data aggregation (e.g., separate responses from certain individuals owning tracts of land under the ***).

[18] The coverage figure is based on USDA pistachio production for the United States for crop years (September-August) 2013/14 (470 million pounds), 2014/15 (514 million pounds), and 2015/16 (270 million pounds). USDA, ERS, Fruit Yearbook Tree Nuts, Table F15, and USITC calculations (see table III-4 in Part III of this report).

[19] The coverage figure is based on data compiled by the Administrative Committee for Pistachios for 2015 (232,655 acres). "Statistics/Archives," *Administrative Committee for Pistachios,* http://www.acpistachios.org/pdf/2015-Statistics.pdf, retrieved March 8, 2017.

[20] The coverage figure is based on USDA pistachio production for the United States for crop years 2013/14 (470 million pounds), 2014/15 (514 million pounds), and 2015/16 (270 million pounds). USDA, ERS, Fruit Yearbook Tree Nuts, Table F15, and USITC calculations (see table III-4 in Part III of this report).

[21] Only one firm responded to the U.S. Importer Questionnaire in this proceeding but the firm reported no U.S. imports of raw in-shell pistachios during 2014-16 ***.

percent of total Iran pistachio exports in 2016. Responses by U.S. producers, purchasers, and foreign producers of pistachios to a series of questions concerning the significance of the existing antidumping and countervailing duty orders and the likely effects of revocation of such orders are presented in appendix D.[22]

COMMERCE'S REVIEWS

Administrative reviews

Since the imposition of the antidumping duty order on raw in-shell pistachios from Iran in July 1986, Commerce has completed one new shipper review and one administrative review. Information regarding Commerce's new shipper and administrative reviews is presented in table I-4. Since the publication of the first five-year review continuation order of the antidumping duty of raw in-shell pistachios from Iran, there have been no administrative reviews or new shipper reviews that have culminated in final results.

Table I-4
Pistachios: New shipper and administrative reviews of the antidumping duty order

Date results published	Period of review	Exporter/producer	Margin (percent ad valorem)
New shipper review:			
01/03/2003 68 FR 353	07/01/2000-06/30/2001	Nima/Maghsoudi	144.05
Administrative review:			
02/14/2005 70 FR 7470	07/01/2002-06/30/2003	Nima/Razi	18.74

Source: Cited Federal Register notices.

Changed circumstances reviews

Commerce has not made any changed circumstances findings with respect to the antidumping duty order on raw, in-shell pistachios from Iran.

Scope inquiry reviews

Since the Commission's last five-year review, Commerce has issued no scope rulings with regard to the antidumping duty order on pistachios from Iran.[23]

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[22] No U.S. importers provided a response to these series of questions.

[23] Commerce has previously addressed the scope related to this proceeding. On May 9, 1986, prior to its final antidumping determination in the original investigation, Commerce clarified the scope of its antidumping investigation to include roasted in-shell pistachio nuts in the same class or kind of merchandise as raw in-shell pistachio nuts and issued its final antidumping determination with the scope defined as "certain raw and roasted in-shell pistachio nuts." However, on June 26, 1986,

(*continued*...)

Duty absorption findings

The Department of Commerce has not made any duty absorption findings under the antidumping duty order against imports of pistachios from Iran.[24]

Five-year reviews

On August 5, 2016, Commerce issued the final results of its expedited review with respect to the antidumping duty order on raw in-shell pistachios from Iran. Commerce determined that revocation of the antidumping order on raw in-shell pistachios from Iran would likely lead to continuation or recurrence of dumping at a weighted average margin of 241.14 percent ad valorem for RPPC, Nima/Maghsoudi, Nima/Razi, and all other Iranian growers, producers, and exporters of raw in-shell pistachios.[25] The margin remains unchanged from Commerce's original determination and its first five-year review of the antidumping duty order.

(…*continued*)
Commerce rescinded the May 9, 1986 clarification and amended the notice of its final determination. Accordingly, the scope of Commerce's antidumping investigation included only raw in-shell pistachio nuts. *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review),* USITC Publication 3824, December 2005, p. I-10 fn. 27; and *Certain In-Shell Pistachios From Iran; Clarification of Scope in Antidumping Duty Investigation*, 51 FR 23254, June 26, 1986.

[24] On October 24, 2003, petitioner requested that the Department of Commerce determine whether antidumping duties had been absorbed during the period of review by Nima. Because the antidumping duty order was published seventeen years prior to the initiation of this review, Commerce determined that petitioner's request was unwarranted by section 751(a)(4) of the Act. Moreover, neither the foreign producer nor the exporter subject to the instant order was affiliated with the U.S. importer. Therefore, Commerce found that section 751(a)(4) of the Act was not applicable to this review, and accordingly, did not determine whether antidumping duties had been absorbed during the period of review by Nima. *Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain In-Shell Raw Pistachios from Iran*, 69 FR 48197, August 9, 2004.

[25] *Certain In-Shell (Raw) Pistachios From the Islamic Republic of Iran: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 81 FR 51857, August 5, 2016.

THE SUBJECT MERCHANDISE

Commerce's scope

In its final results of the second five-year review, Commerce defined the scope of the review as follows:

> The products covered by the order are raw, in-shell pistachio nuts from which the hulls have been removed, leaving the inner hard shells, and edible meats from Iran.[26]

Tariff treatment

Raw in-shell pistachios are classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheading 0802.51.00 (fresh or dried pistachios, in shell). Prior to 2012, however, they were classified under subheading 0802.50.20, which covered all fresh or dried pistachios. In 2012, after HTS subheading 0802.50 covering all fresh or dried pistachios was subdivided, two new HTS subheadings were added: 0802.51.00 (in-shell pistachios) and 0802.52.00 (shelled pistachios).[27] Raw in-shell pistachios from Iran enter the U.S. customs territory at a column 1-general duty rate of 0.9 cents/kg. Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection.

THE PRODUCT

Description and applications

Raw in-shell pistachios are those pistachios that have been harvested, hulled, dried, and graded, but not further processed (i.e., salted, dyed, or roasted). Pistachio nuts are seeds from the fruit of Pistacia vera L., which is from the same family as cashews and mangoes. Pistachios, believed to be indigenous to Iran, have been widely cultivated from Central Asia to the Mediterranean region for centuries. The nuts are less than one inch long and grow inside the fruit of the tree, or nut "hull." Figure I-1 shows examples of a pistachio orchard, a pistachio tree, a pistachio cluster, and roasted in-shell pistachios.

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[26] *Certain In-Shell (Raw) Pistachios From the Islamic Republic of Iran: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 81 FR 51857, August 5, 2016.

[27] *Presidential Documents: Proclamation 8771 of December 29, 2011: To Modify the Harmonized Tariff Schedules of the United States and for Other Purposes: By the President of the United States of America: A Proclamation*, 77 FR 413, January 4, 2012.

Figure I-1
Images of a pistachio orchard, a pistachio tree, a pistachio cluster, and roasted in-shell pistachios

Pistachio Orchard

Pistachio Tree

Pistachio Cluster

Roasted In-Shell Pistachios

Source: *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review),* USITC Publication 3824, December 2005.

Prior to maturity and while still on the trees inside the hull, the nuts tend to split naturally at one side without discharging the kernel. The split shell allows pistachios to be marketed largely in-shell for fresh consumption, since kernels can be easily extracted by the consumer without mechanical cracking. Pistachio trees are grown in arid regions with warm or temperate climates as they require long hot summers for fruit maturation, as well as a significant period of cold temperatures.

Pistachio trees, like many other nut trees, are "alternate bearing," in that they produce a heavy crop one year and a lighter crop the next. This is due to the fact that inflorescence buds are initiated, develop partially, but then fall off during heavy crop years. For this reason, a light (small) crop year typically follows a heavy (large) crop. Certain trees in an orchard may produce as much as 75 percent of a full crop in "off" years, whereas other trees may produce only 25 percent. Trees reach maturity and peak production after approximately 15 years.[28]

Named for Iran's major pistachio region, virtually all U.S. pistachios are of the Kerman variety, which is preferred due to its larger nut size and widely split shells. Drawbacks of this cultivar are a pronounced alternate-bearing cycle, a considerable number of "blanks" (nuts without kernels), and nuts with unsplit shells.[29]

The United States Department of Agriculture ("USDA") establishes standards for grades of inshell pistachio nuts.[30] In-shell pistachio nuts that are considered "U.S. Fancy," "U.S. Extra No. 1," "U.S. No. 1," and "U.S. Select" must be free from foreign material, loose kernels, shell pieces, other particles, blanks (nuts without kernels), non-split shells, stains, immature kernels, spotted kernels, kernels damaged by insects, mold, rancidity, or decay. To be considered one of these grades, the size of the nut must be not less than 30/64 inch in diameter. Each grade corresponds to varying tolerances (measured by percent of weight) for each of the above-mentioned criteria. Size designations are indicated by the average number of nuts per ounce and are as follows: colossal (less than 18), extra-large (18-20), large (21-25), medium (26-30), and small (more than 30).

Pistachios are a popular snack food and are used as an ingredient in both sweet and savory foods, such as ice cream or pâtés. At the time of the original investigation, almost 90 percent of U.S. pistachios were sold in-shell for fresh consumption.[31] That figure may have decreased slightly in recent years due to the U.S. industry's efforts to expand its presence in the food-manufacturing (food ingredient) sector. Pistachio nuts for snacking are generally marketed in-shell, while kernels are marketed for use as food ingredients. Raw pistachios that are subject to this review (in-shell and dried to 5 to 7 percent moisture) are generally marketed to food

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[28] Administrative Committee for Pistachios, "Commodity Fact Sheet," September 2014.

[29] Nuts with unsplit shells are often the result of stress to the pistachio tree, which can occur during extreme weather conditions.

[30] See Pistachios in the Shell Grades and Standards, USDA, Agricultural Marketing Service, retrieved on June 15, 2016 at https://www.ams.usda.gov/grades-standards/pistachios-shell-grades-and-standards

[31] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, p. A-5.

processors as an input to produce further processed in-shell pistachios for snacks, such as salted and/or roasted pistachios.

Manufacturing processes

Most commercial pistachio orchards in the United States are planted in square or triangular arrangements with spacings of 11 to 30 feet between trees. Fruit occurs 4 to 5 years after transplanting, with the first economically significant crops obtained in the 7th or 8th year. Although most commercial pistachio production outside the United States is non-irrigated, even during extended rainless periods, many U.S. growers provide up to 3 acre-feet of water through the summer, which greatly increases production.

Harvesting begins when the pistachios mature,[32] indicated by the tan hull of the fruit acquiring a reddish blush color and becoming loosened from the nut inside. Ideally, removal from the tree takes place within 7 to 10 days of this stage. At this stage, pistachios are called "green." The harvested fruit must then be hulled and dried within 24 hours to avoid stained shells and aflatoxin contamination.[33] Mature trees (10 years or older) are harvested by conventional shake-harvest equipment used for almonds.[34] Worldwide average yields are around 1,000 pounds per acre, ranging from a few hundred pounds to over 3,000 pounds per acre in the United States in years of peak production.[35] Figure I-2 presents pictures of the harvesting process.

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[32] Pistachio nuts are harvested in the United States in September and October; the U.S. pistachio crop year runs from September to August which spans the time during which the new crop is marketed. The crop year runs from October to September in Iran.

[33] Aflatoxin is a substance found in mold and has been linked to cancer in the liver and kidneys. It is a naturally occurring toxin which grows in soil when decaying vegetation, hay, and grains undergo microbiological deterioration in the presence of moisture and high temperatures. Of all the types of aflatoxin strains, aflatoxin B1 is considered the most toxic. For more information on how aflatoxin affects food safety for pistachios, see the "Food Safety Concerns" section in Part IV of this report.

[34] In the United States, pistachio trees are trained during their first five years to establish a full canopy of fruiting wood, with no branches lower than 3 feet above the soil surface to facilitate trunk shaker attachment.

[35] USDA, NASS, "National Statistics for Pistachios," (accessed June 15, 2016) https://www.nass.usda.gov/Statistics_by_Subject/result.php?DE92F2C3-D93C-307C-BF4E-7927B417CD98&sector=CROPS&group=FRUIT%20%26%20TREE%20NUTS&comm=PISTACHIOS

Figure I-2
Pistachios: The pistachio harvesting process

1. A mechanical harvester moving into position

2. A mechanical harvester shaking tree

3. A look inside the mechanical harvester

4. Pistachios are loaded in boxes

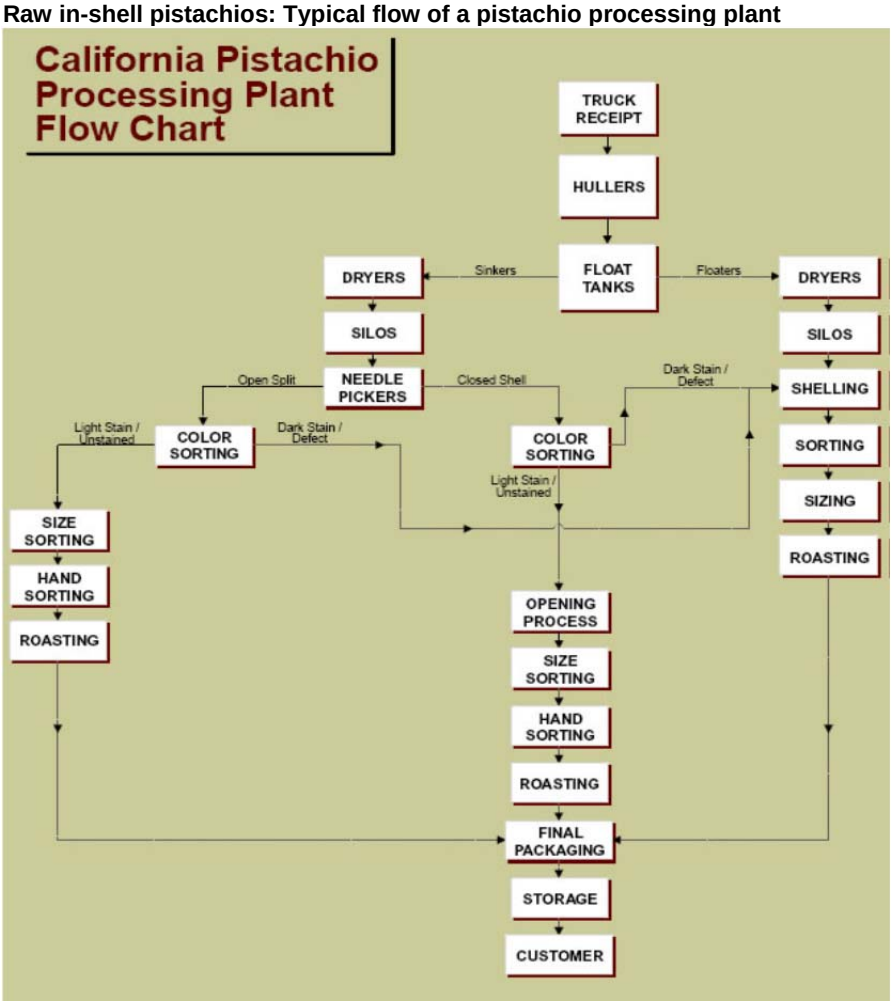
5. Boxes are then loaded on trucks

6. Pistachios entering the processing plant

Source: Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review), USITC Publication 3824, December 2005.

After harvesting, fruit are then fed through a machine containing rotating rubberized belts, which removes the fruit flesh and leaves the nut shell exposed. Hulled nuts are floated and washed, while the hulls themselves are composted and used for fertilizer. Nuts that did not split naturally at maturity ("non-splits") are then separated from split nuts, and split mechanically for in-shell consumption or shelled for sale as kernels to be used as a food ingredient. Nuts are then dried in large forced-air driers to a moisture content of 5-7 percent, then stored in raw form in large bins for further processing (roasting, salting, etc.).[36] Figure I-3 presents a production process flow chart.

Figure I-3
Raw in-shell pistachios: Typical flow of a pistachio processing plant



Source: *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005.

[36] Administrative Committee for Pistachios, "Voluntary Incoming Inspection Operations Manual," 2015, p. 3.

Producers in the Middle East often harvest pistachios by hand rather than mechanically, leaving the hulls on the nuts for longer periods of time which can result in shell stains. Imported pistachio nuts prior to the mid-1970s were often dyed red to hide the stains. The mechanization of the U.S. industry has reduced shell staining considerably and most U.S. in-shell pistachios are marketed in their natural color.

Raw pistachios that have been dried 5 to 7 percent must be further dried (i.e., roasted) before being made available to consumers. As such, there is reportedly no retail market for raw in-shell pistachios, and the purchasers of raw in-shell pistachios are processors, custom roasters, and certain traders.[37] Virtually all pistachio fruit harvested from an orchard is devoted to the production of raw in-shell pistachios, which are the raw input into final consumer pistachio products such as roasted in-shell pistachios and pistachio kernels.

California pistachio producers established a marketing order in 2004 which sets standards and requires testing for quality and for aflatoxin levels. The marketing order established the Administrative Committee for Pistachios to regulate the handling of pistachios produced in California, Arizona, and New Mexico.[38] The order also sets standards for the quality of pistachios produced and handled in these states by establishing a maximum aflatoxin tolerance level and mandatory inspection and certification for domestic shipments of pistachios. [39] Setting quality standards may stimulate demand by increasing consumer confidence in the safety of U.S. pistachios owing to the fact that an event of aflatoxin poisoning could have the reverse effect. The marketing order states that no pistachios shall be shipped that exceed an aflatoxin level of 15 parts per billion (ppb).[40]

DOMESTIC LIKE PRODUCT AND DOMESTIC INDUSTRY ISSUES

In its original investigation, the Commission found the domestic like product to be raw in-shell pistachio nuts that have been harvested, hulled, dried to a moisture content of four to six percent, and graded. These included all shapes of nuts, all three U.S. grades (U.S. Fancy, U.S. No. 1 and U.S. No. 2) and all four size categories (very large, large, medium, and small).[41] In the first five-year review, the domestic interested parties did not argue for a different definition of the domestic like product and the Commission defined the domestic like product to be

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[37] Global pistachio trade is mainly of pistachios in raw form. This is because raw pistachios (i.e., dried to a 5-7 percent moisture content) are less perishable than further processed pistachios. Hearing transcript, p. 218 (Ketabi).

[38] Administrative Committee for Pistachios, "About the Committee," accessed at http://www.acpistachios.org/. See also 7 CFR 983.41.

[39] USDA, AMS, "938 Pistachios," accessed at https://www.ams.usda.gov/rules-regulations/moa/983-pistachios.

[40] *Pistachios Grown In California, Arizona, and New Mexico*, 7 CFR§ 983.150.

[41] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, p. 5.

consistent with the like product definition in the original investigation.[42] With regard to the definition of the domestic industry, in both the original investigation and the first five-year review, the Commission defined the domestic industry as "those producers that grow pistachio nuts and those firms that process the pistachio nuts from hulling through grading." The Commission found that there was a single, continuous line of production and a common economic interest between the growers and the processors (from hulling through grading) of pistachios. No related party issues were raised in the first review.[43]

In its notice of institution for this second five-year review, the Commission solicited comments from interested parties regarding the appropriate definitions of the domestic like product and domestic industry.[44] According to their responses to the notice of institution, American Pistachio Growers ("APG")[45] and Tehran Negah Nima, trading as Nima Trading Co. ("Nima") agreed with the Commission's definitions in the first five-year review.[46] Wonderful Pistachios & Almonds LLC ("WP&A" or "Wonderful") indicated in its prehearing brief in the full phase of this review that it agrees with the Commission's previous determinations concerning the definitions of the domestic like product and domestic industry and argues that there is no information on the record that warrants a reconsideration of those definitions.[47]

The Commission solicited comments from interested parties regarding the draft questionnaires in the full phase of this second five-year review. The following three interested parties provided comments to the Commission on the draft questionnaires: APG, Commercial Arman Pegah Co. ("Arman Pegah"), and WP&A. No party requested that the Commission collect

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[42] *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. 5.

[43] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, pp. 7-8; and *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. 5.

[44] *Raw In-Shell Pistachios From Iran; Institution of a Five-Year Review*, 81 FR 18882, April 1, 2016.

[45] APG is a trade association formerly known as the Western Pistachio Association. APG represents nearly 700 small, medium, and large pistachio grower entities in California, Arizona, and New Mexico and 11 processors of pistachios in the United States. It reported that its member growers accounted for *** percent of the pistachios processed in the United States in 2014/15 and processor members accounted for approximately *** percent of domestic pistachio production in crop year 2014/15. Hearing transcript, pp. 25-26 (Matoian); and *Response of APG to Notice of Institution*, May 2, 2016, p. 2 and exh. 1 and 2 (list of processor and grower members).

[46] *Response of APG to Notice of Institution*, May 2, 2016, p. 32; and *Response of Nima to Notice of Institution*, May 1, 2016, p. 13. The Iran Pistachio Association ("IPA") did not indicate in its response to the Commission's notice of institution its position on the definitions of domestic like product and domestic industry.

[47] WP&A's prehearing brief, pp. 6-7.

data concerning other possible domestic like products in their comments on the Commission's draft questionnaires.[48]

U.S. MARKET PARTICIPANTS

The Commission defined the domestic industry in the original investigation and the first five-year review as U.S. producers that grow pistachio nuts ("growers") and those U.S. firms that process the pistachio nuts from hulling through grading ("processors").[49]

U.S. growers

Although the pistachio was introduced into California in 1853-54, the first commercial crop was not harvested until 1976. Since that time, thousands of acres of new pistachio orchards have been planted in the United States. Domestic pistachio bearing acres and domestic production have increased significantly since the original investigation, with approximately 98-99 percent of U.S. pistachios grown in California.[50]

The Commission reported in the original investigation that the 1985 U.S. pistachio crop acreage was approximately 47,000 acres.[51] In its report during the first five-year review of the order, the Commission reported that there were 126,569 pistachio bearing acres in the United States during 2002.[52] By 2015, there were 232,655 pistachio bearing acres in production in California alone.[53] There are currently about 7,000 acres of pistachio trees planted in Arizona and about 700 acres of pistachio trees in New Mexico.[54] Total U.S. pistachio production was

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[48] *Comments of APG on Draft Questionnaires*, November 18, 2016; *Comments of Arman Pegah on Draft Questionnaires*, November 18, 2016; and *Comments of WP&A on Draft Questionnaires*, November 18, 2016.

[49] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, pp. 7-8; and *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. 5.

[50] Hearing transcript, p. 26 (Matoian). Limited pistachio production also exists in Arizona, New Mexico, and West Texas. *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, p. A-6; *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-21; "Statistics/Archives," *Administrative Committee for Pistachios,* http://www.acpistachios.org/pdf/2015-Statistics.pdf, retrieved March 8, 2017; "History," *American Pistachio Growers,* http://www.americanpistachios.org/power-of-pistachios/history, retrieved March 9, 2017; and *Response of APG to Notice of Institution*, May 2, 2016, exh. 10.

[51] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, table 1.

[52] *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-21.

[53] "Statistics/Archives," *Administrative Committee for Pistachios,* http://www.acpistachios.org/pdf/2015-Statistics.pdf, retrieved March 8, 2017.

[54] Hearing transcript, pp. 36-37 (Zion).

27.1 million pounds in 1985 and by 2015, it had increased to 270.1 million pounds.[55] U.S. pistachio production currently supplies virtually all of the U.S. market.[56]

At the time of the original investigation, there were approximately 500 pistachio growers in the United States, most of them small. The Commission received responses to questionnaires in the original investigation from 40 growers, both large and small, which accounted for over 55 percent of production in crop year 1985, as reported by the U.S. Department of Agriculture ("USDA") and the California Pistachio Commission. Eight entities accounted for almost 85 percent of the total production reported by questionnaire respondents during crop year 1985.[57]

In its first five-year review completed in 2005, the Commission sent growers' questionnaires to over 400 firms. Ninety-one responding firms reported growing pistachios and accounted for approximately 51 percent of U.S. production of pistachios during crop year 2004/05.[58]

In this current proceeding, the Commission issued U.S. growers' questionnaires to 173 entities, 98 of which provided the Commission with information on their pistachio operations.[59] These growers are believed to have accounted for approximately one-half of U.S. production of raw in-shell pistachios during 2014-16.[60] Presented in table I-5 is a list of responding U.S. growers of pistachios, each entity's position on the continuation of the order, production location, and share of reported U.S. production of raw in-shell pistachios in 2016.

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[55] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, p. A-14; and "Statistics/Archives," *Administrative Committee for Pistachios,* http://www.acpistachios.org/pdf/2015-Statistics.pdf, retrieved March 8, 2017.

[56] According to official U.S. import statistics for statistical reporting number 0802.51.0000, total U.S. imports of pistachios from all countries amounted to approximately 500,000 pounds during 2015 and slightly more than 600,000 pounds during 2016.

[57] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, p. A-7.

[58] *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-21.

[59] Several responses representing separate acreage tracts were consolidated by Commission staff to prevent double-counting and to facilitate accurate data aggregation (e.g., separate responses from certain individuals owning tracts of land under the ***).

[60] The coverage figure is based on USDA pistachio production for the United States for crop years 2013/14 (470 million pounds), 2014/15 (514 million pounds), and 2015/16 (270 million pounds). USDA, ERS, Fruit Yearbook Tree Nuts, Table F15, and USITC calculations (see table III-4 in Part III of this report).

Table I-5
Pistachios: U.S. growers, position on order, location of production, and share of reported U.S. production, 2016

Firm	Position on continuation of order	Production location(s)	Share of production (percent)
780 La Brea	***	Los Angeles, CA	***
A&P Ranch	***	Tucson, CA	***
Agri-World 14	***	Madera, CA	***
Agri-World 15/16	***	Madera, CA	***
Akhavi	***	Los Angeles, CA	***
Alkali Hollow Farms	***	Madera, CA	***
Ana Belle Farms	***	Merced, CA	***
Andson Ranches	***	Tulare, CA	***
ATB Ranch	***	Madera, CA	***
Avellar-Moore Farms	***	Fresno, CA	***
Ben Curti Farms	***	Tulare, CA	***
Blackwell Farming	***	Bakersfield, CA	***
Brockman Farming	***	Aptos, CA	***
California Valley	***	Huron, CA	***
Callinan - Agriland	***	Chowchilla, CA	***
Casat - Agriland	***	Chowchilla, CA	***
Castro Farms	***	Tulare, CA	***
Cederquist Farming	***	Fresno, CA	***
Coleman Land	***	Fresno, CA	***
Cotton Creek Partners	***	Madera, CA	***
Cotton Creek Ranch-1	***	Madera, CA	***
Creekside Farms	***	Madera, CA	***
Don Headrick	***	Hanford, CA	***
Double D Farms	***	Fresno, CA	***
Doug Les Farms	***	Tulare, CA	***
Eagle Ranch	***	Alamogordo, NM	***
Enia Farms	***	Madera, CA	***
Eriksson	***	Visalia, CA	***
F&K Farms	***	Glenn, CA	***
Foothill - Agriland	***	Chowchilla, CA	***

Table continued on next page.

Table I-5—Continued
Pistachios: U.S. growers, position on order, location of production, and share of reported U.S. production, 2016

Firm	Position on continuation of order	Production location(s)	Share of production (percent)
Frederick D. Schmidt	***	Lodi, CA	***
G&G Andrew Farms	***	Madera, CA	***
Gage Farm	***	Firebaugh, CA	***
Grayson Service	***	Bakersfield, CA	***
Hamar Farms	***	Visalia, CA	***
Hoffman & Son	***	Tulare, CA	***
Horizon Farms	***	Fresno, CA	***
Huse Family	***	Mill Valley, CA	***
Jacalitos Creek	***	Fresno, CA	***
Jake Cesare & Sons	***	Delano, CA	***
James B Cook II	***	Willcox, AZ	***
Jimi John Valov	***	Tulare, CA	***
Keenan Farming	***	Avenal, CA	***
J. Poonian Limited Partnership	***	Watsonville, CA	***
L. Martinelli Farms	***	Merced, CA	***
Lee-Ken Farms	***	Sun Valley, CA	***
Little Creek	***	Lincoln, CA	***
LJL Farming	***	Madera, CA	***
Madera	***	Newport Beach, CA	***
Madera One-100	***	Palm Springs, CA	***
Mapleleaf	***	Chico, CA	***
Michael Naito Farms	***	Madera, CA	***
Mike Bennett	***	Tulare, CA	***
Mike Woolf Farming	***	Fresno, CA	***
MMG Agribusiness	***	Beverly Hills, CA	***
Munger Brothers	***	Delano, CA	***
Pacific Growers	***	Templeton, CA	***
Parsons Farms	***	Buttonwillow, CA	***
Peggy Perkins, et al. - Agriland	***	Chowchilla, CA	***
Pistachios Unlimited	***	Corona de Tucson, AZ	***

Table continued on next page.

Table I-5—Continued
Pistachios: U.S. growers, position on order, location of production, and share of reported U.S. production, 2016

Firm	Position on continuation of orders	Production location(s)	Share of production (percent)
Pitigliano Farms	***	Tipton, CA	***
Pleasant Valley	***	Fresno, CA	***
Price Valley Ranch	***	Kingsburg, CA	***
Pyramid Hills	***	Commack, NY	***
Quail Ranch	***	Fresno, CA	***
R.B. Sandrini Farms	***	Delano, CA	***
Richard Searle	***	Cochise, AZ	***
Robinson Family Farms	***	Hanford, CA	***
Roden Farms	***	Shandon, CA	***
Rudy Hernandez	***	San Luis Obispo, CA	***
Russell Spain	***	Clovis, CA	***
San Luis Obispo Farm	***	Glendale, CA	***
Schmiederer Family Farms	***	Mendota, CA	***
Scott Shropshire Farms	***	Madera, CA	***
Setton Farms	***	Commack, NY	***
Shows Family Farm	***	Fresno, CA	***
Sol Aureus	***	Fresno, CA	***
Steve Moore Farms	***	Fresno, CA	***
Steven Emmert	***	Madera, CA	***
Stone Land	***	Stratford, CA	***
Summerhill Farming	***	Madera, CA	***
Swiss California	***	Madera, CA	***
Thomas Farms	***	San Joaquin, CA	***
Two B Unlimited	***	Visalia, CA	***
Valov and Sons	***	Tulare, CA	***
van Wyhe Farms	***	Merced, CA	***
Kettleman	***	Palo Alto, CA	***
Westchester Group	***	Fresno, CA	***
Wonderful Nut Orchards	***	Shafter, CA	***
Zonneveld Farms	***	Laton, CA	***
Total			100.0

[1] ***.

Source: Compiled from data submitted in response to Commission questionnaires.

There were no related party issues concerning U.S. growers by those entities responding to the Commission's notice of institution in this five-year review and none of the U.S. growers responding to the Commission's questionnaire indicated that they were importers of the subject merchandise or related to foreign producers or importers of the subject merchandise.[61]

U.S. processors

In the United States, pistachio processors generally perform the hulling and drying operations on the nuts, which are often purchased directly from the growers. At the time of the original investigation and full first five-year reviews, there was a significant amount of vertical integration between growers and processors, and there have been minor material changes in industry structure since then.[62] Some processing companies are owned by growers, some processors own pistachio acreage, and some are cooperatives of growers. Questionnaire responses in this current second five-year review indicate that during calendar year 2016, 19.1 percent of domestically processed pistachios were grown on processor-owned acreage. As such, the level of vertical integration in the U.S. industry producing raw in-shell pistachios has diminished somewhat since 1986 and 2004, when it was reported that 40 percent and 38.7 percent, respectively, of pistachios grown domestically were processed by firms from their own acreage.[63]

The industry remains vertically integrated in the current five-year review. In its response to the Commission's notice of institution, WP&A noted that it engages in domestic processing operations and produces both raw and roasted pistachios. WP&A is a group of companies under common control that collectively conduct "the largest domestic pistachio growing, harvesting, processing and marketing business." WP&A also acts as a growers' cooperative that buys raw pistachios from independent growers.[64] Its related group of companies consist of (1) WP&A, which owns and operates four domestic pistachio processing facilities in California that process raw nuts produced by both affiliated orchards and unrelated growers, the vast majority of which are from unrelated growers; (2) Wonderful Nut Orchards LLC, which conducts growing and harvesting operations in central California; (3) Cal Pure Produce Inc. ("Cal Pure"), which is a cooperative association that receives deliveries of pistachios from affiliated and unaffiliated member growers, and it also purchases pistachios

[61] Note that there was an import embargo in effect on the subject merchandise during the period for which questionnaire data were collected in this proceeding.

[62] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, p. A-8; and *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-22.

[63] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, pp. A-8; and *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-22.

[64] *Response of WP&A to Notice of Institution*, April 29, 2016, p. 2 and exhs. 1 and 2 (list of domestic processors and unrelated growers).

from unaffiliated non-members; and (4) WP Pistachios LLC ("WPP"), which purchases raw pistachios from Cal Pure and other unaffiliated growers. Both Cal Pure and WPP contract with WP&A to provide processing services and then sell the output as raw in-shell pistachios and also as roasted pistachios under the "Wonderful" brand name, as well as under other private label brands.[65]

In the original investigation, the Commission reported that there were about 30 firms, located principally in California, that performed the bulk of the pistachio processing. Nine of those firms provided a questionnaire response in the Commission's original investigation reporting the capacity to process raw in-shell pistachios.[66] In the full first five-year review, the Commission sent processors' questionnaires to 18 U.S. firms identified by the CPC that hulled and dried pistachios, and 10 grower/processors that handled over 80 percent of pistachio volume in the United States. Nine responding firms reported processing/drying raw in-shell pistachios. These nine firms accounted for approximately 80 percent of U.S. production of raw in-shell pistachios during crop year 2004/05.[67]

In this current proceeding, the Commission issued U.S. processors' questionnaires to 27 firms, 9 of which provided the Commission with information on their pistachio operations.[68] These firms are believed to have accounted for more than three-fourths of U.S. processing of raw in-shell pistachios during 2015.[69] Presented in table I-6 is a list of current domestic processors of raw in-shell pistachios and each company's position on the continuation of the order, processing location, related and/or affiliated firms, and share of reported processing of raw in-shell pistachios in 2016.

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[65] WP&A's prehearing brief, p. 3.; and *Response of WP&A to Notice of Institution*, April 29, 2016, p. 2.

[66] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, pp. A-7 and A-16.

[67] *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-22.

[68] ***.

[69] The coverage figure is based on USDA pistachio production for the United States for crop years 2013/14 (470 million pounds), 2014/15 (514 million pounds), and 2015/16 (270 million pounds). USDA, ERS, Fruit Yearbook Tree Nuts, Table F15, and USITC calculations (see table III-4 in Part III of this report).

Table I-6
Pistachios: U.S. processors, position on order, U.S. processing locations, and share of reported U.S. processing, 2016

Firm	Position on continuation of order	Production location(s)	Share of production (percent)
ARO Pistachios	***	Terra Bella, CA	***
Eagle Ranch	***	Alamogordo, NM	***
Horizon Nut	***	Tulare, CA Lost Hills, CA Firebaugh, CA	***
J&J Byrne	***	Brentwood, CA	***
Keenan Farms	***	Kettleman City, CA	***
Munger Bros./Monarch Nut	***	Delano, CA	***
Setton Pistachio	***	Terra Bella, CA Pixley, CA	***
Wonderful	***	Lost Hills, CA Coalinga, CA Firebaugh, CA	***
Zymex	***	Merced,CA	***
Total			100.0

[1] ***.

Source: Compiled from data submitted in response to Commission questionnaires.

None of the U.S. processors responding to the Commission's questionnaire indicated that they were importers of the subject merchandise or related to foreign producers or importers of the subject merchandise.[70] In fact, no responding U.S. processor reported direct U.S. imports of raw in-shell pistachios from any source. As discussed in greater detail in Part III, four U.S. processors reported purchases of domestic product.

There was one potential related party identified by APG in its response to the Commissions' notice of institution. In its response, APG indicated that one of its processor members, Primex Farms, LLC, may be related to Amin Padidar Ltd., which is allegedly a processor and distributor of pistachios in Iran. Neither Primex Farms, LLC nor Amin Padidar Ltd. provided a response to Commission questionnaires in this proceeding. APG noted further in its response that it is not aware of any other domestic producer that is related to a foreign producer or exporter of subject merchandise, or that is an importer of the subject merchandise, or is related to such an importer.[71]

[70] Note that there was an import embargo in effect on the subject merchandise during the period for which questionnaire data were collected in this proceeding (2014-16).

[71] *Response of APG to Notice of Institution*, May 2, 2016, p. 25.

U.S. importers

In the original investigation, the Commission sent out 75 importer questionnaires to importers of the subject merchandise, 9 of which provided data concerning subject imports. Most of the responses indicated that pistachios from Iran were exported through third country markets, such as the United Arab Emirates and Germany.[72] In the first five-year review, the Commission noted that according to proprietary information from Customs, there were *** importers of raw in-shell pistachios from Iran during the period January 1999-August 2005. In fact, the Commission reported in the first five-year review that since 1989, there had been virtually no U.S. imports of raw in-shell pistachios from Iran.[73] No foreign producers, exporters, or U.S. importers of the subject merchandise in Iran entered a notice of appearance in the first five-year review.[74]

In their responses to the Commission's notice of institution in this review, neither responding domestic interested party, WP&A or APG, could identify a currently operating U.S. importer of subject merchandise. WP&A stated that it knew of no U.S. imports of pistachios from Iran since the enactment of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010. APG noted that the only known U.S. importer during the embargo free period between April 2000-September 2010 was Ann's House of Nuts, Inc., which merged in 2010 with Amport Foods and currently operates as Flagstone Foods & Ann's House of Nuts.[75]

In the current proceeding, the Commission issued U.S. importers' questionnaires to four firms identified as possible importers of raw in-shell pistachios. Only one firm, Frunut Global Commodities, LLC ("Frunut"), Bronx, NY, provided a response to the Commission's questionnaire. In its response, Frunut reported ***.

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[72] *In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Final)*, USITC Publication 1875, July 1986, pp. A-9, A-35, and A-45.

[73] Note that, on October 29, 1987, the President issued an Executive Order imposing an import embargo on Iranian-origin goods and services (52 FR 41940, October 30, 1987). That embargo was lifted on April 28, 2000 (65 FR 25642, May 3, 2000). *Investigation No. 731-TA-287 (Review): Raw In-Shell Pistachio Nuts From Iran—Staff Report*, INV-CC-190, November 9, 2005, pp. I-27 and IV-1.

[74] *Raw In-Shell Pistachio Nuts From Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. I-4.

[75] *Response of WP&A to Notice of Institution*, April 29, 2016, p. 3; and *Response of APG to Notice of Institution*, May 2, 2016, p. 25.

U.S. purchasers

The Commission received 12 usable questionnaire responses from firms that bought pistachios during 2013-2016.[76] Five responding purchasers are roasters, four are distributors, two are retailers, and two are rebaggers. ***. Seven responding U.S. purchasers were located in California. The largest responding purchasers of pistachio are ***, respectively. All responding purchasers represent approximately between three and four percent of reported U.S. commercial shipments.

APPARENT U.S. CONSUMPTION

During the 1986-2016 period, U.S. production increased steadily as consumer demand in the United States and around the world grew. Per capita consumption in the United States has risen from an average of 0.08 pound per capita in the 1980s to an average of 0.2 pound since 2010.[77] Although in general U.S. consumption of nuts is low, and pistachios lower than most other nuts, total U.S. consumption of pistachios averaged approximately 140 million pounds (in-shell basis) during crop years 2011/12 to 2015/16 compared to an average of approximately 103 million pounds during the previous 5-year period (crop years 2006/07-2010/11). Increased production accompanied by lower prices has contributed to this trend, as well as recent research and marketing that has touted the health benefits attributed to nuts.

At the time of the original investigation, the U.S. industry exported between 10 and 15 percent of its annual crop. Over the last five crop years (2011/12-2015/16), U.S. exports as a share of domestic production ranged between 59 and 78 percent.[78] The vast majority of U.S. exports, which are known for both their high quality and high cost, were shipped in recent years to the EU and Hong Kong/China. These two regions accounted for 85 percent of U.S. pistachio export volume in 2016.[79]

Table I-7 present published USDA data on apparent U.S. consumption for crop years 1981/82-2015/16 on an "in-shell" basis.[80] Also presented in table I-7 are published USDA data for in-shell pistachios on domestic production, domestic beginning and ending stocks, U.S. exports, domestic shipments, and U.S. imports.

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[76] Purchasers reported only buying U.S.-produced pistachios.

[77] USDA, ERS, Fruit Yearbook Tree Nuts, Table F-16, accessed March 15, 2017 at http://usda.mannlib.cornell.edu/usda/ers/89022/2016/FruitandTreeNutYearbook2016.pdf.

[78] USDA, ERS, Fruit Yearbook Tree Nuts, Table F-16, accessed March 15, 2017 at http://usda.mannlib.cornell.edu/usda/ers/89022/2016/FruitandTreeNutYearbook2016.pdf.

[79] GTIS, Global Trade Atlas (accessed March 20, 2017).

[80] USDA data for pistachios are typically presented on a "shelled" (out-of-the-shell) basis rather than on an "in-shell" basis. Each year, USDA determines a conversion ratio for a particular year; however, on average, a "shelled" weight basis is roughly one half of an "in-shell" weight basis, with several factors considered, including the average nut size and the percentage of closed shell versus open shell.

Table 1-7

Pistachios: U.S. production, beginning stocks, ending stocks, exports, domestic shipments, imports, and apparent U.S. consumption, crop years 1981/82-2014/15

Crop years	Marketable production	Beginning stocks	Ending stocks	Exports	Domestic shipments	Imports	Apparent consumption
				Quantity (1,000 pounds)			
In-shell basis:							
1981/82	15,073	13,146	5,277	3,789	23,804	4,542	28,455
1982/83	43,483	5,277	16,847	8,313	30,816	7,047	38,031
1983/84	28,454	16,847	12,740	4,647	45,021	16,708	62,130
1984/85	70,418	12,740	28,816	7,061	65,928	18,209	84,574
1985/86	29,485	28,816	18,848	4,246	73,288	37,188	111,368
1986/87	79,373	18,848	38,412	5,589	67,932	13,392	81,646
1987/88	37,322	38,412	14,046	8,881	58,352	5,415	63,896
1988/89	114,565	14,046	38,138	16,491	76,170	2,136	78,357
1989/90	46,155	38,138	25,715	14,130	49,887	5,311	55,325
1990/91	107,641	25,715	43,171	22,226	70,142	2,132	72,325
1991/92	65,219	43,171	15,545	39,458	54,027	624	54,666
1992/93	167,326	15,545	45,044	71,074	67,766	990	68,780
1993/94	158,491	45,044	65,721	53,928	85,150	1,235	86,415
1994/95	131,200	65,721	43,072	64,705	91,018	1,830	92,892
1995/96	152,331	43,072	35,314	80,742	80,427	1,055	81,507
1996/97	103,488	35,314	19,701	64,602	56,916	2,360	59,332
1997/98	178,334	18,316	23,187	86,042	88,413	1,042	89,404
1998/99	186,135	23,187	50,607	61,387	98,633	1,372	99,940
1999/2000	123,718	45,291	22,284	42,180	105,176	742	105,808
2000/01	243,170	22,284	70,990	69,526	126,898	2,301	128,859
2001/02	161,467	66,657	24,849	89,488	114,851	1,331	115,916
2002/03	305,007	25,346	114,607	90,676	126,629	1,910	128,187
2003/04	119,743	119,663	48,864	75,723	117,927	3,649	121,036
2004/05	347,851	46,799	86,328	152,081	157,869	1,995	159,497
2005/06	283,566	86,328	114,375	141,438	115,942	2,281	117,803
2006/07	238,000	112,133	113,258	160,122	79,529	3,470	82,305
2007/08	413,995	113,258	134,609	256,988	137,543	2,357	139,428
2008/09	276,200	137,301	67,161	285,186	63,073	2,352	64,992
2009/10	356,529	67,161	43,274	271,680	111,377	3,236	114,017
2010/11	520,260	44,122	150,375	303,439	111,712	1,374	112,855
2011/12	444,000	144,591	90,662	345,577	154,193	2,300	156,032
2012/13	545,380	88,848	108,000	364,282	164,294	2,996	166,643
2013/14	468,967	110,204	76,943	389,959	113,354	1,356	114,438
2014/15	512,371	80,021	164,387	303,938	125,960	2,276	127,854
2015/16 P	270,000	158,064	101,421	196,738	132,206	2,878	134,509

Note.--Data from original source was reported on a “shelled basis.” However, in order to provide consistency with data reported elsewhere in the report, the data have been converted to an “in-shell basis.” The following conversion factors were used: 2.56 for crop years prior to 1997/98; 2.38 for crop years 1997/98 and 1998/99; 2.13 in 1999/2000 and 2000/01; 2.0 in 2001/02; 2.04 in 2002/03; 2.13 in 2003/04, 2.04 in 2004/05 and 2005/06, 2.0 in 2006/07 and 2007/08, 2.04 in 2008/09 and 2009/10, 2.08 in 2010/11, 2.0 in 2011/12, 1.96 in 2012/13, 2.0 in 2013/14, 2.08 in 2014/15, and 2.0 in 2015/16.

Source: USDA, ERS, Fruit Yearbook Tree Nuts, and USITC calculations, Table F-16, accessed March 15, 2017 at http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1377.

Table I-8 presents data on U.S. producers' (processors only) U.S. shipments, U.S. imports, and apparent U.S. consumption of raw in-shell pistachios compiled from data submitted in response to Commission questionnaires and official U.S. import statistics for calendar years 2014-16. As calculated from Commission questionnaire responses and U.S. import statistics, apparent U.S. consumption in terms of quantity decreased by 14.1 percent from 2014 to 2015, but increased in 2016 to a level that was 9.0 percent below that reported in 2014. In terms of value, apparent U.S. consumption declined by 22.4 percent from 2014 to 2016. The decline in apparent U.S. consumption was directly attributable to a decline in the availability of domestic supply.[81] Pistachio growers explained in their questionnaire responses that the decline in domestic crop yields experienced during crop year 2015/16 was caused by a combination of warmer weather, fewer chill hours, and the water shortage in California.

Table I-8
Pistachios: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2014-16

Item	Calendar year		
	2014	2015	2016
	Quantity (1,000 pounds)		
U.S. producers' U.S. shipments	154,598	132,836	140,552
U.S. imports.--			
Iran	0	0	0
Turkey	249	367	444
All other sources	(1)	128	172
Nonsubject sources	250	496	616
All import sources	250	496	616
Apparent U.S. consumption	154,848	133,331	141,168
	Value (1,000 dollars)		
U.S. producers' U.S. shipments	774,021	708,348	600,366
U.S. imports.--			
Iran	0	0	0
Turkey	825	1,254	1,616
All other sources	5	609	526
Nonsubject sources	830	1,863	2,143
All import sources	830	1,863	2,143
Apparent U.S. consumption	774,851	710,211	602,509

[1] Less than 500 pounds.

Source: Compiled from data submitted in response to Commission questionnaires and official U.S. import statistics.

[81] Hearing transcript, p. 87 (Cohen).

U.S. MARKET SHARES

Table I-9 presents data on U.S. market shares of apparent U.S. consumption based on U.S. shipment data reported by U.S. processors for calendar years 2014-16. These data show that the U.S. processors' shipments accounted for greater than 99 percent of the U.S. market during 2014-16, with U.S. imports from Iran holding no U.S. market share, U.S. imports from Turkey holding 0.3 percent or less of the U.S. market, and U.S. imports from all other sources combined holding 0.1 percent or less of the U.S. market. On the basis of quantity, these data show that the U.S. processors' market share decreased by 0.2 percentage points from 99.8 percent in 2014 to 99.6 percent in 2015 and 2016.

Table I-9
Pistachios: U.S. consumption and market shares, 2014-16

Item	Calendar year		
	2014	2015	2016
	Quantity (1,000 pounds)		
Apparent U.S. consumption	154,848	133,331	141,168
	Share of quantity (percent)		
U.S. producers' U.S. shipments	99.8	99.6	99.6
U.S. importers' U.S. shipments from.--			
Iran	0.0	0.0	0.0
Turkey	0.2	0.3	0.3
All other sources	(1)	0.1	0.1
Nonsubject sources	0.2	0.4	0.4
Total U.S. imports	0.2	0.4	0.4
	Value (1,000 dollars)		
Apparent U.S. consumption	774,851	710,211	602,509
	Share of value (percent)		
U.S. producers' U.S. shipments	99.9	99.7	99.6
U.S. importers' U.S. shipments from.--			
Iran	0.0	0.0	0.0
Turkey	0.1	0.2	0.3
All other sources	(1)	0.1	0.1
Nonsubject sources	0.1	0.3	0.4
Total U.S. imports	0.1	0.3	0.4

[1] Less than 0.05 percent.

Source: Compiled from data submitted in response to Commission questionnaires and official U.S. import statistics.

PART II: CONDITIONS OF COMPETITION IN THE U.S. MARKET

U.S. MARKET CHARACTERISTICS

Raw in-shell pistachios are pistachios that have been harvested, hulled, dried, and graded. They are generally intended to be sold raw or roasted, salted or unsalted, shelled or unshelled, and dyed, blanched, or uncolored. U.S. pistachio processors generally purchase raw in-shell pistachios from U.S. growers and process the pistachios by hulling and drying the nuts. In 2016, approximately *** percent of the pistachios that were further processed by U.S. processors (i.e., hulled and dried) were internally consumed (e.g., roasting).

Apparent U.S. consumption of pistachios decreased during 2014-16. Overall, apparent U.S. consumption in 2016 was 8.8 percent lower than in 2014. Petitioners attributed the decline in volume to high pistachio prices during the period, and stated that lower pistachio prices in 2017 were leading to renewed consumption.[1]

During the period of investigation, there were no U.S. imports of pistachios from Iran due to sanctions placed on Iran. Sanctions against Iran were lifted in January 2016.[2] No importer questionnaire responses reported imports of pistachios from Iran.[3]

CHANNELS OF DISTRIBUTION

U.S. processors sold the vast majority of raw in-shell pistachios to roasters/rebaggers, as shown in table II-1. Commercial Arman Pegah stated that about 70-80 percent of pistachios ultimately end up in grocery stores.[4]

Table II-1
Pistachios: U.S. processors' share of reported U.S. commercial shipments (percent), channels of distribution, 2014-2016

* * * * * * *

GEOGRAPHIC DISTRIBUTION

U.S. processors reported selling pistachios to all regions in the United States (table II-2). However, only two U.S. processors (***) reported selling to the entire United States. Six of eight responding U.S. processors reported being located in California, as are the bulk of U.S. growers.[5] For U.S. processors, 3.2 percent of sales were within 100 miles of their production

[1] Hearing transcript, p. 87 (Hohman).

[2] https://www.treasury.gov/resource-center/sanctions/Programs/Pages/iran.aspx, accessed March 14, 2016.

[3] The Commission received one importer questionnaire response from nonsubject sources and its responses are included in this section when appropriate.

[4] Hearing transcript, pp. 175-177 (Ketabi).

[5] Hearing transcript, p. 11 (Costa).

facility, 22.4 percent were between 101 and 1,000 miles, and 74.4 percent were over 1,000 miles.

Table II-2
Pistachios: Geographic market areas in the United States served by U.S. processors

Region	U.S. processors
Northeast	6
Midwest	6
Southeast	5
Central Southwest	2
Mountains	2
Pacific Coast	6
Other[1]	1
Present in all continental regions	2

[1] All other U.S. markets, including AK, HI, PR, and VI.

Source: Compiled from data submitted in response to Commission questionnaires.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. supply

Domestic production

U.S. supply of raw in-shell pistachios depends on the supply of pistachios, which in turn depends on the farming and harvest of pistachios. Typically, pistachios trees mature for 7 to 10 years before the pistachio tree's first bearing. Additionally, pistachio trees are alternate-bearing, meaning pistachios trees generally bear large amounts of nuts one year and fewer the next year.[6] Consequently, for the current investigation, 2014 and 2016 represent larger crop years.

Based on available information, U.S. processors of pistachios have the ability to respond to changes in demand with large changes in the quantity of shipments of U.S.-produced pistachios to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and inventories and ability to shift shipments from

[6] *Raw In-Shell Pistachio Nuts from Iran*, Inv. No. 731-TA-287 (Review), USITC Publication 3824 (December 2005), p. II-1.

alternate markets. Factors mitigating responsiveness of supply include the time it takes to grow pistachio trees capable of harvest.

Industry capacity

Domestic growers' share of acres dedicated to pistachios has grown by approximately 5 percent from 2014 to 2016. This increase is driven by a 4.4 percent decrease in useful farming acreage and a 7.9 percent increase in acres dedicated to pistachios.[7] Additionally, in 2015, California pistachio growers were affected by drought conditions in California, reducing supply from what it would have been without the drought.[8]

U.S. processors' capacity utilization fluctuated during the period but increased overall. It decreased from 51.4 percent in 2014 to 26.3 percent in 2015 and increased to 77.3 percent in 2016. U.S. processors reported an increase in capacity of 12.9 percent from 2014 to 2016, and production increased by 69.8 percent over the same time period. This relatively low level of capacity utilization suggests that U.S. processors may have moderate to substantial ability to increase production of pistachios in response to an increase in prices.

Alternative markets

U.S. processors' export shipments decreased slightly from 2014 to 2016. However, U.S. processors' exports, as a percentage of total shipments, increased from approximately half of total shipments in 2014 and 2015 to almost 60 percent of total shipments in 2016.[9] Four U.S. processors cited China as a major export market, with an additional two U.S. processors citing

[7] Acreage dedicated to pistachios has not exceeded half the available useful farming acreage.

[8] Hearing transcript, p. 99 (Hohman).

[9] Five of eight responding U.S. processors reported being members of the California Pistachio Export Council.

Asia. Four U.S. processors indicated that Europe was also an export market. Four of six responding U.S. processors reported export constraints, with three firms citing other countries' tariffs on pistachios. U.S. processor *** reported that domestic sales are a small portion of its total sales and adjusting volumes is not difficult. U.S. processor *** reported that switching to exports could be difficult due to the risk of failing to meet grower payments. The high level of exports indicates that U.S. processors may have substantial ability to shift shipments between the U.S. market and other markets in response to price changes.

Inventory levels

U.S. processors' inventories decreased from over 285 million pounds in 2014 to 220 million pounds in 2015, before rising to over 475 million pounds in 2016. The 2016 inventory level represents over 338 percent of U.S. shipments in that year. These inventory levels suggest that U.S. processors may have extensive ability to respond to changes in demand with changes in the quantity shipped from inventories.

Production alternatives

No U.S. processors reported being able to shift production to other products, as some of the equipment used for processing pistachios is specialized for the hulls of pistachios.

Supply constraints

Six out of eight responding U.S. processors cited drying and storage capacity as production constraints. Other constraints reported are water, harvesting time, and harvest size. Eight of 11 responding purchasers indicated that no suppliers had declined or been unable to supply them with pistachios since January 1, 2011. The three that did indicate such supply constraints cited lower yields from U.S. suppliers.

Subject imports from Iran[10]

Based on available information, processors of pistachios from Iran have the ability to respond to changes in demand with large changes in the quantity of shipments of pistachios to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and inventories, as well as the ability to shift shipments from alternate markets. Factors mitigating responsiveness of supply include the inability to shift production to or from alternate products.

[10] For data on the number of responding foreign firms and their share of U.S. imports from Iran, please refer to Part I, "Summary Data and Data Sources."

Industry capacity

*** capacity utilization decreased from *** percent in 2014 to *** percent in 2016, driven by a *** percent decrease in production. This relatively low level of capacity utilization suggests that Iranian processors may have substantial ability to increase production of pistachios in response to an increase in prices.

Commercial Arman Pegah described the Iranian industry as producing two types of pistachios: one that met the food safety standards in developed-world markets; and one that could only be sold in markets with less stringent standards. It described the first segment as representing only about 20 percent of Iranian pistachio production.[11]

Alternative markets

*** reported that *** of its shipments of pistachios were exported. *** shipments of pistachios to the European Union nearly doubled from 2014 to 2016 with the exports to the EU, as a share of total shipments, rising from *** percent in 2014 to *** percent in 2016. *** listed *** as principal export markets. *** exports indicate that foreign processors may have substantial ability to shift shipments between domestic or other markets and the U.S. market in response to price changes.

*** indicated that while it concentrates on alternative markets, approximately 10 Iranian firms sell specifically to their home market. It indicated that there is a strict segregation between exporting firms and those selling to the domestic market due to tax legislation that exempts companies solely focused on exported agricultural goods. Additionally, it reported that pistachios sold in the home market are consumed on festive occasions and are usually higher quality pistachios. Pistachios sold to Europe and Asia are generally medium quality product that compete with the Kerman pistachio produced in the United States. *** indicated that medium quality pistachios from Iran are generally smaller than Kerman pistachios produced in the United States and, therefore, cost less.

Inventory levels

*** inventories fluctuated but increased overall by *** percent from 2014 to 2016. Relative to total shipments, inventory levels increased from *** percent in 2014 to *** percent in 2015 then decreased to *** percent in 2016. These inventory levels suggest that foreign firms may have some ability to respond to changes in demand with changes in the quantity shipped from inventories.

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[11] Hearing transcript, p. 140 (Didierlaurent and Ketabi). Petitioners disagreed with Commercial Arman Pegah's characterization of how much of the Iranian industry can produce product acceptable in the U.S. market. See posthearing brief of the American Pistachio Growers, p. 7.

Production alternatives

*** stated that it could *** production from pistachios to other products.

Nonsubject imports

Nonsubject imports represented 0.4 percent or less of U.S. consumption over 2014-2016. Turkey accounted for the vast majority of U.S. imports of pistachios, representing 72.0 percent of U.S. nonsubject imports in 2016.

New suppliers

No responding purchasers indicated that new suppliers entered the U.S. market since January 1, 2014, but four expect additional entrants. When asked if they anticipated new suppliers, purchasers cited the possibility of purchasing pistachios from Iran.

U.S. demand

Based on available information, the overall demand for pistachios is likely to experience moderate changes in response to changes in price. The main contributing factors are the limited range of substitute products and the large cost share in most of its end-use products. Demand elasticity increases as pistachios are an optional consumer good.

End uses and cost share

U.S. demand for pistachios depends on the demand for U.S.-produced downstream products. All responding U.S. processors and purchasers reported that raw in-shell pistachios are used for roasted pistachios and/or raw pistachios without shells. The vast majority of firms reported that raw in-shell pistachios accounted for 80 percent or more of the cost of either end use.

Business cycles

Six of seven responding U.S. processors and all seven responding purchasers indicated that the market was subject to business cycles or conditions of competition. Specifically, firms cited higher holiday seasonal demand (fourth quarter) and demand increases around Chinese New Year. Purchaser *** reported that increased marketing efforts have increased demand for pistachios outside of peak demand seasons.

Demand trends

Most firms reported an increase in U.S. demand for pistachios since January 1, 2011 (table II-3). Firms cited increased marketing and industry awareness along with health trends as

reasons for increases in U.S. demand.[12] Additionally, the vast majority of firms reported that demand increased in markets outside of the United States.

Table II-3
Pistachios: Firms' responses regarding U.S. demand

Item	Increase	No change	Decrease	Fluctuate
Demand in the United States				
U.S. processors	6	1	0	1
Importers	0	0	0	0
Purchasers	5	3	0	2
Foreign processors	0	0	0	0
Anticipated future demand				
U.S. processors	6	1	1	0
Importers	0	0	0	0
Purchasers	5	1	0	3
Foreign processors	1	0	0	0
Demand for purchasers' final products since 2011				
Purchasers	3	5	0	1

Source: Compiled from data submitted in response to Commission questionnaires.

Substitute products

All responding U.S. processors and purchasers reported that there were no substitutes for pistachios. None anticipated any future changes in substitutes. However, at the hearing, American Pistachio Growers described consumers as "quick" to substitute to other nuts when pistachio prices, which he said are already higher than those of other nuts, increase too much.[13]

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported pistachios depends upon such factors as relative prices, quality (e.g., grade standards, reliability of supply, shape of pistachios, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, especially responses to questions of interchangeability and comparability of U.S. and Iranian product, staff believes that there is moderate degree of substitutability between domestically produced pistachios and pistachios imported from Iran.

Petitioners described consumers as unable to distinguish between U.S. and Iranian pistachios, and cited data from other countries and regions that they characterized as showing that Iranian pistachios are sold elsewhere at a quality level that would be acceptable in the United States.[14] On the other hand, Commercial Arman Pegah described Iranian pistachios as often smaller than U.S. pistachios, and not always meeting higher food standards. It concluded

[12] See also hearing transcript, pp. 78-79 (Connelly).

[13] Hearing transcript, p. 28 (Matoian).

[14] Hearing transcript, p. 30 (Roden), p. 35 (Cohen), posthearing brief of Wonderful, pp. 4-7 and exhibit 2.

that Iranian product is thus only partially substitutable with U.S. product.[15] Responses from U.S. producers, importers, and purchasers on substitutability issues are discussed in the following sections, with additional analysis in the "elasticity of substitution" section below.

Lead times

Pistachios are primarily produced-to-order; *** percent of U.S. commercial shipments were produced-to-order, with lead times averaging 18 days. The remaining *** percent of U.S. commercial shipments came from inventories, with lead times averaging *** days.

Knowledge of country sources

Eleven purchasers indicated they had marketing/pricing knowledge of domestic product.[16] No purchasers reported knowledge of Iranian pistachios, although several answered additional questions about Iranian pistachios (below).

As shown in table II-4, a plurality of purchasers stated that they always make purchasing decisions based on the processor or country of origin. Of the six purchasers that reported that they always make decisions based on the processor, *** cited the need for organic pistachios, *** reported that its pistachios are marketed as California-grown pistachios, and *** reported that it has specification and quality requirements. Purchasers were split between their customers always or never making purchasing decisions based on the processor or country of origin, but firms did not elaborate as to why this factor does not play a role in decision making.

Table II-4
Pistachios: Purchasing decisions based on processor and country of origin

Decision	Always	Usually	Sometimes	Never
Purchases based on processor:				
Purchaser's decision	6	2	1	2
Purchaser's customer's decision	4	1	0	5
Purchases based on country of origin:				
Purchaser's decision	6	2	1	2
Purchaser's customer's decision	4	1	1	4

Source: Compiled from data submitted in response to Commission questionnaires.

[15] Posthearing brief of Commercial Arman Pegah, pp. 9 and 30.
[16] Purchaser *** reported having marketing/pricing knowledge of Turkish pistachios.

Factors affecting purchasing decisions

The most often cited top three factors firms consider in their purchasing decisions for pistachios were price (ten firms), quality (nine firms), and availability (six firms) as shown in table II-5. Price and quality (including shell color)[17] were the most frequently cited first-most important factor (cited by four firms each). Availability was the most frequently cited second-most important factor (cited by three firms).

Table II-5
Pistachios: Ranking of factors used in purchasing decisions as reported by U.S. purchasers, by factor

Factor	First	Second	Third	Total
Price	4	2	4	10
Quality	4	2	3	9
Availability/Supply	3	3	0	6
Other[1]	0	1	2	3

[1] Other factors include reputation, variety of sizes/grades, and service.

Source: Compiled from data submitted in response to Commission questionnaires.

The majority of purchasers (10 of 12) reported that they usually or sometimes purchase the lowest-priced product. When asked if they purchased pistachios from one source although a comparable product was available at a lower price from another source, one purchaser, ***, reported reasons including the quality, availability, price, delivery terms, and supplier relationships associated with buying pistachios from California. *** indicated that its customers prefer U.S.-origin pistachios. Other purchasers did not answer the question.

Importance of specified purchase factors

Purchasers were asked to rate the importance of 16 factors in their purchasing decisions (table II-6). The factors rated as very important by more than half of responding purchasers were availability and price (eleven each) , product consistency and reliability of supply (ten each), homogenous quality (nine firms), and quality meets industry standard (eight firms). Over half of the purchasers reported that minimum quantity requirements were not important (six firms).

[17] Hearing transcript, p. 67 (Hohman).

Table II-6
Pistachios: Importance of purchase factors, as reported by U.S. purchasers, by factor

Factor	Number of firms reporting		
	Very	Somewhat	Not
Availability	11	0	0
Delivery terms	4	7	1
Delivery time	4	5	1
Discounts offered	2	6	3
Extension of credit	2	5	4
Homogenous quality	9	2	0
Minimum quantity requirements	1	3	6
Packaging	1	5	5
Price	11	0	0
Product consistency	10	1	0
Product range	3	6	2
Quality exceeds industry standards	4	6	1
Quality meets industry standards	8	1	2
Reliability of supply	10	0	1
Technical support/service	2	4	5
U.S. transportation costs	2	6	3

Source: Compiled from data submitted in response to Commission questionnaires.

Supplier certification

Seven of 11 responding purchasers require their suppliers to become certified or qualified to sell pistachios to their firm. Purchasers *** reported that certification usually takes one to two days whereas purchasers *** reported that certification usually takes between two to six months. These firms' certification processes consist of verifying food safety issues as well as non-GMO, kosher, and organic claims. No purchasers reported that a domestic or foreign supplier had failed in its attempt to qualify product, or had lost its approved status since January 1, 2014.

Changes in purchasing patterns

As shown in table II-7, most responding purchasers (8 of 12) reported constant purchases of U.S.-produced pistachios, and none of the responding purchasers reported purchasing imported pistachios. Of the eleven responding purchasers, none of the purchasers reported new pistachio suppliers though four purchasers reported anticipating new pistachio suppliers. Purchaser *** specifically indicated an interest in buying Iranian pistachios.

Table II-7
Pistachios: Changes in purchase patterns from U.S., subject, and nonsubject countries

Factor	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States	0	1	2	8	1
Iran	10	0	0	0	0
All other countries	10	0	0	0	0
Sources unknown	9	0	0	0	0

Source: Compiled from data submitted in response to Commission questionnaires.

Importance of purchasing domestic product

Three purchasers reported that purchasing U.S.-produced product was not an important factor in any of their purchasing decisions. Six reported it was required by their customers (for over half of their purchases), and three reported other preferences for domestic product. The main reasons cited for preferring domestic product was a preference for organic pistachios, having ***, and customer preference.

Nine of 11 responding purchasers indicated that they or their customers sometimes specifically order pistachios from the United States over other possible sources, citing the quality of U.S. produce and relationships with U.S. suppliers.

Health and safety standards

Purchasers were asked if government or other health and safety standards affect the quality of pistachios. Six of eleven responding purchasers reported that regulations and standards affect the quality of U.S.-produced pistachios, citing U.S. Food Safety Modernization Act (FSMA) and minimum industry grading standards. Purchasers indicated not being familiar with the effect of government or other health and safety standards on the quality of pistachios from Iran or nonsubject countries.

Comparisons of domestic products, subject imports, and nonsubject imports

Purchasers were asked a number of questions comparing pistachios produced in the United States, Iran, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the same 16 factors (table II-8) for which they were asked to rate the importance.

Most purchasers reported that U.S.-produced pistachios were superior to Iranian-produced pistachios. All responding purchasers (11) reported that availability and price were very important factors.[18] All responding purchasers (5) reported that the U.S.-produced pistachios were superior to Iranian pistachios on the basis of availability whereas only two responding purchasers reported that the U.S. product was superior to Iranian product on the

[18] See table II-6.

basis of price. A majority of responding firms reported that homogenous quality, product consistency, and reliability of supply are very important price factors.[19] Purchasers were split between superior and comparable when evaluating U.S.-produced pistachios versus Iranian-produced pistachios on the basis of homogenous quality and product consistency. All responding firms (4) reported that the U.S.-produced pistachios were superior to Iranian-produced pistachios on the basis of reliability of supply.

Table II-8
Pistachios: Purchasers' comparisons between U.S.-produced and imported product

Factor	U.S. vs. Iran			U.S. vs. Nonsubject			Iran vs. Nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	5	0	0	3	0	1	0	1	1
Delivery terms	5	0	0	3	0	1	0	1	1
Delivery time	5	0	0	3	0	1	0	1	1
Discounts offered	3	1	1	2	1	1	0	1	1
Extension of credit	3	2	0	2	2	0	0	1	1
Homogenous quality	3	2	0	3	0	1	0	1	1
Minimum quantity requirements	3	2	0	2	1	1	0	1	1
Packaging	2	3	0	2	1	1	0	1	1
Price[1]	2	2	1	2	1	1	0	1	1
Product consistency	3	2	0	3	0	1	0	1	1
Product range	3	2	0	1	0	2	0	1	1
Quality exceeds industry standards	2	2	0	1	2	1	0	1	1
Quality meets industry standards	1	3	0	1	2	1	0	1	1
Reliability of supply	4	0	0	2	1	1	0	1	1
Technical support/service	4	0	0	1	3	0	0	1	1
U.S. transportation costs[1]	5	0	0	2	0	1	0	1	1

[1] A rating of superior means that price/U.S. transportation costs is generally lower. For example, if a firm reported "U.S. superior," it meant that the U.S. product was generally priced lower than the imported product.

Note.--S=first listed country's product is superior; C=both countries' products are comparable; I=first list country's product is inferior.

Source: Compiled from data submitted in response to Commission questionnaires.

Comparison of U.S.-produced and imported pistachios

In order to determine whether U.S.-produced pistachios can generally be used in the same manner as imports from Iran, U.S. processors, importers, and purchasers were asked whether the products can always, frequently, sometimes, or never be used interchangeably. As shown in table II-9, a majority of U.S. processors and purchasers reported that domestically produced pistachios are sometimes interchangeable with pistachios from Iran. U.S. processor *** reported that U.S.-produced pistachios are only sometimes interchangeable with Iranian-

[19] See table II-6.

produced pistachios due to high oil levels and high aflatoxin levels in Iranian pistachios.[20] Four purchasers reported that Iranian pistachios differ from U.S.-produced pistachios on the basis of color and size. Purchaser *** did not respond to the question but indicated that current purchasing specifications are tailored to U.S. pistachios. However, it could adjust specifications to mirror European specifications that allow for any country of origin.

Table II-9
Pistachios: Interchangeability between pistachios produced in the United States and in other countries, by country pairs

Country pair	Number of U.S. processors reporting				Number of U.S. importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
United States vs. Iran	2	0	4	0	0	0	0	0	0	0	5	0
United States vs. Other	1	1	2	0	0	0	0	0	0	0	4	0
Iran vs. Other	0	2	1	0	0	0	0	0	0	1	1	0

Note.—A=Always, F=Frequently, S=Sometimes, N=Never.

Source: Compiled from data submitted in response to Commission questionnaires.

*** responding purchasers reported that domestically produced product always or usually met minimum quality specifications. No purchasers responded with respect to Iran or nonsubject sources.

In addition, processors and purchasers[21] were asked to assess how often differences other than price were significant in sales of pistachios from the United States, Iran, or nonsubject countries. As seen in table II-10, processors and purchasers were split on whether or not factors other than price were significant between U.S.-produced pistachios and imported pistachios. U.S. processors *** reported that factors other than price were always or sometimes (respectively) significant in the sale of pistachios due to the better quality and consistency of domestically produced pistachios. Purchaser *** reported that imported pistachios tend to be smaller and longer than domestically produced pistachios. *** cited quality as the most important purchasing factor followed by the ability to meet or exceed its specifications.

[20] Aflatoxin is a substance found in mold. One particular type of aflatoxin (B1) has been linked to cancer. As such, many countries have implemented regulations on maximum concentrations of aflatoxins contained in pistachios. *Raw In-Shell Pistachio Nuts from Iran*, Inv. No. 731-TA-287 (Review), USITC Publication 3824 (December 2005), p. II-2.

[21] Importers did not respond.

Table II-10
Pistachios: Significance of differences other than price between pistachios produced in the United States and in other countries, by country pair

Country pair	Number of U.S. processors reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N
United States vs. Iran	2	1	1	1	0	2	1	1
United States vs. Other	1	1	1	0	0	2	1	1
Iran vs. Other	0	1	1	0	0	1	1	0

Note.--A = Always, F = Frequently, S = Sometimes, N = Never.

Source: Compiled from data submitted in response to Commission questionnaires.

ELASTICITY ESTIMATES

This section discusses elasticity estimates; parties were encouraged to comment on these estimates in their prehearing or posthearing briefs. Comments are discussed in the section on the elasticity of substitution (below).

U.S. supply elasticity

The domestic supply elasticity[22] for pistachios measures the sensitivity of the quantity supplied by U.S. processors to changes in the U.S. market price of pistachios. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which processors can alter capacity, processors' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced pistachios. Even with supply constraints placed on growing pistachios, U.S. processors reported that near half of total shipments of pistachios are sold to alternative markets and that inventories of pistachios are increasing. Analysis of these factors above indicates that the U.S. industry is likely to be able to greatly increase or decrease shipments to the U.S. market; an estimate in the range of 4 to 6 is suggested.

U.S. demand elasticity

The U.S. demand elasticity for pistachios measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of pistachios. This estimate depends on factors discussed above such as the existence, availability, and commercial viability of substitute products, as well as the component share of the pistachios in the production of any downstream products. Based on the available information, the aggregate demand for pistachios is likely to be elastic; a range of -1.0 to -2.0 is suggested.

[22] A supply function is not defined in the case of a non-competitive market.

Substitution elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[23] Product differentiation, in turn, depends upon such factors as quality (e.g., size, grade, appearance, etc.) and conditions of sale (e.g., availability, sales terms/ discounts/ promotions, etc.). Based on available information, including the number of purchasers and U.S. processors that described U.S. and Iranian product as only "sometimes" interchangeable, the prehearing staff reported estimated that elasticity of substitution between U.S.-produced pistachios and imported pistachios is likely to be in the range of 2 to 4.

In their prehearing briefs and at the hearing, American Pistachio Growers and Wonderful both objected to this range as too inelastic, and described U.S. and Iranian pistachios as highly substitutable.[24] They stated that some U.S. purchasers that described the interchangeability of U.S. and Iranian product also indicated a lack of familiarity with Iranian product, and stated that U.S. and Iranian product compete in third-country markets.[25] On the other hand, Commercial Arman Pegah described Iranian pistachios as having two segments, one consisting of product that can be sold in developed-world markets, and one which could not (because it does not meet food safety standards).[26] Additionally, responding purchasers and a majority of U.S. processors responding to Commission questionnaires did not regard U.S. and Iranian pistachios as always or usually interchangeable, and often described U.S. product as superior to Iranian product in many factors.

Based on these analyses, staff is revising its range to 2 to 6, reflecting the uncertainty of direct market knowledge of Iranian product by purchasers and U.S. processors. The elasticity would depend on (1) whether purchaser descriptions of only some interchangeability between U.S. and Iranian pistachios are based on direct market knowledge of both products, and (2) how much of Iranian production meets regulatory standards to be sold in the U.S. market. If purchaser responses do not reflect direct market knowledge of the products and a large share of Iranian production meets standards to be sold in the U.S. market, then the elasticity of substitution might be in the high end of the range. If not, then it might be in the lower end of the range.

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[23] The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

[24] See prehearing brief of American Pistachio Growers at pp. 3-4 and 35-37, and prehearing brief of Wonderful at pp.24-25 and 39.

[25] Hearing transcript, pp. 120-122 (Steinberger and Hohman), posthearing brief of Wonderful, answers to questions of Commissioner Schmidtlein, p. 10.

[26] Hearing transcript, p. 146 (Ketabi).

PART III: CONDITION OF THE U.S. INDUSTRY

OVERVIEW

The information in this section of the report was compiled from responses to the Commission's questionnaires. The Commission issued U.S. growers' questionnaires to 173 entities, 98 of which provided the Commission with information on their pistachio operations.[1] These growers are believed to have accounted for approximately one-half of U.S. production of raw in-shell pistachios during 2014-16.[2] The Commission also issued U.S. processors' questionnaires to 27 firms, 9 of which provided the Commission with information on their pistachio operations. These firms are believed to have accounted for more than three-fourths of U.S. processing of raw in-shell pistachios during 2014-16.[3]

Changes experienced by the industry

U.S. growers

Domestic growers were asked to indicate whether their farm had experienced any changes in relation to the production of unhulled pistachios since January 1, 2011. Seventy-three domestic growers indicated that they had experienced such changes; the number of growers indicating changes and brief descriptions are presented in table III-1.

[1] Several responses representing separate acreage tracts were consolidated by Commission staff to prevent double-counting and to facilitate accurate data aggregation (e.g., separate responses from certain individuals owning tracts of land under the ***).

[2] The coverage figure is based on USDA pistachio production for the United States for crop years 2013/14 (470 million pounds), 2014/15 (514 million pounds), and 2015/16 (270 million pounds). USDA, ERS, Fruit Yearbook Tree Nuts, Table F15, and USITC calculations (see table III-4 in Part III of this report).

[3] Ibid.

Table III-1
Pistachios: Changes in the character of U.S. grower operations since January 1, 2011

Item	Number of growers indicating change	Description
Purchase or expansion of land	30	Purchases or expansions involving at least 16,651 acres.
Sale or reduction of land	4	Sales of at least 497 acres of pistachios. One reason cited was the "concern over long term water supply and . . . potential for falling crop prices."
Increase in production of unhulled pistachios	47	• Production varies from year to year with alternate bearing cycles. • As orchard matures, yield increases. • Increase in bearing acreage. • Better farming practices, primarily related to increases of nitrogen and potassium inputs as well as increased irrigation water.
Decrease in production of unhulled pistachios	20	• Production varies from year to year with alternate bearing cycles. • All properties face weather conditions (e.g., lack of chill hours) and water conditions (e.g., drought) that limit production. • Reduction in yield due to fungus (e.g., Phoma Fungicola).
Adverse weather conditions affecting crop yield	69	• Warmer weather and fewer chill hours in California in 2015 resulted in a decrease in production. • Drought in California for last 4 years caused shortage of water supply and increased cost of water.
Labor disputes or shortages	12	• Shortages of field workers. • Increasing labor regulations.
Water shortages or increased water costs	68	• The California drought has caused water availability issues and resulted in higher costs over the past four years. • Lower water tables in California resulted in many growers drilling new ground water wells.
Other	8	• All growing costs continue to rise (e.g., fertilizers, insecticides, herbicides, fungicides, machinery, and labor). • Increasing regulatory costs unique to California (e.g., California Air Board requirements and California Nitrogen Management Plan requirements).
Total number of growers indicating change in operations	73	

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. processors

Domestic processors were asked to indicate whether their firm had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials or other reasons, including revision of labor agreements; or any other change in the character of their operations or organization relating to the production of pistachios since January 1, 2011. Eight of the nine domestic processors (which provided responses in this review) indicated that they had experienced such changes; their responses are presented in table III-2.

Table III-2
Pistachios: Changes in the character of U.S. processor operations since January 1, 2011

* * * * * * *

Anticipated changes in operations

The Commission asked domestic growers to report anticipated changes in the character of their farming operations relating to the growing and harvesting of unhulled pistachios in the future. It also asked domestic processors to report anticipated changes in the character of their processing operations relating to the production (hulling/drying) of pistachios in the future. Thirty-four growers and six processors indicated that they anticipated such changes; their responses appear in table III-3.

Table III-3
Pistachios: Anticipated changes in the character of U.S. operations

* * * * * * *

U.S. PRODUCTION, CAPACITY, AND CAPACITY UTILIZATION

U.S. growers

Table III-4 presents published USDA data on U.S. pistachio growers' bearing acreage, production, yield per acre, crop value, unit value, and crop value per acre for crop years 1981/82 to 2015/16. Figures III-1 and III-2 show published USDA data on U.S. pistachio growers' bearing acreage and production for crop years 1981/82 to 2015/16. These data indicate that the domestic pistachio bearing acreage has grown since the imposition of the antidumping duty order in July 1986 and since its first five-year review continuation order in January 2006. Bearing acreage increased consistently from 32,300 acres in 1985/86 to 105,000 acres in 2005/06 and further to 233,000 acres in 2015/16. Although domestic production is somewhat cyclical with production levels varying from year to year with alternate bearing cycles, it increased overall from 27.1 million pounds in 1985/86 to 283.0 million pounds in 2005/06 and further to 514.0 million pounds in 2014/15, before decreasing to 270.0 million pounds in 2015/16. Pistachio growers explained in their questionnaire responses that the most recent decrease in pistachio production during 2015 was due to a combination of warmer weather and fewer chill hours in California, as well as the water shortage and severe drought that California has faced. The domestic industry described the U.S. pistachio crop in 2015 as an "anomaly, maybe a 1 in 50 year, 1 in 100 year incredibly short crop."[4] Further, the domestic industry described the pistachio crop in the United States during 2016 as being a record "on-year" crop with production estimated at more than 903 million pounds for pistachios harvested in September and October of 2016 (crop year 2016/17). The previous "on-year" record was set in crop year 2012/13 at 551 million pounds.[5]

[4] Hearing transcript, p. 89 (Matoian).

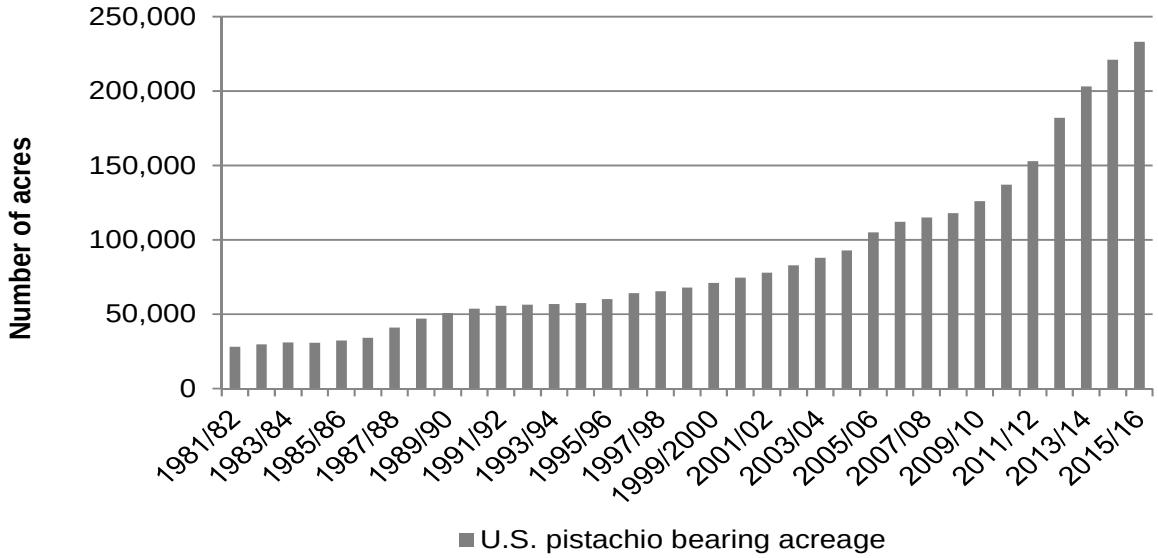
[5] Hearing transcript, p. 11 (Costa) and WP&A prehearing brief, p. 5.

Table III-4
Pistachios: U.S. production (in-shell basis), crop years 1981/82-2015/16

Crop year	Bearing acreage	Production (1,000 pounds)	Yield (pounds/acre)	Crop value ($1,000)	Unit value (per pound)	Value/acre (Dollars)
1981/82	28,100	14,500	516	19,759	1.36	0.70
1982/83	29,900	44,000	1,470	65,560	1.49	2.19
1983/84	31,100	26,400	849	37,224	1.41	1.20
1984/85	30,800	63,100	2,050	61,586	0.98	2.00
1985/86	32,300	27,100	839	37,127	1.37	1.15
1986/87	34,200	74,900	2,190	83,888	1.12	2.45
1987/88	41,000	33,100	807	45,347	1.37	1.11
1988/89	47,200	94,000	1,990	114,680	1.22	2.43
1989/90	50,900	39,000	766	63,570	1.63	1.25
1990/91	53,700	120,000	2,230	122,400	1.02	2.28
1991/92	55,700	77,000	1,380	96,250	1.25	1.73
1992/93	56,500	147,000	2,600	151,410	1.03	2.68
1993/94	57,000	152,000	2,670	162,640	1.07	2.85
1994/95	57,500	129,000	2,240	118,809	0.92	2.07
1995/96	60,300	148,000	2,450	161,320	1.09	2.68
1996/97	64,300	105,000	1,630	121,800	1.16	1.89
1997/98	65,400	180,000	2,750	203,400	1.13	3.11
1998/99	68,000	188,000	2,760	193,640	1.03	2.85
1999/2000	71,000	123,000	1,730	163,590	1.33	2.30
2000/01	74,600	243,000	3,260	245,430	1.01	3.29
2001/02	78,000	161,000	2,060	162,610	1.01	2.08
2002/03	83,000	303,000	3,650	333,300	1.10	4.02
2003/04	88,000	119,000	1,350	145,180	1.22	1.65
2004/05	93,000	347,000	3,730	464,980	1.34	5.00
2005/06	105,000	283,000	2,700	580,150	2.05	5.53
2006/07	112,000	238,000	2,130	449,820	1.89	4.02
2007/08	115,000	416,000	3,620	586,560	1.41	5.10
2008/09	118,000	278,000	2,360	569,900	2.05	4.83
2009/10	126,000	355,000	2,820	592,850	1.67	4.71
2010/11	137,000	522,000	3,810	1,158,840	2.22	8.46
2011/12	153,000	444,000	2,900	879,120	1.98	5.75
2012/13	182,000	551,000	3,030	1,438,110	2.61	7.90
2013/14	203,000	470,000	2,320	1,635,600	3.48	8.06
2014/15	221,000	514,000	2,330	1,834,980	3.57	8.30
2015/16	233,000	270,000	1,160	669,600	2.48	2.87

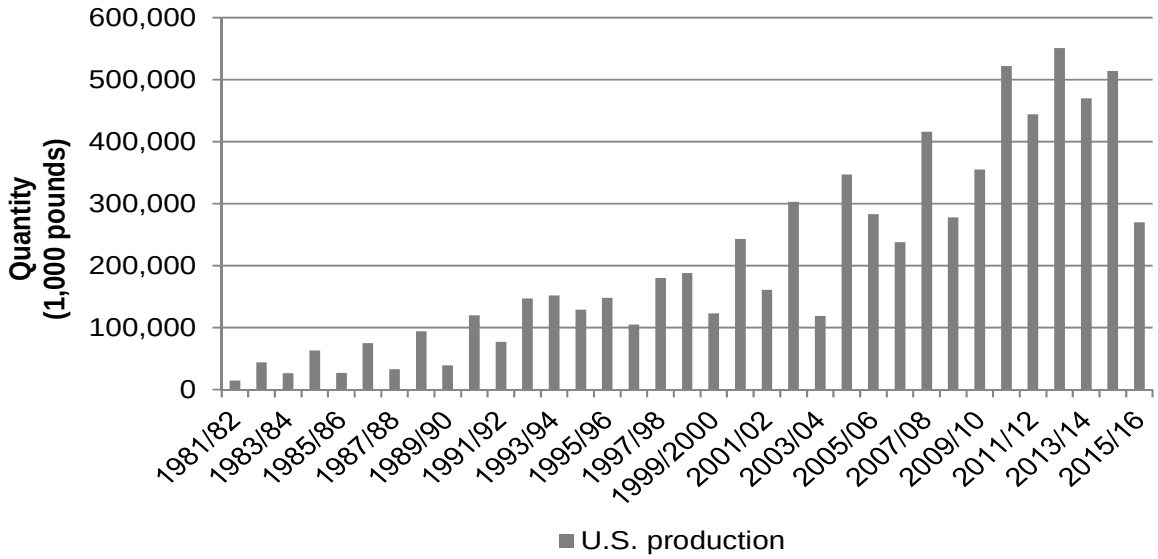
Source: USDA, ERS, Fruit Yearbook Tree Nuts, Table F15, and USITC calculations.

Figure III-1
Pistachios: U.S. bearing acreage, crop years 1981/82-2015/16



Source: Table III-4.

Figure III-2
Pistachios: U.S. production (in-shell basis), crop years 1981/82-2015/16



Source: Table III-4.

Table III-5 presents U.S. growers' production, acreage, and yield based on data reported by growers responding to the Commission questionnaire for calendar years 2014-16. These data show that the responding U.S. growers' pistachio bearing acreage increased by 7.9 percent from 2014 to 2016. Total reported pistachio production and yield per acre fell from 2014 to 2015, as is consistent with narrative responses detailing adverse weather conditions (i.e., warm weather and few chill hours) and water shortages due to California drought conditions.[6] In fact, the domestic pistachio growers' yield per acre during crop year 2015/16 was the lowest that it had experienced in over 25 years.[7] Total domestic production reported by U.S. growers fell by 53.3 percent from 201.8 million pounds in 2014 to 94.2 million pounds in 2015. From 2015 to 2016, however, total reported pistachio production and yield per acre increased to levels above those reported for 2014. Many of the responding growers noted in their questionnaire responses that as their orchards have matured, their yield has increased and, as previously noted, 2016 is being reported as a record "on-year" crop for the domestic pistachios that were harvested in September and October of 2016 (crop year 2016/17).[8]

Table III-5
Pistachios: U.S. growers' production, acreage, and yield, 2014-16

Item	Calendar year		
	2014	2015	2016
Production (1,000 pounds)	201,849	94,181	340,374
Farming acreage dedicated to pistachio trees (number of acres)	88,008	90,729	95,000
Yield (pounds per acre)	2,294	1,038	3,583

Source: Compiled from data submitted in response to Commission questionnaires.

Alternative products

Nineteen responding U.S. growers reported that other products are also grown on the farm on which unhulled pistachios are grown. Other crops domestic growers listed include raisins, walnuts, almonds, alfalfa, grapes, grain, tomatoes, pecans, mandarins, tangelos, and navel oranges. Forage crop production for cattle feed was also identified as an additional use for the land. However, these additional crops are on other pieces of property than the acreage on which pistachio trees are planted. Since pistachio trees are a permanent crop (unlike an annual crop, such as tomatoes), there is no ability to readily shift capacity to other crops. Pistachio growers reported that pistachio trees require about seven years to begin producing and approximately five more years to reach peak production levels. The initial investment of *** per acre before the first harvest of a new orchard's production was estimated by one grower to require *** years to recoup.

[6] In addition to lack of chilling hours and increasing issues with water availability, the domestic pistachio growers also noted that they have faced an increasing threat of pests, such as the navel orange worm and the mealybug, and crop diseases. Hearing transcript, pp. 29 (Roden) and 54 (Anzaldo).

[7] Hearing transcript, p. 56 (Anzaldo). See also table III-4.

[8] Hearing transcript, p. 11 (Costa) and WP&A prehearing brief, p. 5.

Constraints on capacity

The most frequently cited constraints on capacity reported by domestic pistachio growers are adverse weather conditions (i.e., warmer weather and reduced number of chill hours, as well as drought conditions) and the availability and cost of water for irrigation. Other constraints on capacity reported by domestic pistachio growers include the availability of reasonably priced land, diseases and pests, availability of affordable labor, and "burdensome" government regulations.

U.S. processors

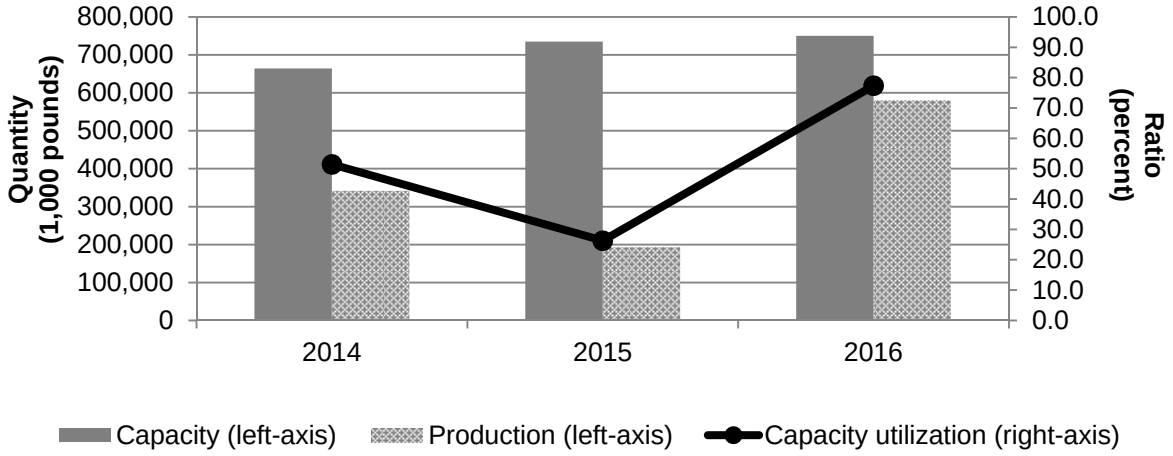
Table III-6 and figure III-3 present data on U.S. processors' capacity, production, and capacity utilization for calendar years 2014-16. The reported data show that the domestic processors' aggregate capacity to process raw in-shell pistachios increased by 12.9 percent from 644.2 million pounds in 2014 to 750.1 million pounds in 2016. In fact, eight of the nine responding U.S. pistachio processors noted that they had experienced plant processing expansions, openings, and/or acquisitions since January 1, 2011 (see table III-2). Similar to trends reported by pistachio growers, the reported domestic production of processors fell from 2014 to 2015, but increased in 2016 to a level higher than reported in 2014. Likewise, capacity utilization fell from 51.4 percent in 2014 to 26.3 percent in 2015, but increased to 77.3 percent in 2015.

Table III-6
Pistachios: U.S. processors' production, capacity, and capacity utilization, 2014-16

Item	Calendar year		
	2014	2015	2016
	Capacity (1,000 pounds)		
ARO Pistachios	***	***	***
Eagle Ranch	***	***	***
Horizon Nut	***	***	***
J&J Byrne	***	***	***
Keenan Farms	***	***	***
Munger Bros./Monarch Nut	***	***	***
Setton Pistachio	***	***	***
Wonderful	***	***	***
Zymex	***	***	***
Total capacity	664,195	735,096	750,142
	Production (1,000 pounds)		
ARO Pistachios	***	***	***
Eagle Ranch	***	***	***
Horizon Nut	***	***	***
J&J Byrne	***	***	***
Keenan Farms	***	***	***
Munger Bros./Monarch Nut	***	***	***
Setton Pistachio	***	***	***
Wonderful	***	***	***
Zymex	***	***	***
Total production	341,645	193,113	580,196
	Capacity utilization (percent)		
ARO Pistachios	***	***	***
Eagle Ranch	***	***	***
Horizon Nut	***	***	***
J&J Byrne	***	***	***
Keenan Farms	***	***	***
Munger Bros./Monarch Nut	***	***	***
Setton Pistachio	***	***	***
Wonderful	***	***	***
Zymex	***	***	***
Average capacity utilization	51.4	26.3	77.3

Source: Compiled from data submitted in response to Commission questionnaires.

Figure III-3
Pistachios: U.S. processors' production, capacity, and capacity utilization, 2014-16



Source: Compiled from data submitted in response to Commission questionnaires.

Alternative products

Domestic processors reported that they do not process any other products on the same equipment and machinery used to convert unhulled pistachios into raw in-shell pistachios.

Constraints on capacity

The most frequently cited constraint on capacity reported by domestic pistachio processors is drying and storage capacity. Other constraints on capacity include processing and hulling equipment capacity, size of crop and harvest window, and amount of available water.

Toll production

Three of the nine responding U.S. processors (i.e., ***) reported that they have been involved in toll agreements since January 1, 2011 regarding the processing (hulling/drying) of raw in-shell pistachios. *** noted that "***." *** indicated that its tolling agreement involves "***" and *** indicated that its tolling agreements involve "***."

U.S. PROCESSORS' U.S. SHIPMENTS AND EXPORTS

Table III-7 presents U.S. pistachio processors' U.S. shipments, export shipments, and total shipments for calendar year 2014-16 based on data received in response to Commission

questionnaires.[9] These data show that U.S. processors' total shipments, of which approximately one-half were U.S. shipments and the other half exports, declined from 2014 to 2015 but increased in 2016 in terms of quantity and value. Likewise, total U.S. processors' U.S. shipments in terms of quantity fell from 2014 to 2015 but increased in 2016. The bulk of the quantity of U.S. processors' U.S. shipments of raw in-shell pistachios (*** percent in 2016) was internally consumed in further processing (i.e., roasting). Unit values of U.S. shipments, which were consistently higher than U.S. processors' export unit values, increased from 2014 to 2015 but fell in 2016.

Eight of the nine responding processors reported export shipments of raw in-shell pistachios during 2014-16. Principal export markets identified by domestic processors include ***. *** were the largest exporters of raw in-shell pistachios, together accounting for more than *** percent of responding domestic processors' U.S. exports during 2016 in terms of quantity.

[9] Published USDA data on domestic shipments and U.S. exports of pistachios for crop years 1981/82-2015/16 on an "in-shell" basis were presented earlier in this report (see table I-7).

Table III-7
Pistachios: U.S. processors' U.S. shipments, exports shipments, and total shipments, 2014-16

Item	Calendar year		
	2014	2015	2016
	Quantity (1,000 pounds)		
Commercial U.S. shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	154,598	132,836	140,552
Export shipments	164,497	125,978	203,445
Total shipments	319,094	258,814	343,998
	Value (1,000 dollars)		
Commercial U.S. shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	774,021	708,348	600,366
Export shipments	791,886	629,973	771,894
Total shipments	1,565,907	1,338,321	1,372,260
	Unit value (dollars per pound)		
Commercial U.S. shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	5.01	5.33	4.27
Export shipments	4.81	5.00	3.79
Total shipments	4.91	5.17	3.99
	Share of quantity (percent)		
Commercial U.S. shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	48.4	51.3	40.9
Export shipments	51.6	48.7	59.1
Total shipments	100.0	100.0	100.0
	Share of value (percent)		
Commercial U.S. shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
U.S. shipments	49.4	52.9	43.8
Export shipments	50.6	47.1	56.2
Total shipments	100.0	100.0	100.0

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. PROCESSORS' INVENTORIES

Table III-8 presents U.S. processors' end-of-period inventories and the ratio of these inventories to U.S. production, U.S. shipments, and total shipments.[10] Because of the "on year" and "off year" cycle caused by the alternate-bearing nature of pistachio trees, domestic processors inventory large quantities in peak harvest years and "carry out" supplies to the following year in order to smooth out supply and stabilize prices.[11] Eight of the nine domestic processors providing responses to the Commission's questionnaire in this proceeding held inventories of pistachios during 2014-16, of which *** accounted for *** percent of the total held in inventory at year-end 2016. Aggregate data show that pistachio inventories declined from year-end 2014 to 2015, but increased from year-end 2015 to 2016. Inventories were equivalent to between 82.0 and 138.4 percent of U.S. production and total shipments, and 165.9 and 338.6 percent of U.S. shipments during 2014-16.

Table III-8
Pistachios: U.S. processors' inventories, 2014-16

Item	Calendar year		
	2014	2015	2016
	Quantity (1,000 pounds)		
U.S. producers' end-of-period inventories	285,176	220,352	475,947
	Ratio (percent)		
Ratio of inventories to.--			
U.S. production	83.5	114.1	82.0
U.S. shipments	184.5	165.9	338.6
Total shipments	89.4	85.1	138.4

Source: Compiled from data submitted in response to Commission questionnaires.

[10] Published USDA data on beginning and ending stocks of pistachios for crop years 1981/82-2015/16 on an "in-shell" basis were presented earlier in this report (see table I-7).

[11] Domestic pistachio production is cyclical, with alternating heavy and light crop years. As a result, the industry operates on a two year marketing cycle in which processors generally hold enough inventory from on-year harvests to supply demand during the off-year harvests. Hearing transcript, pp. 49, 52 (Hohmann), and 57 (Anzaldo); and *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. 8 and III-14.

U.S. PRODUCERS' IMPORTS AND PURCHASES

None of the U.S. growers or processors responding to the Commission's questionnaire indicated that they were importers of the subject merchandise or related to foreign producers or importers of the subject merchandise. In fact, no responding U.S. grower or processor reported direct U.S. imports of raw in-shell pistachios from any source in this proceeding. Four of the nine responding U.S. processors reported domestic purchases of raw in-shell pistachios, all of which were from other domestic processors.[12]

U.S. EMPLOYMENT, WAGES, AND PRODUCTIVITY

The domestic interested parties testified that the U.S. pistachio growing and processing industry currently employs over 11,000 people, and has faced increasing hourly wages for agriculture workers that are about 45 percent higher than the California minimum wage. In addition, the domestic interested parties noted that agricultural workers throughout California are in short supply, with rapidly aging field and crop workers, as well as a decline in legal immigration and the inadequacy of the visa program that is intended to allow temporary agriculture workers to enter the United States.[13] The domestic pistachio growers noted that "it costs us more every year to hire and retain {agriculture workers}."[14]

U.S. growers

Table III-9 shows U.S. growers' employment-related data as reported in response to Commission questionnaires. Combined U.S. growers' employment measured by production and related workers ("PRWs") increased from 2014 to 2016. Total hours worked, hours worked per PRW, wages paid, and hourly wages were also higher in 2016 than in 2014. Productivity declined from 2014 to 2015 and increased in 2016 to a level 47.4 percent higher than that reported in 2014. Unit labor costs increased from 2014 to 2015 but fell in 2016 to a level below that reported in 2014.

[12] *** reported purchases of *** pounds of domestic pistachios in 2014, *** pounds in 2015, and *** pounds in 2016 in order "***." *** reported that it needed to purchase *** pounds of domestic pistachios in 2016 because of "***." *** reported purchases of *** pounds of domestic pistachios in 2015 and *** pounds in 2016 because it "***." In order "***," *** reported purchases of *** pounds of domestic pistachios in 2014, *** pounds in 2015, and *** pounds in 2016.

[13] Hearing transcript, pp.48 (Hohmann) and 55-56 (Anzaldo).

[14] Hearing transcript, p. 59 (Coleman).

Table III-9
Pistachios: Average number of production and related workers employed by U.S. growers, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2014-16

Item	Calendar year		
	2014	2015	2016
Production-Related Workers (PRWs) (number)	3,218	3,401	3,498
Total hours worked (1,000 hours)	2,898	3,047	3,315
Hours worked per PRW (hours)	901	896	948
Wages paid ($1,000)	32,624	35,301	39,816
Hourly wages (dollars per hour)	$11.26	$11.58	$12.01
Productivity (1,000 pounds per hour)	69.6	30.9	102.7
Unit labor costs (dollars per 1,000 pounds)	$0.16	$0.37	$0.12

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. processors

Table III-10 shows U.S. processors' employment-related data as reported in response to Commission questionnaires. Combined U.S. processors' employment measured by PRWs, as well as wages paid and hourly wages paid, increased from 2014 to 2016. Although there was an overall upward trend from 2014 to 2016 for the total number of hours worked and productivity, these indicators decreased from 2014 to 2015. Hours worked per PRW and unit labor costs showed an overall decline since 2014.

Table III-10
Pistachios: Average number of production and related workers employed by U.S. processors, hours worked, wages paid to such employees, hourly wages, productivity, and unit labor costs, 2014-16

Item	Calendar year		
	2014	2015	2016
PRWs (number)	1,610	1,637	2,023
Total hours worked (1,000 hours)	3,233	3,113	3,954
Hours worked per PRW (hours)	2,008	1,902	1,955
Wages paid ($1,000)	44,268	46,321	64,790
Hourly wages (dollars per hour)	$13.69	$14.88	$16.39
Productivity (pounds per hour)	105.7	62.0	146.7
Unit labor costs (dollars per pound)	$0.13	$0.24	$0.11

Source: Compiled from data submitted in response to Commission questionnaires.

FINANCIAL EXPERIENCE OF U.S. PRODUCERS

Background

This section of the report presents the financial results of 83 U.S. growers and 8 U.S. processors of raw in-shell pistachios.[15] While most smaller growers reported their financial results on a cash/tax basis, larger growers and processors generally reported on an accrual basis.[16] Most growers and processors reported their financial results on a calendar year basis.[17] While other crops and activities were reported, the majority of growers reported that pistachios is their only crop.

Growers' operations on raw in-shell pistachios

Table III-11 presents aggregated data on U.S. growers' operations in relation to raw in-shell pistachios. Based on USDA volume data, it is estimated that around one-half of total U.S. production of raw in-shell pistachios is accounted for in table III-11.[18]

Growers represent a wide range of operations. In some cases, a single response reflected multiple growing operations managed by a single farm management company. The smallest respondents are generally stand-alone operations with pistachios representing their only activity. Larger growers usually operate multiple orchards and often have other crops and operations beyond pistachios.

Several of the larger growers (***) with around *** percent of cumulative reported sales revenue for growers, also have related processing operations.[19] Yield and corresponding

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[15] Only firms that provided usable financial information and/or whose data were corrected/clarified pursuant to staff follow-up questions are included in this section of the report. Processors presented in this section are ***.

[16] Tax/cash basis accounting generally recognizes revenue only when it is received. Due to the installment nature of most grower-processor contracts, revenue recognized in a given year by a tax/cash basis grower primarily reflects cash receipts related to the previous year's harvest. Only a portion of revenue is generally related to the current year's harvest. In contrast, accrual respondents estimate and recognize revenue when a harvested payable weight is established. Reported volume, for both tax/cash basis and accrual respondents, reflects that year's harvest. *** growers reporting on an accrual basis represent approximately *** percent of the cumulative revenue reported during the period. This relatively large percentage of accrual basis respondents tends to limit, but does not eliminate, the impact of tax/cash basis timing differences between volume and revenue, as presented in this section of the report.

[17] The following growers presented in this section reported their financial results on the basis of fiscal years: Alkali Hollow Farms and Eriksson – June 30; Little Creek and Westchester Group – September 30; A&P Ranch and the four reporting Agriland farms– October 31. The following processors reported on the basis of fiscal years: Horizon Nut – July 31; Keenan Farms and Wonderful – August 31.

[18] This estimate is based on information available from USDA pistachio production for the United States for crop years 2013/14 (470 million pounds), 2014/15 (514 million pounds), and 2015/16 (270 million pounds), compared to reported net sales quantities at table III-11. *The Fruit and Tree Nuts Yearbook*, USDA, Economic Research Service, Table F-15.

pistachio revenue for growers fluctuate from year to year due to the pistachio crop's alternate bearing cycle. Because growing costs are only somewhat variable with respect to changes in yield, growers often experience a corresponding and consistent pattern of net income followed by net losses.

Table III-11
Raw in-shell pistachios: Results of operations of U.S. growers, 2014-16

Item	Calendar year		
	2014	2015	2016
	Quantity (1,000 pounds)		
Total net sales	194,379	96,700	326,981
	Value (1,000 dollars)		
Total net sales	672,635	459,417	616,681
Operating expenses	277,533	278,596	321,102
Operating income or (loss)	395,102	180,821	295,579
Other expense / (income), net	32,654	(41,323)	36,581
Net income or (loss)	362,448	222,144	258,999
	Ratio to net sales (percent)		
Operating expenses	41.3	60.6	52.1
Operating income or (loss)	58.7	39.4	47.9
Other expense or (income), net	4.9	(9.0)	5.9
Net income or (loss)	53.9	48.4	42.0
	Unit value (dollars per pound)		
Total net sales	3.46	4.75	1.89
Operating expenses	1.43	2.88	0.98
Operating income or (loss)	2.03	1.87	0.90
Net income or (loss)	1.86	2.30	0.79
	Number of firms reporting		
Operating losses	12	19	20
Data	83	83	83

Source: Compiled from data submitted in response to Commission questionnaires.

(…*continued*)

[19] The growing operations of *** are smaller than the growers listed above, but also have related processing operations that are included in table III-12.

Processors' operations on raw in-shell pistachios

Table III-12 presents aggregated data on U.S. processors' operations in relation to raw in-shell pistachios, while table III-13 presents selected processor-specific financial data. Based on USDA volume data, it is estimated that around two-thirds of total U.S. production of raw in-shell pistachios is accounted for by the processors in tables III-12 and III-13.[20] Internal consumption and transfers to related firms combined accounted for a little less than half of total net sales during the period examined. The majority of internal consumption and transfers to related firms reflects raw in-shell pistachios consumed in further processing such as roasting. *** were the largest processors, accounting for *** percent of net sales, respectively, by volume, during the period examined.

[20] This estimate is based on information available from USDA pistachio production for the United States for crop years 2013/14 (470 million pounds), 2014/15 (514 million pounds), and 2015/16 (270 million pounds), compared to reported net sales quantities at tables III-12 and III-13. *The Fruit and Tree Nuts Yearbook*, USDA, Economic Research Service, Table F-15.

Table III-12
Raw in-shell pistachios: Results of operations of U.S. processors, 2014-16

Item	Calendar year		
	2014	2015	2016
	Quantity (1,000 pounds)		
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
Total net sales	289,173	277,351	264,671
	Value (1,000 dollars)		
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
Total net sales	1,442,412	1,409,667	1,193,942
Cost of goods sold.--			
Raw materials	1,081,715	1,121,275	949,806
Direct labor	44,641	45,062	46,189
Other factory costs	104,615	112,971	106,084
Total COGS	1,230,971	1,279,308	1,102,079
Gross profit	211,441	130,359	91,863
SG&A expense	48,586	50,924	47,459
Operating income or (loss)	162,855	79,435	44,404
Interest expense	***	***	***
All other expenses	***	***	***
All other income	***	***	***
Net income or (loss)	151,269	72,529	24,057
Depreciation/amortization	37,929	43,216	46,490
Cash flow	189,198	115,745	70,547
	Unit value (dollars per pound)		
Commercial shipments	***	***	***
Internal consumption	***	***	***
Transfers to related firms	***	***	***
Total net sales	4.99	5.08	4.51
Cost of goods sold.--			
Raw materials	3.74	4.04	3.59
Direct labor	0.15	0.16	0.17
Other factory costs	0.36	0.41	0.40
Average COGS	4.26	4.61	4.16
Gross profit	0.73	0.47	0.35
SG&A expense	0.17	0.18	0.18
Operating income or (loss)	0.56	0.29	0.17
Net income or (loss)	0.52	0.26	0.09

Table continued on the next page.

Table III-12--Continued
Raw in-shell pistachios: Results of operations of U.S. processors, 2014-16

Item	Calendar year		
	2014	2015	2016
	Ratio to COGS (percent)		
Cost of goods sold.-- Raw materials	87.9	87.6	86.2
Direct labor	3.6	3.5	4.2
Other factory costs	8.5	8.8	9.6
Total COGS	100.0	100.0	100.0
	Ratio to net sales (percent)		
Cost of goods sold.-- Raw materials	75.0	79.5	79.6
Direct labor	3.1	3.2	3.9
Other factory costs	7.3	8.0	8.9
Total COGS	85.3	90.8	92.3
Gross profit	14.7	9.2	7.7
SG&A expense	3.4	3.6	4.0
Operating income or (loss)	11.3	5.6	3.7
Net income or (loss)	10.5	5.1	2.0
	Number of firms reporting		
Operating losses	0	2	2
Data	8	8	8

Note.—***. The overstatement has no material impact on the financial results of the processors. The total overstatement of sales during the period examined accounted for ***.

Source: Compiled from data submitted in response to Commission questionnaires.

Table III-13
Raw in-shell pistachios: Select results of operations of U.S. processors, by firm, 2014-16

* * * * * * *

Revenue

As seen in table III-12, net sales volume and value decreased from 2014 to 2016. While the majority of processors reported increasing net sales from 2014 to 2016, ***.[21] On a per-pound basis for the industry, net sales revenue increased from $4.99 in 2014 to $5.08 in 2015 and decreased to $4.51 in 2016. The majority of companies reported similar trends with six of eight processors reporting increasing net sales unit values from 2014 to 2015 and seven of eight processors reporting decreasing net sales unit values from 2015 to 2016.

[21] In response to questions from staff, ***. ***.

COGS and gross profit or (loss)

As seen in table III-12, raw materials represent the largest component of overall COGS for processors. The total cost of raw materials, as a share of COGS decreased from 2014 to 2016. Several processors reported that they purchase inputs from related firms: ***. As a share of COGS, other factory costs were the second largest component, ranging from 8.5 to 9.6 percent. Lastly, direct labor accounted for the smallest share of COGS, ranging from 3.5 to 4.2 percent during the period examined.

Average per-pound COGS decreased by $0.09 from 2014 to 2016, however the larger decrease in the net sales unit value (of $0.48 per pound) caused a decline in gross profits during the period. The processors' aggregate gross profit decreased from $211.4 million in 2014 to $91.9 million in 2016. No processors reported gross losses in 2014, one processor reported gross losses in 2015 and two processors reported gross losses in 2016.

SG&A expenses and operating income or (loss)

SG&A expenses increased from 2014 to 2015 and decreased in 2016, but stayed in a relatively narrow range. As a share of sales, SG&A expenses were between 3.4 and 4.0 percent.

The industry's aggregate operating income followed the same trend as gross profit, decreasing throughout the period examined from $162.9 million in 2014 to $44.4 million in 2016.

Other expenses and net income or (loss)

Classified below the operating income level are interest expense, other expense, and other income, which are usually allocated to the product line from high levels in the corporation, and by definition, only affect net income. Net income decreased from $151.3 million in 2014 to $24.1 million in 2016.[22]

[22] ***. This is the main reason for the larger difference between operating and net incomes in 2016 compared to prior years.

Variance analysis

A variance analysis for the operations of U.S. processors of raw in-shell pistachios is presented in table III-14.[23] The information for this variance analysis is derived from table III-12. The analysis illustrates that from 2014 to 2016, the decrease in operating income is primarily attributable to a higher unfavorable price variance despite a favorable net/cost variance (i.e., prices decreased more than costs and expenses).

Table III-14
Raw in-shell pistachios: Variance analysis on the operations of U.S. processors, 2014-16

Item	2014-16	2014-15	2015-16
	Value (1,000 dollars)		
Net sales:			
Price variance	(126,251)	26,225	(151,277)
Volume variance	(122,219)	(58,970)	(64,448)
Net sales variance	(248,470)	(32,745)	(215,725)
Cost of sales:			
Cost/expense variance	24,589	(98,662)	118,741
Volume variance	104,303	50,325	58,488
Total cost of sales variance	128,892	(48,337)	177,229
Gross profit variance	(119,578)	(81,082)	(38,496)
SG&A expenses:			
Cost/expense variance	(2,990)	(4,324)	1,137
Volume variance	4,117	1,986	2,328
Total SG&A expense variance	1,127	(2,338)	3,465
Operating income variance	(118,451)	(83,420)	(35,031)
Summarized as:			
Price variance	(126,251)	26,225	(151,277)
Net cost/expense variance	21,599	(102,987)	119,877
Net volume variance	(13,799)	(6,658)	(3,632)

Source: Compiled from data submitted in response to Commission questionnaires.

[23] The Commission's variance analysis is calculated in three parts: Sales variance, cost of sales variance (COGS variance), and SG&A expense variance. Each part consists of a price variance (in the case of the sales variance) or a cost or expense variance (in the case of the COGS and SG&A expense variance), and a volume variance. The sales or cost/expense variance is calculated as the change in unit price or per-unit cost/expense times the new volume, while the volume variance is calculated as the change in volume times the old unit price or per-unit cost/expense. Summarized at the bottom of the table, the price variance is from sales; the cost/expense variance is the sum of those items from COGS and SG&A variances, respectively, and the volume variance is the sum of the volume components of the net sales, COGS, and SG&A expense variances. The overall volume component of the variance analysis is generally small.

Capital expenditures, research and development expenses, assets, and return on assets

U.S. growers

Table III-15 presents capital expenditures, research and development ("R&D") expenses, and net assets for U.S. growers. Fifty-eight growers reported capital expenditures and 14 reported research and development expenses. Capital expenditures by growers increased from 2014 through 2016. The total net assets by growers increased from $772.5 million in 2014 to $963.0 million in 2016.

Table III-15
Raw in-shell pistachios: Capital expenditures, research and development expenses, and net assets of U.S. growers, 2014-16

Item	Fiscal year		
	2014	2015	2016
	Value (1,000 dollars)		
Capital expenditures	30,688	51,399	59,452
Research and development expenses	***	***	***
Total net assets	772,459	923,589	963,033

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. processors

Table III-16 presents capital expenditures and R&D expenses for U.S. processors, by firm. *** accounted for the largest firm-specific amount of capital expenditures in 2014 and 2016, and *** accounted for the largest firm-specific amount in 2015.[24] Total capital expenditures reported by processors decreased from $*** in 2014 to $*** in 2016. *** to report research and development expenses.[25]

Table III-16
Raw in-shell pistachios: Capital expenditures and research and development expenses of U.S. processors, by firm, 2014-16

* * * * * * *

[24] *** describes its reported capital expenditures in *** as ***. *** describes its capital expenditures as ***.

[25] ***

Table III-17 presents data on the U.S. processors' total assets and their return on assets ("ROA").[26]

Table III-17
Raw in-shell pistachios: U.S. processors' total assets and operating return on assets, by firm, 2014-16

Firm	Fiscal year		
	2014	2015	2016
	Total net assets (1,000 dollars)		
ARO Pistachios	***	***	***
Eagle Ranch	***	***	***
Horizon Nut	***	***	***
Keenan Farms	***	***	***
Munger Bros./Monarch Nut	***	***	***
Setton Pistachio	***	***	***
Wonderful	***	***	***
Zymex	***	***	***
Total net assets	500,781	469,811	507,336
	Operating return on assets (percent)		
ARO Pistachios	***	***	***
Eagle Ranch	***	***	***
Horizon Nut	***	***	***
Keenan Farms	***	***	***
Munger Bros./Monarch Nut	***	***	***
Setton Pistachio	***	***	***
Wonderful	***	***	***
Zymex	***	***	***
Average operating return on assets	32.5	16.9	8.8

Source: Compiled from data submitted in response to Commission questionnaires.

[26] With respect to a company's overall operations, staff notes that a total asset value (i.e., the bottom line number on the asset side of a company's balance sheet) reflects an aggregation of a number of assets which are generally not product specific. Accordingly, high-level allocation factors and estimates may have been required in order to report a total asset value for raw in-shell pistachios.

PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRIES

U.S. IMPORTS

Overview

The Commission issued U.S. importers' questionnaires to four firms believed to be importers of raw in-shell pistachios.[1] Only one firm, Frunut Global Commodities, LLC ("Frunut"), Bronx, NY, provided a response to the Commission's questionnaire. In its response, Frunut reported ***. Because of the lack of U.S. importer questionnaire responses in this proceeding, the U.S. import data presented in this report are based on official Commerce statistics for raw in-shell pistachios (HTS statistical reporting number 0802.51.0000 (Pistachios, Fresh Or Dried, In Shell)).

Imports from subject and nonsubject countries

In the original investigation, the Commission found that the volume of pistachios had increased dramatically since an embargo on trade with Iran was lifted in 1981. From 1982 to 1985, imports from Iran rose steadily from 4.1 million pounds to 25.8 million pounds. The Commission also found that market penetration rose dramatically – from 19.8 percent of consumption in 1982 to 42.3 percent in 1985. During this period of rapid increase in both the volume and market share of subject imports, the unit value of those imports fell from $2.30 in 1982 to $1.25 in January-March 1986.[2]

Between the imposition of the antidumping duty order on subject merchandise in 1986 and the full first five-year review in 2005, the Commission noted that there were virtually no U.S. imports of pistachios from Iran. There were 27,950 pounds of subject imports, valued at $77,000, imported into the United States in 2002, and 953 pounds, valued at $3,000, in 2003, and no subject imports in the other years since 1986.[3]

Since the full first five-year review in 2005, raw in-shell pistachios were imported from Iran into the United States only in 2006 (13,000 pounds, valued at $38,000). There have been no other imports of raw in-shell pistachios from Iran into the United States since 2006.[4] Out-of-scope shelled pistachios were imported into the United States from Iran during calendar year

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[1] The four firms include one firm that was identified in *** (Flagstone Foods & Ann's House of Nuts), two firms identified in *** (American Nuts Import/Export, Inc. and Frunut Global Commodities, LLC), and one firm identified as an importer in *** (John B. Sanfilippo & Son, Inc.).

[2] *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review),* USITC Publication 3824, December 2005, pp. 10-11.

[3] The U.S.-imposed trade embargo on all products imported into the United States from Iran in 1987 was lifted in 2000 for foodstuffs (including pistachios); *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review),* USITC Publication 3824, December 2005, p. IV-1.

[4] Official Commerce import statistics (HTS statistical reporting number 0802.51.0000).

2016 (44,313 pounds, valued at $468,735) and during first quarter 2017 (39,683 pounds, $261,342). Prior to 2016, out-of-scope shelled pistachios had not been imported into the United States since 2010 (865,808 pounds $1.75 million). That is, there were no U.S. imports of out-of-scope shelled pistachios (or in-scope raw in-shell pistachios) from Iran during 2011-15, as sanctions were reimposed effective September 29, 2010 prohibiting U.S. imports of pistachios from Iran. The import ban was lifted effective January 21, 2016.

Table IV-1 presents information on U.S. imports of raw in-shell pistachios during 2014-16 based on official U.S. import statistics.[5] The primary source of U.S. imports of pistachios during the past three years has been Turkey, although other import sources included Greece, Canada, Afghanistan, France, Israel, Lebanon, and Spain. Even though U.S. imports (all from nonsubject sources) increased from 250,000 pounds ($830,000) in 2014 to 616,000 pounds ($2.1 million) in 2016, they remained at only 0.2 percent or less of U.S. production of pistachios during 2014-16. The domestic interested parties argued that the United States and Iran are the only suppliers for the global market and that there are essentially no U.S. import alternatives to the Iranian pistachio. They note that although there are producers of pistachios in Turkey, the quality of the pistachios produced in Turkey "is such that they really don't compete on the global market."[6]

[5] Published USDA data on U.S. imports of pistachios from all sources combined for crop years 1981/82-2015/16 on an "in-shell" basis were presented earlier in this report (see table I-7).

[6] Hearing transcript, pp. 87-88 (Klett) and 96 (Steinberger).

Table IV-1
Pistachios: U.S. imports by source, 2014-16

Item	Calendar year		
	2014	2015	2016
	Quantity (1,000 pounds)		
U.S. imports from.--			
Iran	0	0	0
Turkey	249	367	444
All other sources[1]	(2)	128	172
Nonsubject sources	250	496	616
All import sources	250	496	616
	Value (1,000 dollars)		
U.S. imports from.--			
Iran	0	0	0
Turkey	825	1,254	1,616
All other sources[1]	5	609	526
Nonsubject sources	830	1,863	2,143
All import sources	830	1,863	2,143
	Unit value (dollars per pound)		
U.S. imports from.--			
Iran	(3)	(3)	(3)
Turkey	3.31	3.41	3.64
All other sources[1]	14.23	4.75	3.06
Nonsubject sources	3.32	3.76	3.48
All import sources	3.32	3.76	3.48
	Share of quantity (percent)		
U.S. imports from.--			
Iran	0.0	0.0	0.0
Turkey	99.9	74.1	72.0
All other sources[1]	0.1	25.9	28.0
Nonsubject sources	100.0	100.0	100.0
All import sources	100.0	100.0	100.0
	Share of value (percent)		
U.S. imports from.--			
Iran	0.0	0.0	0.0
Turkey	99.4	67.3	75.4
All other sources[1]	0.6	32.7	24.6
Nonsubject sources	100.0	100.0	100.0
All import sources	100.0	100.0	100.0
	Ratio to U.S. production (percent)		
U.S. imports from.--			
Iran	0.0	0.0	0.0
Turkey	0.1	0.2	0.1
All other sources[1]	0.0	0.1	0.0
Nonsubject sources	0.1	0.3	0.1
All import sources	0.1	0.3	0.1

[1] Other sources include Afghanistan, Canada, France, Greece, Israel, Lebanon, and Spain, the largest of which were Greece and Canada.
[2] Less than 500 pounds.
[3] Not applicable.

Source: Official U.S. import statistics using HTS statistical reporting number 0802.51.0000, accessed February 22, 2017.

In the Commission's first five-year review, it was noted that China had earmarked 67,000 hectares for growing pistachios.[7] In addition, APG noted in its response to the Commission's notice of institution in this review that Hong Kong is the single largest export destination for Iranian pistachios and is a transshipment destination for exports of pistachios from Iran.[8] According to official U.S. import statistics, there were no U.S. imports of raw in-shell pistachios from China or Hong Kong during 2014-16.

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO DECEMBER 31, 2016

The Commission requested importers to indicate whether they had imported or arranged for the importation of pistachios for delivery after December 31, 2016. As previously noted, only one firm (i.e., Frunut) provided a response to the Commission's importer questionnaire. Frunut reported ***.

U.S. IMPORTERS' INVENTORIES

There were no responses to the U.S. importers' questionnaire reporting U.S. imports of raw in-shell pistachios during 2014-16; likewise, there were no reported U.S. importers' inventories of raw in-shell pistachios.

THE INDUSTRY IN IRAN

Overview

The Commission issued foreign producers' questionnaires to 26 firms believed to produce pistachios in Iran as identified in the responses to the Commission notice of institution in this proceeding. One firm responded to the Commission's questionnaire with useable information: Commercial Arman Pegah PJS ("Arman Pegah").[9] Arman Pegah is a Tehran-

[7] At the time of the full first five-year review, it was noted that the Chinese orchards would not be producing until the trees were mature (at about 20 years of age). A representative for the company that planted the trees expects the farm to be the third-largest pistachio growing region in the world by 2020. At the hearing in the first five-year review, however, a representative of the California Pistachio Commission stated that its director of research had recently visited China for three weeks and found no types of commercial plantings or infrastructure for large-scale pistachio production. *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review)*, USITC Publication 3824, December 2005, p. II-4.

[8] *Response of APG to Notice of Institution*, May 2, 2016, pp. 21-22.

[9] Although Nima Trading Co. ("Nima"), a foreign exporter of Iranian pistachios, provided a response to the Commission's notice of institution in the adequacy phase of this proceeding, it did not provide a useable response to the Commission's foreign producer questionnaire in the full phase. Nima indicated that it was unable to respond to the Commission's questionnaire because of "***." Nima indicated in its (*continued*...)

incorporated entity dedicated to the procurement, processing, and exportation of raw in-shell pistachios. It procures from local growers pistachios that are already hulled and dried.[10] Then, it sorts, packs, and markets the pistachios to export destinations. Arman Pegah estimated that it represents *** percent of total production in Iran and *** percent of total Iran pistachio exports in 2016.

Changes in operations

Arman Pegah reported *** operational and organizational changes since January 1, 2011. Details concerning the changes reported are presented in table IV-2.

Table IV-2
Pistachios: Arman Pegah's reported changes in operations, since January 1, 2013

* * * * * * *

Anticipated changes in operations

The Commission asked Iranian processors to report anticipated changes in the character of their processing operations relating to raw in-shell pistachios in the future. Arman Pegah indicated that it anticipates ***.

Operations on pistachios

Table IV-3 presents information on the pistachio operations of Arman Pegah in Iran. Arman Pegah indicated in its response to the Commission's foreign producer questionnaire that the hulling and drying of pistachios is generally performed in Iran by the growers, who deliver the hulled and dried pistachios to the processors. The processors then (i) sort the nuts according to applicable standardized quality controls, (ii) pack, and (iii) market the pistachios.

Table IV-3
Pistachios: Arman Pegah's capacity, production, shipments, and inventories, 2014-16

* * * * * * *

While Arman Pegah's capacity remained constant for the company from 2014 to 2016, its production fell by *** percent from 2014 to 2015 and increased by *** percent from 2015 to 2016 to ***. Likewise, the company's capacity utilization fell from *** percent in 2014 to ***

(…*continued*)
response to the notice of institution that it is an ***. In 2015, the estimated acreage in Iran for pistachio production totaled 741,316 acres (300,000 hectares).

[10] Arman Pegah explains that the industry in Iran is somewhat different than that in the United States in that the hulling and drying operations are generally carried out by the growers in Iran.

percent in 2015, before rising to *** percent in 2016. Arman Pegah noted the following constraints set the limit on its processing capacity in Iran with regard to ***,[11] and ***. In addition, Arman Pegah noted other constraints that set the firm's limits on its processing capacity in Iran with regard to ***.[12] Arman Pegah indicated ***.

Arman Pegah reported that it focuses on ***. Its exports of raw in-shell pistachios fell by *** percent from 2014 to 2015, but increased by *** percent from 2015 to 2016 to a level *** than that reported in 2014. Its main export destinations are ***.[13] The firm indicated that its largest export market is ***, where it has been active since ***. It pointed out that it ***. By 2016, the firm ***. Arman Pegah's second largest export market is ***. The firm reported that it ***. ***. The company indicated that ***.

Arman Pegah reported that it ***. The Commission requested foreign producers to describe the significance of the prohibition on imports from Iran (September 2010 through January 2016) in terms of its effect on their firm's production capacity, production home market shipments, exports to the United States and other markets, and inventories concerning raw in-shell pistachios. Arman Pegah noted the following: ***.

Production

The largest global producers of pistachio nuts are the United States and Iran.[14] At the time of the original investigation, Iran's crop averaged about 78 million pounds (crop years 1980/81-1984/85). Iranian production has increased steadily since then, accounting for the alternate-bearing cycle. During the 1990s, average on-year crops were in the 400 to 500 million pound range, while the off-year crops were in the 150 to 300 million pound range. Iranian production of pistachios was 463 million pounds (210,000 metric tons) in crop year 2015/16.[15] Published USDA production data for the Iranian pistachio industry for crop years 2011/12–2015/16 are presented along with data for other selected countries in the section of this report entitled "The global market" (see table IV-5).

[11] The firm explains that "***."

[12] Arman Pegah explains that it ***. These larger farms, known as "Arbaby" (or "large property owner") sell their products at a premium for the export market. Arman Pegah also noted that it *** (for more information on aflatoxin, see section entitled "Food safety concerns."

[13] Arman Pegah reported that its principal *** export market is ***, its principal *** export market is ***, and its principal *** market is ***.

[14] According to USDA, since the 2007/08 crop year, Iran and the United States have produced similar amounts of pistachios. In 2008/09, U.S. pistachio production surpassed that of Iran for the first time. Since then, U.S. production has surpassed Iranian production in 5 out of 6 years. USDA, FAS, "Pistachios: World Markets and Trade," February 2016.

[15] International Nut & Dried Fruit Council, "Estimated World Pistachio Production," March 2016, p. 77, cited to the Iranian Pistachio Association. USDA, FAS, PSD database (accessed March 16, 2017).

In 2016, Iran grew pistachios on an estimated 741,316 acres (300,000 hectares).[16] While growing area covers more than 20 provinces, the principal producing area is Kerman province, located in the arid southeast of Iran. Kerman accounted for 67 percent of production bearing acreage and 60 percent of pistachio production in 2016.[17] Province-wide water shortages in Kerman have curtailed the region's production in recent years, however, the decline in Kerman production has been balanced by production increases in other Iranian provinces.[18]

The Iranian pistachio industry had been less fragmented in the past. In the late 1970s, the Iranian government established the Rafsanjan Pistachio Producers Cooperative ("RPPC"), a pistachio growers cooperative with 60,000 farmers and several processing facilities in Iran and in the EU.[19] According to Arman Pergah, until the late 2000s the Iranian industry "was led by RPPC, which represented over 50 percent of Iran total exports."[20] RPPC "was able to secure its market power by gaining full control of raw material." In its response to the Commission's notice of institution, another Iranian producer noted that RPPC was the largest Iranian exporter of pistachios prior to the imposition of antidumping duties and accounted for more than 70 percent of Iranian exports to the United States.[21] However, this producer indicated that RPPC is no longer the largest exporter of the subject merchandise in Iran since Iranian producers are no longer obligated to be a member of RPPC, which previously had acted as the sole domestic purchaser and exporter.[22] After 2005, RPPC reduced its activity and today reportedly has a market position of a small exporter with a 1 percent market share.[23] Another government-owned pistachio company established in 2006, The Iranian National Pistachio Co., reportedly went bankrupt in 2008.[24] Today the majority of Iranian pistachios are reportedly exported by

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[16] Iranian Pistachio Association, "National Crop Estimate," November 2016. For comparison, the United States reported pistachio bearing acreage of 233,000 acres in 2015. USDA, NASS, "Noncitrus Fruits and Nuts 2015 Summary," July 2016.

Iran grows four major commercial varieties of pistachios: Akbari, Kalleh Ghnoochi, Ahmad Aghaei, and Ohadi. Other important varieties include Badami, Zarand, Momtaz, Khanjari of Damghan, Shah Passand, Sefid Poost of Noogh, and Ghzvini. *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review),* USITC Publication 3824, December 2005, p. IV-5. (National 4th Plan for Economic, Social, and Political Development, First Volume–Pistachio, Bahman 1381 (January-February 2002), Iranian Ministry of Agriculture, p. 8.)

[17] Iranian Pistachio Association, "National Crop Estimate," November 2016.

[18] Iranian Pistachio Association, "The Iranian Pistachio Industry," September 21, 2013. http://iranpistachio.org/en/the-industry

[19] Arman Pergah, post hearing brief, May 8, 2017, p. 21.

[20] Arman Pergah, post hearing brief, May 8, 2017, p. 21.

[21] *Response of Nima to Notice of Institution*, May 1, 2016, p. 12.

[22] *Response of Nima to Notice of Institution*, May 1, 2016, p. 12.

[23] Arman Pergah, post hearing brief, May 8, 2017, p. 22.

[24] G. Topolansky Barbe, Federico, Magdalena M. Gonzalez Triay, and Mortaz Morad, "A Critical Analysis of the Competitiveness of the Iranian Pistachio Industry," International Journal of Business and Social Science, Vol. 2 No. 23, December 2011.

private companies,[25] and the Iranian industry is a fragmented industry made up of many small players.[26]

According to researchers, small, traditional-practice Iranian pistachio farms have pursued a cost-leadership strategy in markets with less demanding food safety requirements, including the Iranian domestic market, while large farm operations target demanding export markets by pursuing a differentiation strategy emphasizing quality.[27] At the farm level, the main constraints on the Iranian pistachio industry have been characterized as poor water quality and water scarcity, lack of focus on targeted research (both at the farm level and for marketing), and low education levels of the majority of farmers.[28]

Exports

Iran and the United States are the world's leading exporters of pistachios, in recent years trading places for first and second place.[29] Iranian pistachios are the country's top agricultural export and have typically ranked third in all export products, following oil and carpets. Iran typically exports anywhere from 50 percent to 80 percent of its crop, depending on its size. Iran's main export markets in 2016 were Hong Kong/China, Vietnam, the EU, and the United Arab Emirates.[30] In its response to the Commission's notice of institution, the Iran Pistachio Association ("IPA") reported that no exports of raw in shell pistachios to the United States had been reported by the Customs Authority of Iran in either crop year 2009/10 or 2014/15.[31]

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[25] G. Topolansky Barbe, Federico, Magdalena M. Gonzalez Triay, and Mortaz Morad, "A Critical Analysis of the Competitiveness of the Iranian Pistachio Industry," International Journal of Business and Social Science, Vol. 2 No. 23, December 2011.

[26] Arman Pergah, post hearing brief, p. 22.

[27] G. Topolansky Barbe, Federico, Magdalena M. Gonzalez Triay, and Mortaz Morad, "A Critical Analysis of the Competitiveness of the Iranian Pistachio Industry," International Journal of Business and Social Science, Vol. 2 No. 23, December 2011.

[28] G. Topolansky Barbe, Federico, Magdalena M. Gonzalez Triay, and Mortaz Morad, "A Critical Analysis of the Competitiveness of the Iranian Pistachio Industry," International Journal of Business and Social Science, Vol. 2 No. 23, December 2011.

[29] GTIS, Global Trade Atlas database (accessed March 15, 2017).

[30] The United Arab Emirates ("UAE") is a large importer of Iranian pistachios; however, the UAE engages in packaging and distribution operations and re-exports Iranian pistachios to global markets. *Raw In-Shell Pistachios from Iran, Inv. No. 731-TA-287 (Review),* USITC Publication 3824, December 2005, p. IV-6.

[31] *Response of IPA to Notice of Institution*, May 2, 2016, p. 1; WP&A and APG reported that the following companies may have exported either raw or roasted pistachios to the United States at some point after crop year 2005 based on their participation in Commerce's administrative or new shipper reviews in connection with the countervailing duty order on pistachios from Iran: (1) Tehran Negah Nima Trading Company Inc. (exporter); (2) Maghsoudi Farms (producer); (3) Razi Domghan Agricultural and Animal Husbandry Company (producer); (4) Rafsanjan Pistachio Producers Cooperative (producer); (5) Negarestan Mehr Rezvan Cooperative; and (6) Ahmadi's Agricultural Production, Processing and

(*continued*...)

Table IV-4 presents data on Iran's exports of pistachios in calendar years 2012–16.

Table IV-4
Pistachios: Iranian exports, by major markets, 2012-2016

Country	2012	2013	2014	2015	2016
	Quantity (1,000 lbs)				
Hong Kong	81,554	71,263	121,892	77,418	69,297
Vietnam	11,639	16,389	37,946	29,122	47,086
EU 28	26,596	19,825	20,082	26,031	26,633
United Arab Emirates	36,499	26,260	30,199	26,539	20,874
Kazakhstan	5,593	14,605	25,790	5,755	11,488
Iraq	13,307	11,587	9,528	9,556	10,841
Pakistan	6,243	2,969	6,008	3,837	9,344
Turkey	4,977	8,052	18,929	7,978	9,072
India	4,921	4,814	6,413	6,177	8,928
Afghanistan	2,645	4,423	2,425	427	4,057
Other	59,218	33,949	28,589	20,756	23,015
Total	253,193	214,137	307,800	213,597	240,635
	Value ($1,000)				
Hong Kong	276,370	249,402	437,780	281,022	259,131
Vietnam	37,640	56,903	134,669	105,399	171,164
EU 28	122,808	74,500	74,994	96,586	100,475
United Arab Emirates	142,828	100,164	114,875	101,199	82,844
Kazakhstan	19,908	53,782	95,014	21,760	43,911
Iraq	58,119	45,933	38,686	40,072	45,389
Pakistan	25,727	11,023	23,150	14,427	36,553
Turkey	18,121	30,460	72,463	29,991	35,773
India	25,908	19,023	24,541	24,283	34,720
Afghanistan	9,258	16,395	9,258	1,624	15,571
Other	226,694	128,673	110,018	80,282	92,533
Total	963,381	786,258	1,135,447	796,645	918,063

Source: GTIS, Global Trade Atlas (accessed March 15, 2017), HTS 0802.50 and 0802.51.

(…*continued*)
Trade Complex (producer). *Response of WP&A to Notice of Institution*, April 29, 2016, p. 4; *Response of APG to Notice of Institution*, May 2, 2016, p. 26.

Ending stocks

According to data published by the USDA, ending stocks of pistachios in Iran increased from 11.0 million pounds in crop year ("CY") 2011/12 to 35.3 million pounds in CY2012/13 before declining to 22.0 million pounds in CY2013/14 and to 11.0 million pounds in CY2014/15 and CY2015/16 (table IV-5). Ending stocks of pistachios accounted for 3.1 percent of pistachio production in Iran during CY2011/12, 8.7 percent in CY2012/13, 5.9 percent in CY2013/14, 2.2 percent in CY2014/15 and 2.4 percent in CY2015/16.

The domestic interested parties explained that in the United States, pistachios are carried out from a season in which the harvest is high into a low harvest season and that this business strategy is critical to maintaining the stability of the pistachio supply and pricing. However, they testified that "Iranian processors do not use the carry-out and carry-in process as a business strategy, unlike domestic processors. That means that a high harvest in Iran will not lead to more than a minimum carry-out. Rather, it means Iranian processors and exporters will sell their entire supply during the crop year, leaving only the bare minimum carry-out."[32]

Food safety concerns

Owing to food safety concerns, many countries set limits on the maximum allowable limit of aflatoxin allowed in food to protect consumers. Aflatoxin limits vary by country and can change over time. The Codex Alimentarius, an international standard setting body for food and agricultural products, has set limits for aflatoxin to be applied to commodities in international trade. Codex has set limits for aflatoxin in pistachios of 10 ppb (pistachios "ready to eat") and 15 ppb (pistachios for further processing).[33] Codex has also set recommended sampling and testing methods for aflatoxin in pistachios.[34] Since 2010, the EU has set limits of 10 ppb ("intended for direct human consumption") and 15 ppb ("to be subjected to sorting, or other physical treatment, before human consumption or use as an ingredient in foodstuffs") for pistachios.[35] In the EU, in-scope product is classified under the former category.[36] The limit on

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[32] Hearing transcript, p. 49 (Hohmann).

[33] Codex Alimentarius, "General Standard for Contaminants and Toxins in Food and Feed (CODEX STAN 193-1995)," amended 2015.

[34] Codex Alimentarius, "General Standard for Contaminants and Toxins in Food and Feed (CODEX STAN 193-1995)," amended 2015.

[35] Official Journal of the EU, Commission Regulation (EU) No 165/2010, "Amending Regulation (EC) No 1881/2006 setting maximum levels for certain contaminants in foodstuffs as regards aflatoxins," 26 February 2010.

[36] The "physical treatment" referred to for the EU 15 ppb limit refers to a treatment proven to reduce the levels of aflatoxins. EU purchasers do not typically engage in any such treatments before roasting in-scope product. (Roasting and/or salting does not reduce or eliminate aflatoxin). Therefore, "EU purchasers have aligned their specifications for in-scope pistachios to exactly match the 10 ppb aflatoxin specifications required by the regulations." Petitioner email correspondence with Commission staff, May 15, 2017. In addition, Respondents note that in the EU "the subject product is generally considered as

(*continued*...)

aflatoxin in pistachios in the United States (both domestically produced and imported) is 15 ppb.[37] In China, another significant pistachio importer, the aflatoxin limit is set at 5 ppb.[38]

Aflatoxin limits as well as overall levels of testing and sampling method at a country border contribute to the strictness of a country's food safety standards for imported foods, including pistachios. Until recently, 100 percent of Iranian pistachio shipments to the EU were tested for aflatoxin. In 2014, the EU reduced its required testing to 50 percent of imported lots.[39] Today, 100 percent of imported lots of pistachios into the United States are sampled.[40] Reportedly, despite the fact that China's aflatoxin allowable limit for pistachios is low relative to Codex and other country standards (indicating a higher standard), the rate of overall testing of pistachio imports is very low.[41]

Elevated aflatoxin levels have affected Iranian pistachio exports to certain markets as traditional production methods can increase the risks of aflatoxin contamination. Although some modern pistachio processing exists in Iran, including mechanical air drying of the nuts, most pistachio orchards are still harvested by hand and air dried. Hand harvesting techniques that involve kernels coming in contact with the orchard floor, the delay in harvesting ripe pistachios, and open air exposure for prolonged periods during air drying all play a central role in increasing the chances for growth of the aspergillus fungus which causes aflatoxin. However, pistachios produced using modern production practices can be affected by aflatoxin as well. In 2014, an increase in EU notifications of U.S. shipments of pistachios with elevated levels of aflatoxin were reported. U.S. industry participants attributed the increased levels of aflatoxin in that period to higher levels of insect damage in the 2013 U.S. crop (shipped in 2014).[42]

Aflatoxin levels of Iranian pistachios have also affected Iranian exports to the EU. In 1997, the EU suspended imports of pistachios from Iran for three months after detecting levels of aflatoxin contamination 200 times above normal levels.[43] In response, Iran began to separate and give special treatment to pistachios destined for export to the EU. The Chamber of

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(…*continued*)
'product intended for direct consumption' and is therefore subject to the 10 ppb threshold." However, Respondents also note that in the EU an uncertainty factor of +/- 40 percent applies to the aflatoxin threshold. This "expended measurement uncertainty" means that "a lot tested against the 10 ppb threshold shall range between 6 and 14 ppb to be considered compliant. Thus, for those lots tested against the 10 ppb threshold, any of them reaching up to 14 ppb of aflatoxin is accepted at EU point of entry." Respondent email correspondence with Commission staff, May 12, 2017.

[37] USDA, Agricultural Marketing Service, "Importing Pistachios," no date.

[38] Hearing transcript, p. 76 (Hohmann).

[39] Arman Pergah, post hearing brief, May 8, 2017, p. 43.

[40] Arman Pergah, email communication with Commission staff, May 12, 2017.

[41] Hearing transcript, p. 76 (Hohmann) and p. 143 (Ketabi).

[42] Administrative Committee for Pistachios, written communication with USDA, AMS, March 11, 2015.

[43] EU decision 97/830/EC requires EU authorities to sample and analyze all consignments of pistachio products from Iran for aflatoxin B1 and total aflatoxin. Consignments with aflatoxin values exceeding the EU tolerance levels are not allowed entry into the EU market. *Raw In-Shell Pistachios from Iran*, Inv. No. 731-TA-287 (Review), USITC Publication 3824, December 2005, p. IV-12.

Commerce in the southern province of Kerman established a so-called "green corridor" to provide greater inspection and oversight of pistachios for export.[44] In June 2004, the EU again warned Iran that imports of pistachios would be banned, and gave Iran six months to reduce from 16 percent to 10 percent the quantity of consignments rejected by the EU for aflatoxin contamination. [45] According to the Iranian Ministry of Agriculture, in 2004 Iran embarked on a comprehensive program to improve pistachio research, production, harvesting, storage, processing, and transportation with a goal of reducing aflatoxin levels and improving product quality and production yields.[46] Despite these efforts, in 2011 the EU Commission reported that 20 percent of 2009 Iranian pistachio shipments to the EU were not in compliance with EU aflatoxin limits.[47] Observers have noted that the dominance in the Iranian industry of a large number of small farmers makes it more difficult to coordinate an adequate response to new aflatoxin standards and testing.[48]

Sanctions on exports from Iran

The United States first imposed sanctions on Iran in 1979 during the Iran Hostage Crisis. In 1984, the United States imposed additional sanctions after the bombing of a U.S. Marine base in Beirut and designated Iran a state sponsor of terrorism. This designation, which remains in place, triggered multiple sanctions by virtue of preexisting U.S. law. In an effort to reduce human rights violations, the United States also began imposing sanctions on Iran and foreign persons or entities who engaged in transactions with Iran. In 2002, the United States, United Nations ("UN") and the EU began to act together to impose multiple sanctions on Iran for its nuclear program. Previously, the EU and other countries appeared less concerned than the United States about Iranian policies and were reluctant to sanction Iran.

Iran eventually agreed to restrictions on and inspections of its nuclear program, which prompted the easing of nuclear-related sanctions. On July 14, 2015, Iran and the P5+1 (the five permanent members of the UN Security Council and Germany) reached a Joint Comprehensive Plan of Action ("JCPOA"), which provided Iran broad relief from many of the nuclear-related

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[44] *Raw In-Shell Pistachios from Iran*, Inv. No. 731-TA-287 (Review), USITC Publication 3824, December 2005, p. IV-12.

[45] *Raw In-Shell Pistachios from Iran*, Inv. No. 731-TA-287 (Review), USITC Publication 3824, December 2005, p. IV-12.

[46] *Raw In-Shell Pistachios from Iran*, Inv. No. 731-TA-287 (Review), USITC Publication 3824, December 2005, p. IV-12. Mehr News Agency, "Iran to keep exporting pistachio under Green Corridor Project," September 2, 2007. http://en.mehrnews.com/news/24765/Iran-to-keep-exporting-pistachio-under-Green-Corridor-Project (accessed March 20, 2017).

[47] European Commission, Health and Consumers Directorate-General, "Final Report," Ref. Ares (2011) 124402, April 2, 2011. www.ec.europa.eu/food/fvo/act_getPDF.cfm?PDF_ID=8699 (accessed March 20, 2017)

[48] G. Topolansky Barbe, Federico, Magdalena M. Gonzalez Triay, and Mortaz Morad, "A Critical Analysis of the Competitiveness of the Iranian Pistachio Industry," International Journal of Business and Social Science, Vol. 2 No. 23, December 2011.

sanctions. On January 16, 2016 ("Implementation Day"), upon certification that Iran had complied with the stipulated nuclear dismantlement commitments, U.S. waivers of relevant sanctions took effect, relevant Executive Orders ("E.O.s") were revoked, and corresponding UN and EU sanctions were lifted.[49]

Not all sanctions were lifted on Iran on Implementation Day. U.S. sanctions triggered by Iran's designation as a state sponsor of terrorism remain in place, as do sanctions designed to discourage Iran's support for terrorism, its human rights abuses, its interference in specified countries in the region, and its missile and advanced (nonnuclear) weapons programs. A general ban on U.S. trade with, and investment in Iran, including regulations barring transactions between U.S. and Iranian banks, also remains in place.[50]

Financial and banking sanctions have been implemented primarily by the U.S. Department of Treasury through the Iran Transaction Regulations. U.S. banks are prohibited from dealing directly with Iranian banks. They may send funds to Iran for permitted transactions, but such funds must be channeled through an intermediary financial institution such as a European bank.[51] Additionally, U.S. banks are prohibited from dealing with any foreign bank that has facilitated or transacted business with sanctioned entities.[52]

The sanctions that were lifted by the JCPOA could be reimposed. The JCPOA contains a mechanism for the "snapback" of UN sanctions if Iran does not satisfactorily resolve a compliance dispute. Additionally, the president of the United States could unilaterally decide to abrogate the JCPOA, reimpose Executive Orders that were revoked, and terminate waivers that were issued to implement the JCPOA.

Following is a list of sanctions which remain in place after Implementation Day.
U.S. sanctions triggered by Iran's designation as a state sponsor of terrorism:

- Foreign Assistance Act – Bars any U.S. foreign assistance to terrorism list countries. U.S. foreign assistance is defined to include government loans, credits, credit insurance, and Export-Import Bank loan guarantees. The President is required to withhold foreign aid from any country that aids or sells arms to a terrorism list country. Makes it a crime for a U.S. person to conduct financial transactions with terrorism list governments. Requires that Iran is unable to benefit from U.S. contributions to international organizations and mandates proportionate cuts if these institutions work in Iran.
- Arms Export Control Act – Bars any U.S. foreign assistance to terrorism list countries. U.S. foreign assistance is defined to include government loans, credits, credit insurance, and Export-Import Bank loan guarantees.

[49] Kennth Katzman, Congressional Research Service, RS20871, Iran Sanctions at Summary (2017).
[50] Katzman, Iran Sanctions at Summary.
[51] Katzman, Iran Sanctions at 27-28.
[52] Katzman, Iran Sanctions at 29.

- International Emergency Economic Powers Act – Restricts sales of U.S. dual use items to Iran.
- International Financial Institutions Act, Section 1621 – Mandates U.S. officials to vote against multilateral lending to any terrorism list country.

Other U.S. sanctions:

- E.O.12959 – Bans U.S. trade with and investment in Iran. Somewhat relaxed by JCPOA to allow importation of certain goods, *i.e.* pistachios, but does not permit general trade in goods. Oil transactions, transshipment, brokering of commercial transactions involving Iran, shipping insurance, and official credit guarantees are still banned.
- E.O. 13059 – Prohibits U.S. companies from knowingly exporting goods to a third country for incorporation into products destined for Iran.
- E.O. 13224 – Mandates the freezing of U.S. based assets of and a ban on U.S. transactions with Iran entities determined to be supporting international terrorism.
- E.O. 13382 – Blocks assets of proliferators of weapons of mass destruction and their supporters.
- E.O. 13438 – Sanctions persons who pose a threat to Iraqi stability, presumably by providing arms or funds to Shiite militias. Iran nationals and organizations are sanctioned under this order.
- E.O. 13553 – Provides for sanctions against Iranians determined to be responsible for or complicit in post-2009 Iran election human rights abuses.
- E.O. 13572 – Sanctions persons determined to be responsible for human rights abuses and repression of the Syrian people. Iran nationals and organizations are sanctioned under this order.
- E.O. 13599 – Directs the blocking of U.S.-based assets of entities determined to be "owned or controlled by the Iranian government." U.S. persons and firms are prohibited from doing business with entities sanctioned under this order.
- E.O. 13606 – Sanctions persons and entities who operate or sell technology used for censorship in Iran. The order bans trade with any such person or entity.
- International Emergency Economic Powers Act of 1977 (IEEPA)— Provides authority for the president to deal with "any unusual and extraordinary threat." Most of the E.O.s listed above were issued pursuant to this statute.
- Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) – Codified the ban set forth in E.O.12959. Closed prior exceptions for Iranian caviar, carpets, and pistachios. Certain trade-related provisions have since been relaxed by JCPOA. Banking-related provisions remain in force including a ban on U.S. banks from opening new correspondent or payable-through accounts for: any foreign bank

determined to have facilitated Iran's efforts to acquire WMD, any foreign bank that facilitates the activities of an entity designed under the U.N. Security Council resolutions that sanction Iran, any foreign bank that transacts business with any entity sanctioned by the U.S., and any foreign bank that does business with Iran's energy, shipping, and shipbuilding sectors. Bans the travel and freezes the U.S.-based assets of Iranians determined to be human rights abusers.

- Iran Sanctions Act – Bans visa and blocks U.S. property of any person or company that sells goods or technologies to the Iranian government that could be used to commit human rights abuses.
- USA Patriot Act – Imposes additional requirements on U.S. banks to ensure against improper Iranian access to the U.S. financial system.
- Iran Freedom Support Act – Sanctions firms or persons determined to have sold weapons or related technologies to Iran.
- Iran Freedom and Counter-Proliferation Act – Sanctions Iran's energy, shipbuilding, and shipping sectors for helping Iran acquire certain items; these sanctions were partially waived by JCPOA. Not waived are sanctions against persons determined to have engaged in corruption or to have diverted or misappropriated humanitarian goods or funds for such goods.
- Iran-Iraq Arms Nonproliferation Act – Imposes sanctions on foreign entities that supply Iran with WMD technology or "destabilizing numbers and types of advanced conventional weapons." Sanctions take the form of a ban on government procurement, licensing U.S. exports to that entity, authority to ban U.S. imports from that entity, authority to deny a country most-favored nation trade status and to ban U.S. trade with that country.
- Iran-North Korea-Syria Nonproliferation Act – Authorizes sanctions against persons and corporations determined to have assisted Iran's WMD programs. Sanctions include a ban of imports to the United States from that person or corporation.
- Immigration and Nationality Act – Bars entry into the U.S. of Iranian persons whose activities could have serious consequences for the United States.
- Iran Transactions Regulations – Enforced by the U.S. Treasury Department. Remain fully in place and are not affected by JCPOA. U.S. funds that are sent to Iran for permitted transactions cannot be directly transferred to an Iranian bank but must be channeled through an intermediary financial institution. U-turn transactions are barred.[53] Prohibits financing for sales to Iran of equipment used to communicate (i.e. cellphones,

[53] U-turn transactions are those with non-Iranian foreign banks that handle such transactions on behalf of an Iranian bank.

laptops, satellite internet, website hosting, and related products and services); such sales may only take place on a cash basis.

U.N. sanctions

- Resolution 2231—Endorsed the JCPOA and superseded all prior "nuclear related" Iran-related resolutions.[54] Sets forth limits on activities of member nations when conducting nuclear related transactions and activities with Iran. Requires member nations to freeze funds, financial assets, and economic resources of specific Iran entities.

EU sanctions:

- Retains an embargo on sales to Iran of arms, missile technology, other proliferation-sensitive items, and gear for internal repression.
- Lists individual entities and persons ineligible to visit EU countries and whose assets have been frozen due to human rights violations.[55]

ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

The Commission asked questionnaire recipients to identify whether the pistachios subject to this proceeding have been the subject of any other import relief proceedings in any other countries. No firms participating in this proceeding have identified any other import relief proceedings or orders in any other countries with regard to pistachios.

THE GLOBAL MARKET

Pistachio producing countries

Pistachios are produced commercially in over 15 countries on over one million acres. Global production has almost tripled since the late 1980s, and today the United States and Iran typically account for over half of global production.[56] Historically the top four global producers of pistachios have been Iran, the United States, Turkey, and Syria. Although Turkey and Syria produce large volumes of pistachios, the vast majority of their production is consumed domestically. USDA collects data on several large pistachio producers and consumers.

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[54] Prior Iran-related resolutions are U.N. Resolutions 1737, 1747, 1803, and 1929.

[55] Kennth Katzman, Congressional Research Service, RS20871, Iran Sanctions.

[56] A short winter and extremely dry weather conditions in California resulted in extremely low U.S. production in crop year 2015/16.

Table IV-5 presents data for production, imports, exports, and ending stocks for selected countries.

Table IV-5
Pistachios: Production, imports, changes in inventory, and exports, by selected sources, crop years 2011/12–2015/16

Item	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
			Quantity (1,000 lbs)		
Iran:					
Production	352,740	403,446	374,786	507,063	462,971
Imports	0	0	0	0	0
Exports	253,752	266,759	304,458	422,626	418,878
Ending stocks	11,023	35,274	22,046	11,023	11,023
Turkey:					
Production	110,231	257,941	110,231	187,393	286,601
Imports	9,480	9,094	29,873	38,471	22,046
Exports	3,638	18,078	4,409	5,952	18,739
Ending stocks	43,034	86,906	20,547	11,023	18,739
United States:					
Production	444,000	550,999	469,999	514,001	270,000
Imports	2,154	2,996	1,356	2,293	2,866
Exports	345,303	367,984	391,294	303,307	176,370
Ending stocks	90,665	109,116	77,113	164,912	129,131
Syria:					
Production	123,459	125,663	119,050	119,050	119,050
Imports	6,614	661	1,102	1,213	882
Exports	3,307	7,055	10,803	1,102	882
Ending stocks	([1])	([1])	([1])	([1])	([1])
EU:					
Production	27,999	28,440	28,660	28,660	28,660
Imports	127,262	142,584	163,252	157,630	154,324
Exports	2,646	3,527	2,866	2,976	2,866
Ending stocks	3,307	3,307	3,307	3,307	3,307

[1] Not available.

Source: USDA, FAS, PSD database (accessed March 16, 2017).

Global export sources

Table IV-6 presents the largest global export sources of pistachios during 2012–16. Since Hong Kong is not a pistachio producer, its reported export data likely represent transshipments.

Table IV-6
Pistachios: Global exports by major sources, 2012–16

Country	2012	2013	2014	2015	2016
Quantity (1,000 lbs)					
United States	286,876	283,299	234,541	167,572	291,853
Iran	253,193	214,137	307,800	213,597	240,635
Hong Kong[1]	137,662	132,807	140,521	108,151	179,080
Turkey	1,462	3,410	113	1,194	1,976
China	19,544	7,787	1,710	1,266	1,608
Australia	955	623	476	683	1,605
Value ($1,000)					
United States	893,049	1,053,233	946,142	714,796	1,037,074
Iran	963,381	786,258	1,135,447	796,645	918,063
Hong Kong[1]	325,711	334,048	360,909	264,029	392,284
Turkey	4,796	11,256	614	4,517	6,420
China	31,392	22,671	5,258	3,342	4,363
Australia	1,315	968	562	2,403	5,432

[1] Hong Kong is not a producer of pistachios; its exports are re-exports of U.S. and Iranian pistachios mainly to China.

Source: GTIS, Global Trade Atlas (accessed March 15, 2017), HTS 0802.50 and 0802.51.

Third country markets

Table IV-7 presents imports of pistachios into the European market, by primary sources, as reported by Eurostat. These data show that the United States accounted for the largest share of the EU's imports of pistachios during 2012-16, accounting for between 72.8 and 76.5 percent of the EU's total imports of pistachios during 2012-15 and 64.9 percent during 2016. Iran was the EU's second largest source for pistachios during 2012-16, accounting for between 22.9 and 25.9 percent of the EU's total imports of pistachios during 2012-15 and 34.7 percent in 2016.

Table IV-7
Pistachios: EU imports by major sources, 2012–16

Country	2012	2013	2014	2015	2016
Quantity (1,000 lbs)					
United States	85,599	92,572	108,533	115,524	78,822
Iran	30,153	32,498	32,538	37,091	42,099
Turkey	152	1,043	340	150	254
Other	461	1,118	540	644	304
Total	116,364	127,231	141,951	153,408	121,479
Value ($1,000)					
United States	318,268	375,547	480,262	484,883	384,196
Iran	105,968	138,569	148,691	162,560	176,608
Turkey	1,000	3,220	1,714	782	967
Other	1,575	4,384	1,826	2,692	1,166
Total	426,811	521,721	632,493	650,917	562,937
Unit value (dollars per pound)					
United States	3.72	4.06	4.43	4.20	4.87
Iran	3.51	4.26	4.57	4.38	4.20
Turkey	6.57	3.09	5.05	5.21	3.82
Other	3.42	3.92	3.38	4.18	3.83
Total	3.67	4.10	4.46	4.24	4.63
Share of quantity (percent)					
United States	73.6	72.8	76.5	75.3	64.9
Iran	25.9	25.5	22.9	24.2	34.7
Turkey	0.1	0.8	0.2	0.1	0.2
Other	0.4	0.9	0.4	0.4	0.3
Total	100.0	100.0	100.0	100.0	100.0

Source: GTIS, Global Trade Atlas (sourced from Eurostat), HTS 0802.50 and 0802.51, accessed May 15, 2017.

Table IV-8 presents imports of pistachios into the Chinese market, by primary export sources, as reported by China Customs. These data show that although the United States accounted for the largest share of China's imports of pistachios during 2012-16, the quantity of imports from the United States declined from 2012 to 2015 before increasing in 2016. The United States accounted for between 55.5 and 88.2 percent of China's total imports of pistachios during 2012-16. Iran was China's second largest source for pistachios, accounting for between 9.8 and 41.9 percent of China's total imports of pistachios during 2012-16.

Table IV-8
Pistachios: Chinese imports by major sources, 2012–16

Country	2012	2013	2014	2015	2016
Quantity (1,000 lbs)					
United States	46,605	24,678	14,483	12,765	30,675
Iran	11,346	2,753	5,528	9,642	6,304
Australia	833	494	531	476	550
Other	58	54	11	123	13
Total	58,841	27,980	20,554	23,006	37,543
Value ($1,000)					
United States	99,259	69,518	45,432	39,356	95,693
Iran	33,164	8,517	16,826	33,127	19,952
Australia	733	765	829	742	859
Other	129	77	82	353	53
Total	133,284	78,877	63,169	73,578	116,556
Unit value (dollars per pound)					
United States	2.13	2.82	3.14	3.08	3.12
Iran	2.92	3.09	3.04	3.44	3.16
Australia	0.88	1.55	1.56	1.56	1.56
Other	2.24	1.43	7.21	2.86	4.05
Total	2.27	2.82	3.07	3.20	3.10
Share of quantity (percent)					
United States	79.2	88.2	70.5	55.5	81.7
Iran	19.3	9.8	26.9	41.9	16.8
Australia	1.4	1.8	2.6	2.1	1.5
Other	0.1	0.2	0.1	0.5	0.0
Total	100.0	100.0	100.0	100.0	100.0

Source: GTIS, Global Trade Atlas (sourced from China Customs), HTS 0802.50 and 0802.51, accessed May 15, 2017.

PART V: PRICING DATA

FACTORS AFFECTING PRICES

Raw material costs

Prices for raw in-shell pistachios are determined by the cost of planting acreage, labor, and, to a lesser extent, drying/processing. (After drying, most raw in-shell pistachios are roasted, which adds an estimated 5 to 7 percent to the total cost of the pistachio.)[1] The ratio of raw materials to COGS remained mostly stable between *** percent in 2014 to *** percent in 2016.

Five of seven responding U.S. processors reported that raw material prices have increased since 2011. U.S. processor *** reported that drought conditions and unusually warm winters have caused smaller-than-expected yields of pistachios from California. However, four of six responding U.S. processors indicated that they expect raw material prices to decrease in the future. U.S. processors *** also reported that prices of raw materials peaked before the 2016 harvest. (*** cited a decrease in the supply of pistachios as the reason for the increase in raw material prices from 2011 to 2016, and the expected increase in pistachio supply as the reason for the expected decrease in raw material prices). U.S. processor *** indicated that water supply and temperature improvements will have a positive effect on the pistachio harvest.

U.S. inland transportation costs

Five of eight responding U.S. processors reported that they typically arrange transportation to their customers. Four responding U.S. processors reported that their U.S. inland transportation costs ranged from 1 to 3 percent.

PRICING PRACTICES

Pricing methods

The majority of U.S. processors reported using transaction-by-transaction negotiations and contracts (table V-1) to determine prices. Three U.S. processors (***) reported setting prices based on current market or spot prices with *** indicating that it used a broker to determine the current price.

[1] *Raw In-Shell Pistachio Nuts from Iran*, Inv. No. 731-TA-287 (Review), USITC Publication 3824 (December 2005), p. V-1.

Table V-1
Pistachios: U.S. processors' reported price setting methods, by number of responding firms[1]

Method	U.S. processors
Transaction-by-transaction	4
Contract	5
Set price list	0
Other	2
Total	6

[1] The sum of responses down may not add up to the total number of responding firms as each firm was instructed to check all applicable price setting methods employed.

Source: Compiled from data submitted in response to Commission questionnaires.

U.S. processors reported selling the vast majority under annual and short-term contracts (table V-2). U.S. processors indicated that short-term contracts typically last for 30 to 240 days. For both annual and short-term contracts, U.S. processors reported that U.S. processors generally set the price to the end users, prices are not renegotiated, and contracts have fixed prices and quantities. Approximately half of the responding U.S. processors indicated having meet-or-release clauses in contracts, while half did not have meet-or-release clauses.[2]

Table V-2
Pistachios: U.S. processors' shares of U.S. commercial shipments by type of sale, 2016

Type of sale	Share of commercial U.S. shipments (percent)
	U.S. processors
Long-term contract	***
Annual contract	***
Short-term contract	***
Spot sales	***
Total	100.0

Note.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from data submitted in response to Commission questionnaires.

Four purchasers reported that they purchase pistachios annually, two reported purchasing monthly, and one purchases as needed. Eleven purchasers did not expect their purchasing frequency to change over the next two years. Purchaser *** reported that its purchasing strategy depends on the crop year's supply and demand and that it expected purchasing patterns to change over the next two years. Purchasers reported typically contacting 1 to 6 suppliers before making a purchase.

[2] Commercial Arman Pegah stated that U.S. product is sold under annual or long-term contracts while Iranian product is generally only sold in spot sales. Hearing transcript, p. 147 (Ketabi).

Eight of 11 responding purchasers indicated that their purchases usually involved negotiations between supplier and purchaser, and sometimes these purchasers did quote competing prices. Nine of 11 responding purchasers stated that they had not changed suppliers since January 1, 2011.

Sales terms and discounts

U.S. processors typically quote prices on an f.o.b. basis. U.S. processors reported typically not offering discounts.[3] U.S. processors generally reported sales terms of net 30 days.

Price leadership

Seven U.S. purchasers reported that U.S. processor Wonderful is a price leader due to Wonderful being the largest processor. The remaining purchasers did not respond or indicated that there was no price leader.

PRICE DATA

The Commission requested U.S. processors and importers to provide quarterly data for the total quantity and f.o.b. value of the following pistachios products shipped to unrelated U.S. customers during 2014-16.

***Product 1*.-- Raw in-shell pistachios, open in-shell, grade very large (sizes 18/20 and 20/22)**

***Product 2*.-- Raw in-shell pistachios, open in-shell, grade large (sizes 22/24, 24/26, and 21/25)**

***Product 3*.-- Raw in-shell pistachios, open in-shell, grade medium (sizes 26/28, 28/30, and 26/30)**

***Product 4*.-- Raw in-shell pistachios, open in-shell, grade small (sizes 30/32, 32/34, and other)**

[3] U.S. processor *** reported offering a discount but did not elaborate on the terms of the discount.

Three U.S. processors[4] provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[5] Pricing data reported by these firms accounted for approximately 32.2 percent of U.S. processors' commercial shipments of raw in-shell pistachios in 2016 with pricing product 1 accounting for 13.8 percent of U.S. commercial shipments and pricing product 2 accounting for 18.4 percent. U.S. importers did not submit pricing data for any pricing product and U.S. processors did not submit pricing data for pricing product 4. Petitioners indicated that large (21/25) is the predominant size in the U.S. market, with smaller sizes being less common.[6]

Price data for products 1-3 are presented in table V-3 and figures V-1 to V-3.

Table V-3
Pistachios: Weighted-average f.o.b. prices and quantities of domestic product, by quarters, January 2014-December 2016

* * * * * * *

Figure V-1
Pistachios: Weighted-average prices and quantities of domestic product 1, by quarters, January 2014--December 2016

* * * * * * *

Figure V-2
Pistachios: Weighted-average prices and quantities of domestic product 2, by quarters, January 2014-December 2016

* * * * * * *

Figure V-3
Pistachios: Weighted-average prices and quantities of domestic product 3, by quarters, January 2009-December 2016

* * * * * * *

[4] *** reported pricing product data in excess of U.S. commercial shipments and were not included in part V.

[5] Per-unit pricing data are calculated from total quantity and total value data provided by U.S. processors. The precision and variation of these figures may be affected by rounding, limited quantities, and processor estimates.

[6] Hearing transcript, pp. 98-99 (Klett and Cohen). Additionally, petitioners described the prices of different-sized pistachios as generally moving in tandem with each other because pistachio trees tend to provide the same proportion of larger and smaller nuts. Hearing transcript, pp. 122-123 (Hohman). See also posthearing brief of Wonderful, answers to questions of Commissioner Broadbent, p. 41.

Price trends

U.S. processors reported different trends for pricing product 1 and pricing product 2 (table V-4). U.S. processors reported a ***-percent increase in prices for product 1 whereas U.S. processors reported a ***-percent decrease in prices for product 2. Prices reported for product 1 peaked in the first quarter of 2016, and prices reported for product 2 peaked in the second quarter of 2016.

Table V-4
Pistachios: Summary of weighted-average f.o.b. prices for products 1-3 from the United States

Item	Number of quarters	Low price (dollars per pound)	High price (dollars per pound)	Change in price[1] (percent)
Product 1:	12	***	***	***
Product 2:	12	***	***	***
Product 3:	***	***	***	---

[1] Percentage change from the first quarter in which data were available to the last quarter in which price data were available.

Source: Compiled from data submitted in response to Commission questionnaires.

Parties disagreed over what price comparisons in other countries showed. Petitioners characterized prices of Iranian product as lower than prices of U.S. product in Europe and China in 2016 and 2017, using trade data from Eurostat and advertisements on Alibaba.com.[7] Commercial Arman Pegah characterized Eurostat trade data as showing U.S. product underselling Iranian product in Europe in 2013-2015. However, it also stated that such data still did not capture differences in size and whether or not product met food standards.[8]

[7] See posthearing brief of Wonderful, p. 11 and exhibit 12; see also posthearing brief of American Pistacio Growers, response to written questions of staff, pp. 3-7 and exhibits 2-9.

[8] Posthearing brief of Commercial Arman Pegah, pp. 14-19 and annex 13.

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, *Federal Register* notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
81 FR 18829 April 1, 2016	*Initiation of Five-Year ("Sunset") Review*	https://www.gpo.gov/fdsys/pkg/FR-2016-04-01/pdf/2016-07452.pdf
81 FR 18882 April 1, 2016	*Raw In-Shell Pistachios From Iran; Institution of a Five-Year Review*	https://www.gpo.gov/fdsys/pkg/FR-2016-04-01/pdf/2016-07254.pdf
81 FR 45306 July 13, 2016	*Raw In-Shell Pistachios From Iran; Notice of Commission Determination To Conduct a Full Five-Year Review*	https://www.gpo.gov/fdsys/pkg/FR-2016-07-13/pdf/2016-16525.pdf
81 FR 51857 August 5, 2016	*Certain In-Shell (Raw) Pistachios From the Islamic Republic of Iran: Final Results of the Expedited Sunset Review of the Antidumping Duty Order*	https://www.gpo.gov/fdsys/pkg/FR-2016-08-05/pdf/2016-18673.pdf
81 FR 90867 December 15, 2016	*Raw-In-Shell Pistachios From Iran; Scheduling of a Full Five-Year Review*	https://www.gpo.gov/fdsys/pkg/FR-2016-12-15/pdf/2016-30155.pdf
82 FR 14031 March 16, 2017	*Raw-in-Shell Pistachios From Iran; Revised Schedule for Full Five-Year Review*	https://www.gpo.gov/fdsys/pkg/FR-2017-03-16/pdf/2017-05230.pdf
Note.–The press release announcing the Commission's determinations concerning adequacy and the conduct of a full or expedited review can be found at https://usitc.gov/press_room/news_release/2016/er0705ll626.htm. A summary of the Commission's votes concerning adequacy and the conduct of a full or expedited review can be found at https://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11843. The Commission's explanation of its determinations can be found at https://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11844.		

APPENDIX B

LIST OF HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Raw In-Shell Pistachios from Iran

Inv. No.: 731-TA-287 (Second Review)

Date and Time: April 27 - 9:30 a.m.

Session were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, SW, Washington, DC.

CONGRESSIONAL WITNESSES:

The Honorable Jim Costa, U.S. Representative, 16th District, California

The Honorable David G. Valadao, U.S. Representative, 21st District, California

OPENING REMARKS:

In Support of Continuation (**Warren E. Connelly**, Trade Pacific PLLC)
In Opposition to Continuation (**Marie Didierlaurent**, Didierlaurent Avocats)

In Support of the Continuation of the Antidumping Duty Order:

Adduci Mastriani & Schaumberg LLP
Washington, DC
on behalf of

American Pistachio Growers

Mia Cohen, Chief Operating Officer, Setton Farms, Inc.

Robert Keenan, President, Keenan Farms, Inc.

Richard Matoian, Executive Director, American Pistachio Growers

In Support of the Continuation of the
Antidumping Duty Order (continued):

Sharon Roden, Partner, Roden Farms and Chairman,
American Pistachio Growers

Jim Zion, Sales and Marketing Director, Arizona Nut Company

Daniel Klett, Principal, Capital Trade, Inc.

Will E. Leonard)
) – OF COUNSEL
John C. Steinberger)

Trade Pacific PLLC
Washington, DC
on behalf of

Wonderful Pistachios & Almonds LLC

Michael Hohmann, Executive Vice President and Chief
Financial Officer, Wonderful Pistachios & Almonds LLC

Andy Anzaldo, Senior Vice President of Grower Relations,
Wonderful Pistachios & Almonds LLC

Thomas Coleman, Owner, Coleman Land Co., LLC

Larry Wilkinson, President, J. Poonian Limited Partnership

Warren E. Connelly) – OF COUNSEL

In Opposition of the Continuation of the Antidumping Duty Order:

Didierlaurent Avocats
Geneva, Switzerland
on behalf of

Commercial Arman Pegah Co.

Hossein Denis Ketabi, President of the Board, Commercial Arman Pegah Co.

Marie Didierlaurent)
) – OF COUNSEL
Alexandre Schober)

REBUTTAL/CLOSING REMARKS:

In Support of Continuation of Order **(Will E. Leonard** and **John C. Steinberger**, Adduci Mastriani & Schaumberg LLP)
In Opposition to Continuation of Order **(Marie Didierlaurent**, Didierlaurent Avocats)

-END-

APPENDIX C

SUMMARY DATA

Table C-1
Pistachios: Summary data concerning the U.S. market, 2014-16

(Quantity=1,000 pounds; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per pound; Period changes=percent--exceptions noted)

	Reported data			Period changes		
	2014	2015	2016	2014-16	2014-15	2015-16
U.S. consumption quantity:						
Amount	154,848	133,331	141,168	(8.8)	(13.9)	5.9
Producers' share (fn1)	99.8	99.6	99.6	(0.3)	(0.2)	(0.1)
Importers' share (fn1):						
Iran	0.0	0.0	0.0	0.0	0.0	0.0
Nonsubject sources	0.2	0.4	0.4	0.3	0.2	0.1
All import sources	0.2	0.4	0.4	0.3	0.2	0.1
U.S. consumption value:						
Amount	774,851	710,211	602,509	(22.2)	(8.3)	(15.2)
Producers' share (fn1)	99.9	99.7	99.6	(0.2)	(0.2)	(0.1)
Importers' share (fn1):						
Iran	0.0	0.0	0.0	0.0	0.0	0.0
Nonsubject sources	0.1	0.3	0.4	0.2	0.2	0.1
All import sources	0.1	0.3	0.4	0.2	0.2	0.1
U.S. imports from.--						
Iran						
Quantity	0	0	0	fn2	fn2	fn2
Value	0	0	0	fn2	fn2	fn2
Unit value	$0.00	$0.00	$0.00	fn2	fn2	fn2
Ending inventory quantity	0	0	0	fn2	fn2	fn2
Nonsubject sources:						
Quantity	250	496	616	146.5	98.4	24.3
Value	830	1,863	2,143	158.2	124.4	15.0
Unit value	$3.32	$3.76	$3.48	4.7	13.1	(7.4)
Ending inventory quantity	0	0	0	fn2	fn2	fn2
All import sources:						
Quantity	250	496	616	146.5	98.4	24.3
Value	830	1,863	2,143	158.2	124.4	15.0
Unit value	$3.32	$3.76	$3.48	4.7	13.1	(7.4)
Ending inventory quantity	0	0	0	fn2	fn2	fn2
U.S. producers':						
Average capacity quantity	664,195	735,096	750,142	12.9	10.7	2.0
Production quantity	341,645	193,113	580,196	69.8	(43.5)	200.4
Capacity utilization (fn1)	51.4	26.3	77.3	25.9	(25.2)	51.1
U.S. shipments:						
Quantity	154,598	132,836	140,552	(9.1)	(14.1)	5.8
Value	774,021	708,348	600,366	(22.4)	(8.5)	(15.2)
Unit value	$5.01	$5.33	$4.27	(14.7)	6.5	(19.9)
Export shipments:						
Quantity	164,497	125,978	203,445	23.7	(23.4)	61.5
Value	791,886	629,973	771,894	(2.5)	(20.4)	22.5
Unit value	$4.81	$5.00	$3.79	(21.2)	3.9	(24.1)
Ending inventory quantity	285,176	220,352	475,947	66.9	(22.7)	116.0
Inventories/total shipments (fn1)	89.4	85.1	138.4	49.0	(4.2)	53.2
Production workers	1,610	1,637	2,023	25.7	1.7	23.6
Hours worked (1,000s)	3,233	3,113	3,954	22.3	(3.7)	27.0
Wages paid ($1,000)	44,268	46,321	64,790	46.4	4.6	39.9
Hourly wages	$13.69	$14.88	$16.39	19.7	8.7	10.1
Productivity (1,000 pounds per hour)	105.7	62.0	146.7	38.9	(41.3)	136.5
Unit labor costs	$0.13	$0.24	$0.11	(13.8)	85.1	(53.4)
Net Sales:						
Quantity	289,173	277,351	264,671	(8.5)	(4.1)	(4.6)
Value	1,442,412	1,409,667	1,193,942	(17.2)	(2.3)	(15.3)
Unit value	$4.99	$5.08	$4.51	(9.6)	1.9	(11.2)
Cost of goods sold (COGS)	1,230,971	1,279,308	1,102,079	(10.5)	3.9	(13.9)
Gross profit of (loss)	211,441	130,359	91,863	(56.6)	(38.3)	(29.5)
SG&A expenses	48,586	50,924	47,459	(2.3)	4.8	(6.8)
Operating income or (loss)	162,855	79,435	44,404	(72.7)	(51.2)	(44.1)
Net income or (loss)	151,269	72,529	24,057	(84.1)	(52.1)	(66.8)
Capital expenditures	***	***	***	***	***	***
Unit COGS	$4.26	$4.61	$4.16	(2.2)	8.4	(9.7)
Unit SG&A expenses	$0.17	$0.18	$0.18	6.7	9.3	(2.3)
Unit operating income or (loss)	$0.56	$0.29	$0.17	(70.2)	(49.1)	(41.4)
Unit net income or (loss)	$0.52	$0.26	$0.09	(82.6)	(50.0)	(65.2)
COGS/sales (fn1)	85.3	90.8	92.3	7.0	5.4	1.6
Operating income or (loss)/sales (fn1)	11.3	5.6	3.7	(7.6)	(5.7)	(1.9)
Net income or (loss)/sales (fn1)	10.5	5.1	2.0	(8.5)	(5.3)	(3.1)

fn1.--Reported data are in percent and period changes are in percentage points.
fn2.--Undefined or not meaniful.

Source: Compiled from data submitted in response to Commission questionnaires and official import statistics.

APPENDIX D

COMMENTS ON THE EFFECTS OF THE ORDERS AND THE LIKELY EFFECTS OF REVOCATION

Table D-1
Pistachios: Growers' narrative responses to anticipated changes in operations in the event the order is revoked

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Table D-2
Pistachios: Processors' responses to the effect of the order

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Table D-3
Pistachios: Processors' responses to the likely effect of revocation of the order

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Table D-4
Pistachios: Purchasers' responses to the likely effect of revocation of order on the firm activities

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Table D-5
Pistachios: Purchasers' responses to the likely effect of revocation of order on the entire U.S. market

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Table D-6
Pistachios: Iranian producer's response to significance of antidumping duty order and anticipated changes if order is revoked

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