Ripe Olives from Spain

Investigation Nos. 701-TA-582 and 731-TA-1377 (Final)

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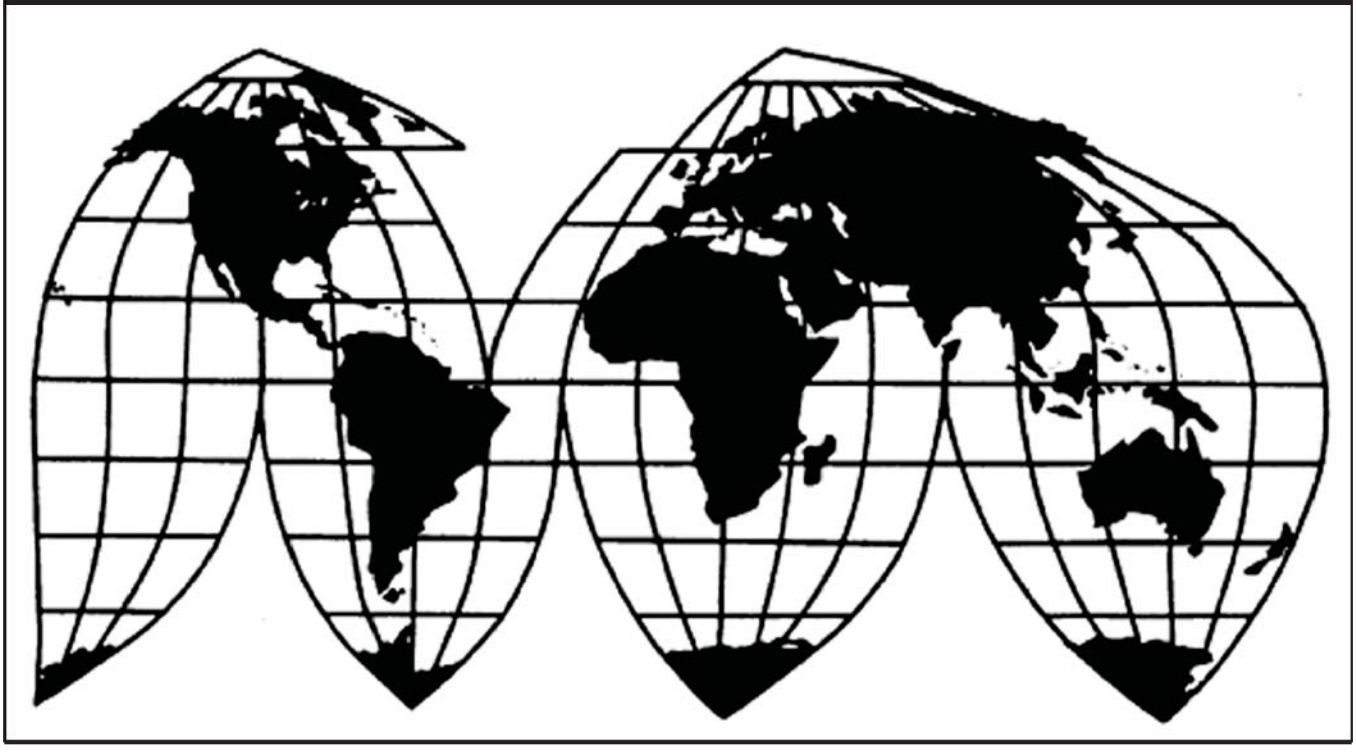
U.S. International Trade Commission



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U.S. International Trade Commission

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UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701-TA-582 and 731-TA-1377 (Final)

Ripe Olives from Spain

DETERMINATIONS

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission ("Commission") determines, pursuant to the Tariff Act of 1930 ("the Act"), that an industry in the United States is materially injured by reason of imports of ripe olives from Spain, provided for in subheadings 2005.70.02, 2005.70.04, 2005.70.50, 2005.70.60, 2005.70.70, and 2005.70.75 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value ("LTFV") and to be subsidized by the government of Spain.[2]

BACKGROUND

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective June 22, 2017, following receipt of a petition filed with the Commission and Commerce by the Coalition of Fair Trade in Ripe Olives, consisting of Bell-Carter Foods, Walnut Creek, CA, and Musco Family Olive Company, Tracy, CA. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of ripe olives from Spain were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations 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 February 22, 2018 (83 FR 7774). The hearing was held in Washington, DC, on May 24, 2018, 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)).

[2] Commissioner Meredith M. Broadbent dissenting. Commissioner Jason E. Kearns did not participate in these investigations.

Views of the Commission

Based on the record in the final phase of these investigations, we determine that an industry in the United States is materially injured by reason of imports of ripe olives from Spain found by the U.S. Department of Commerce ("Commerce") to be sold in the United States at less than fair value and to be subsidized by the government of Spain.[1] [2]

I. Background

The petitions in these investigations were filed on June 22, 2017 by the Coalition of Fair Trade in Ripe Olives ("Petitioner"), which consists of the two largest domestic processors of ripe olives: Bell-Carter Foods ("Bell-Carter") and Musco Family Olive Company ("Musco"). Petitioner appeared at the hearing and submitted prehearing and posthearing briefs and final comments.

Several respondent entities participated in these investigations. A group of producers and exporters of the subject merchandise, Industria Aceitunera Marciense, S.A., DCOOP, S. COOP. AND., Agro Sevilla Aceitunas, SOC. COOP. AND., Plasoliva S.L., Goya En Espana, S.A.U., Aceitunas Guadalquivir, S.L., Angel Camacho Alimentacion, S.L., International Oliverera, S.A., F.J. Sanchez, Sucesores, S.A.U., and Aceitunas Sevillanas, S.A. (collectively, "Asociacion de Exportadores e lndustriales de Aceitunas de Mesa" or "ASEMESA"), appeared at the hearing and submitted joint prehearing and posthearing briefs and final comments. The following importers of subject merchandise submitted joint prehearing and posthearing briefs: Acorsa, USA, Inc.; Acme Food Sales, Inc.; Atalanta Corporation ("Atalanta"); Mario Camacho Foods ("Mario Camacho"); Mitsui Foods, Inc. ("Mitsui"); Rema Foods, Inc. ("Rema"); and Schreiber Foods International, Inc. (collectively, "AFI Group"). Industry representatives of several members of the AFI Group, including Atalanta, Mario Camacho, Mitsui, and Rema, also appeared at the hearing. Representatives of the Embassy of Spain and the European Commission appeared at the hearing. The government of Spain filed a prehearing brief and the European Commission filed prehearing and posthearing briefs.

U.S. industry data are based on the questionnaire responses of two firms (Bell-Carter and Musco), which accounted for virtually all domestic production of ripe olives in 2017.[3] U.S. import data are based on official import statistics from Commerce and, in regards to Morocco, responses to Commission questionnaires.[4] Useable questionnaire responses were received from 32 U.S. importers, representing 96.7 percent of subject imports from Spain in 2017.[5]

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[1] Commissioner Broadbent determines that an industry in the United States is not materially injured or threatened with material injury by reason of subject imports of ripe olives from Spain. *See* Separate and Dissenting Views of Commissioner Meredith M. Broadbent. She joins sections I-IV.C of the majority views.

[2] Commissioner Kearns did not participate in these final phase investigations.

[3] Confidential Report, Memorandum INV-QQ-073 ("CR") at I-5 (June 26, 2018); Public Report ("PR") at I-4.

[4] CR at I-5 n.9, PR at I-4 n.9, and CR/PR at IV-1 n.2.

[5] CR/PR at IV-1.

Foreign industry data and related information are based on publicly available data and the questionnaire responses of ten producers/exporters of ripe olives in Spain, accounting for approximately 87.9 percent of U.S. imports of subject merchandise in 2017 and approximately 44.5 percent of total production of ripe olives in Spain in 2017.[6]

II. Domestic Like Product

A. In General

In determining whether an industry in the United States is materially injured or threatened with material injury by reason of imports of subject merchandise, the Commission first defines the "domestic like product" and the "industry."[7] Section 771(4)(A) of the Tariff Act of 1930, as amended ("the Tariff Act"), defines the relevant domestic industry as the "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."[8] In turn, the Tariff Act defines "domestic like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation."[9]

The decision regarding the appropriate domestic like product in an investigation is a factual determination, and the Commission has applied the statutory standard of "like" or "most similar in characteristics and uses" on a case-by-case basis.[10] No single factor is dispositive, and the Commission may consider other factors it deems relevant based on the facts of a particular investigation.[11] The Commission looks for clear dividing lines among possible like products and disregards minor variations.[12] Although the Commission must accept

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[6] CR at VII-5, PR at VII-4.

[7] 19 U.S.C. § 1677(4)(A).

[8] 19 U.S.C. § 1677(4)(A).

[9] 19 U.S.C. § 1677(10).

[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); *Torrington Co. v. United States*, 747 F. Supp. 744, 749 n.3 (Ct. Int'l Trade 1990), *aff'd*, 938 F.2d 1278 (Fed. Cir. 1991) ("every like product determination 'must be made on the particular record at issue' and the 'unique facts of each case'"). The Commission generally considers a number of factors, including the following: (1) physical characteristics and uses; (2) interchangeability; (3) channels of distribution; (4) customer and producer perceptions of the products; (5) common manufacturing facilities, production processes, and production employees; and, where appropriate, (6) price. *See Nippon*, 19 CIT at 455 n.4; *Timken Co. v. United States*, 913 F. Supp. 580, 584 (Ct. Int'l Trade 1996).

[11] *See*, *e.g.*, S. Rep. No. 96-249 at 90-91 (1979).

[12] *Nippon*, 19 CIT at 455; *Torrington*, 747 F. Supp. at 748-49; *see also* S. Rep. No. 96-249 at 90-91 (Congress has indicated that the like product standard should not be interpreted in "such a narrow fashion as to permit minor differences in physical characteristics or uses to lead to the conclusion that the product and article are not 'like' each other, nor should the definition of 'like product' be

(Continued…)

Commerce's determination as to the scope of the imported merchandise that is subsidized or sold at less than fair value,[13] the Commission determines what domestic product is like the imported articles Commerce has identified.[14]

B. Scope Definition

In its final determination, Commerce defined the imported merchandise within the scope of these investigations as:

> . . . certain processed olives, usually referred to as "ripe olives." The subject merchandise includes all colors of olives; all shapes and sizes of olives, whether pitted or not pitted, and whether whole, sliced, chopped, minced, wedged, broken, or otherwise reduced in size; all types of packaging, whether for consumer (retail) or institutional (food service) sale, and whether canned or packaged in glass, metal, plastic, multi-layered airtight containers (including pouches), or otherwise; and all manners of preparation and preservation, whether low acid or acidified, stuffed or not stuffed, with or without flavoring and/or saline solution, and including in ambient, refrigerated, or frozen conditions.
>
> Included are all ripe olives grown, processed in whole or in part, or packaged in Spain. Subject merchandise includes ripe olives that have been further processed in Spain or a third country, including but not limited to curing, fermenting, rinsing, oxidizing, pitting, slicing, chopping, segmenting, wedging, stuffing, packaging, or heat treating, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in Spain.
>
> Subject merchandise includes ripe olives that otherwise meet the definition above that are packaged together with non-subject products,

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(…Continued)
interpreted in such a fashion as to prevent consideration of an industry adversely affected by the imports under consideration.").

[13] *See*, *e.g., USEC, Inc. v. United States*, 34 Fed. Appx. 725, 730 (Fed. Cir. 2002) ("The ITC may not modify the class or kind of imported merchandise examined by Commerce."); *Algoma Steel Corp. v. United States*, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988), *aff'd*, 865 F.3d 240 (Fed. Cir.), *cert. denied*, 492 U.S. 919 (1989).

[14] *Hosiden Corp. v. Advanced Display Mfrs.*, 85 F.3d 1561, 1568 (Fed. Cir. 1996) (the Commission may find a single like product corresponding to several different classes or kinds defined by Commerce); *Cleo*, 501 F.3d at 1298 n.1 ("Commerce's {scope} finding does not control the Commission's {like product} determination."); *Torrington*, 747 F. Supp. at 748-52 (affirming the Commission's determination defining six like products in investigations in which Commerce found five classes or kinds).

> where the smallest individual packaging unit (*e.g.*, can, pouch, jar, etc.) of any such product – regardless of whether the smallest unit of packaging is included in a larger packaging unit (*e.g.*, display case, etc.) – contains a majority (*i.e.*, more than 50 percent) of ripe olives by net drained weight. The scope does not include the non-subject components of such product.
>
> Excluded from the scope are: (1) Specialty olives (including "Spanish-style," "Sicilian-Style," and other similar olives) that have been processed by fermentation only, or by being cured in an alkaline solution for not longer than 12 hours and subsequently fermented; and (2) provisionally prepared olives unsuitable for immediate consumption (currently classifiable in subheading 0711.20 of the Harmonized Tariff Schedule of the United States (HTSUS)).[15]

Ripe olives are produced from raw olives.[16] Since raw olives are inedible, they are primarily used for the production of either table olives (such as ripe olives and specialty olives) or olive oil.[17] In the United States, the olive varieties grown for the production of ripe olives,

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[15] CR at I-8-9, PR at I-6-8; *Ripe Olives from Spain: Final Affirmative Countervailing Duty Investigation*, 83 Fed. Reg. 28186 (June 18, 2018); *Ripe Olives from Spain: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 Fed. Reg. 28193 (June 18, 2018) (footnote omitted). The notices list numerous Harmonized Tariff Schedule of the United States classifications under which subject merchandise may be entered. In a footnote, Commerce described the excluded "specialty" olives as follows:

> "Spanish-style" green olives. Spanish-style green olives have a mildly salty, slightly bitter taste, and are usually pitted and stuffed. This style of olive is primarily produced in Spain and can be made from various olive varieties. Most are stuffed with pimento; other popular stuffings are jalapeno, garlic, and cheese. The raw olives that are used to produce Spanish-style green olives are picked while they are unripe, after which they are submerged in an alkaline solution for typically less than a day to partially remove their bitterness, rinsed, and fermented in a strong salt brine, giving them their characteristic flavor.
>
> "Sicilian-style" green olives. Sicilian-style olives are large, firm green olives with a natural bitter and savory flavor. This style of olive is produced in small quantities in the United States using a Sevillano variety of olive and harvested green with a firm texture. Sicilian-style olives are processed using a brine-cured method, and undergo a full fermentation in a salt and lactic acid brine for 4 to 9 months. These olives may be sold whole unpitted, pitted, or stuffed.
>
> "Kalamata" olives. Kalamata olives are slightly curved in shape, tender in texture, and purple in color, and have a rich natural tangy and savory flavor. This style of olive is produced in Greece using a Kalamata variety olive. The olives are harvested after they are fully ripened on the tree, and typically use a brine-cured fermentation method over 4 to 9 months in a salt brine.
>
> Other specialty olives in a full range of colors, sizes, and origins, typically fermented in a salt brine for 3 months or more.

[16] CR at I-11, PR at I-9.

[17] CR at I-12, PR at I-9.

primarily Manzanillo (or Manzanilla) and Sevillano, are not used for olive oil extraction.[18] Ripe olives are plump, have a mild, nut-like flavor, are consistently shaped, and are usually black (but can also be green in color).[19] Ripe olives are rarely stuffed, but are often sold pitted, sliced, chopped, or wedged,[20] and can be sold in cans or re-sealable pouches. Ripe olives are most commonly consumed in the United States as pizza toppings, in salads or sandwiches, or as food ingredients.[21]

C. Analysis

In the preliminary phase of the investigations, the Commission defined a single domestic like product consisting of all ripe olives that was coextensive with the scope of the investigations.[22] The Commission found that all ripe olives within the scope have similar physical characteristics as they are produced from raw olives and are generally plump and consistently shaped, have a mild, nut-like flavor, and are usually black in color. It also found that all ripe olives within the scope have the same primary end use insofar as they are generally used as a food ingredient in pizzas, salads, and sandwiches, generally use the same production facilities and manufacturing processes, and have the same channels of distribution. Notwithstanding differences in their size or presentation, the Commission found that all ripe olives within the scope were at least somewhat interchangeable, and were perceived to be the same product by market participants. In light of the above, and the absence of any party arguments to the contrary, the Commission defined a single domestic like product consisting of all ripe olives corresponding to Commerce's scope definition.[23]

The record in these final phase investigations does not contain any new information that would warrant revisiting the definition of the domestic like product,[24] and no party has argued for a definition of the domestic like product different from that in the preliminary determinations.[25] Therefore, for the same reasons set forth in the preliminary determinations, we define a single domestic like product consisting of all ripe olives, coextensive with the scope of the investigations.

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[18] CR at I-12, PR at I-10.

[19] CR at I-10, PR at I-8.

[20] CR at I-10, PR at I-8.

[21] CR at I-10, PR at I-8.

[22] *Ripe Olives from Spain*, Inv. Nos. 701-TA-582 & 731-TA-1377 (Preliminary), USITC Pub. 4718 at 8 (Aug. 2017).

[23] USITC Pub. 4718 at 8.

[24] *See generally* CR at I-10 to I-18, PR at I-8 to I-14.

[25] Petitioner argues that there is a single domestic like product consisting of all ripe olives that is coextensive with Commerce's scope. Petitioner's Prehearing Br. at 3-5. In the final phase of these investigations, none of the Respondents addressed this issue. CR at I-18 n.46, PR at I-14, n.46.

III. Domestic Industry and Related Parties

The domestic industry is defined 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."[26] 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.

The Commission addressed two domestic industry issues in the preliminary phase of these investigations: (1) whether upstream olive growers should be included in the domestic industry; and (2) whether to exclude *** as a related party. The Commission determined that the facts did not warrant including the olive growers with the U.S. processors of ripe olives in the domestic industry.[27] In the final phase of these investigations, Petitioner expressly indicated that it did not challenge the Commission's decision in the preliminary determinations not to include the growers in the domestic industry.[28] None of the Respondents addressed this issue in their prehearing or posthearing briefs. In these final phase investigations, there is no new information that would warrant revisiting the issue. Therefore, for the same reasons set forth in the preliminary determinations, we do not include the growers in the domestic industry and limit the domestic industry to processors of ripe olives.

These final phase investigations also raise the issue of whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This provision allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or

[26] 19 U.S.C. § 1677(4)(A).

[27] In the preliminary phase of these investigations, Petitioner argued that both prongs of the grower/processer provision were satisfied (*See* 19 U.S.C. § 1677(4)(E)(ii),(iii)) and that the Commission therefore should include the olive growers in the domestic industry definition. USITC Pub. 4718 at 10. Respondents ASEMESA and the AFI Group argued that the Commission should not include the growers in the domestic industry claiming that both prongs of the grower/processor provision were not satisfied. *Id*. The Commission found that the first prong of the grower/processor provision was satisfied because ripe olives are produced from raw table olives through a single, continuous line of production. *Id*. However, the Commission found that the second prong of the grower/processor provision was not satisfied (*i.e.*, whether there is a substantial coincidence of economic interests between olive growers and domestic producers of ripe olives). *Id*. at 10-11. In particular, the record indicated that the growers and processors were engaged in essentially arm's-length negotiations concerning the price of the input (raw table olives) for the processed product (ripe olives). *Id*. at 11. Moreover, the Commission considered additional factors (*i.e.*, price and added market value) and found that these were insufficient in light of the record as a whole, particularly the lack of vertical integration in the industry and that the growers were merely arm's-length suppliers to the processors. *Id*. at 12. Given these considerations, the Commission found that the second prong of the grower/processor provision was not satisfied and therefore did not include the olive growers in the domestic industry. *Id*. at 12-13.

[28] Petitioner's Prehearing Br. at 6.

importer of subject merchandise or which are themselves importers.[29] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[30]

In the preliminary phase investigation, the Commission found that appropriate circumstances did not exist to exclude ***, which imported subject merchandise during the POI, from the domestic industry as a related party.[31] In these final phase investigations, Petitioner contends that the Commission should again find that appropriate circumstances do not exist to exclude *** and define the domestic industry as consisting of all domestic processors of ripe olives.[32] Respondents did not address the issue of related parties or the definition of the domestic industry in their prehearing or posthearing briefs.

***, the *** U.S. processor of ripe olives, accounting for *** percent of U.S. production of ripe olives in 2017, imported very small quantities of subject merchandise from Spain throughout the POI.[33] Consequently, *** is a related party. As a ratio of U.S. production, its subject imports ranged from *** percent to *** percent during each year of the POI.[34] As a petitioner, *** supports the petition.[35]

In view of these factors, especially that *** principal interest lies in domestic production, and because no party has argued for its exclusion, we find that appropriate circumstances do not exist to exclude *** from the domestic industry as a related party.

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[29] *See Torrington Co. v. United States*, 790 F. Supp. 1161, 1168 (Ct. Int'l Trade 1992), *aff'd without opinion*, 991 F.2d 809 (Fed. Cir. 1993); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem*., 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[30] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

(1) the percentage of domestic production attributable to the importing producer;

(2) the reason the U.S. producer has decided to import the product subject to investigation (whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market);

(3) whether inclusion or exclusion of the related party will skew the data for the rest of the industry;

(4) the ratio of import shipments to U.S. production for the imported product; and

(5) whether the primary interest of the importing producer lies in domestic production or importation. *Changzhou Trina Solar Energy Co. v. USITC*, 100 F. Supp.3d 1314, 1326-31 (Ct. Int'l. Trade 2015); see *also Torrington Co. v. United States*, 790 F. Supp. at 1168.

[31] In its preliminary determination, the Commission found that *** principal interest was in domestic production, that excluding it would arguably skew the data given ***, and noted that no party had argued for its exclusion. *See* USITC Pub. 4718 at 13-14.

[32] Petitioner's Prehearing Br. at 5-6.

[33] *** subject imports were *** short tons in 2015, *** short tons in 2016, and *** short tons in 2017. CR/PR at Table III-12.

[34] CR/PR at Table III-12. *** ratio of operating income to net sales was *** percent in 2015, *** percent in 2016, and *** percent in 2017. CR/PR at Table VI-3. Its operating performance was *** than the industry average throughout the POI. *Id.*

[35] CR/PR at Table III-1.

Accordingly, we find that no domestic producer should be excluded as a related party, and define the domestic industry as all U.S. processors of ripe olives.[36]

IV. Material Injury by Reason of Subject Imports[37]

A. Legal Standards

In the final phase of antidumping and countervailing duty investigations, the Commission determines whether an industry in the United States is materially injured or threatened with material injury by reason of the imports under investigation.[38] In making this determination, the Commission must consider the volume of subject imports, their effect on prices for the domestic like product, and their impact on domestic producers of the domestic like product, but only in the context of U.S. production operations.[39] The statute defines "material injury" as "harm which is not inconsequential, immaterial, or unimportant."[40] In assessing whether the domestic industry is materially injured by reason of subject imports, we consider all relevant economic factors that bear on the state of the industry in the United States.[41] No single factor is dispositive, and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[42]

Although the statute requires the Commission to determine whether the domestic industry is "materially injured or threatened with material injury by reason of" unfairly traded imports,[43] it does not define the phrase "by reason of," indicating that this aspect of the injury

[36] As discussed above, the two domestic processors that provided the Commission with data were petitioners Bell-Carter and Musco. CR at I-5 and PR at I-4, and CR/PR at Table III-1.

[37] Section 771(24) of the Tariff Act, which defines "negligibility," provides that imports from a subject country that are less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or self-initiation, as the case may be, shall be deemed negligible. 19 U.S.C. § 1677(24)(A)(i).

Negligibility is not an issue in these investigations. Subject imports from Spain accounted for *** percent of total imports of ripe olives in the 12-month period (June 2016 to May 2017) preceding the filing of the petition. CR/PR at Table IV-4.

[38] 19 U.S.C. §§ 1671d(b), 1673d(b). The Trade Preferences Extension Act of 2015, Pub. L. 114-27, amended the provisions of the Tariff Act pertaining to Commission determinations of material injury and threat of material injury by reason of subject imports in certain respects.

[39] 19 U.S.C. § 1677(7)(B). The Commission "may consider such other economic factors as are relevant to the determination" but shall "identify each {such} factor ... and explain in full its relevance to the determination." 19 U.S.C. § 1677(7)(B).

[40] 19 U.S.C. § 1677(7)(A).

[41] 19 U.S.C. § 1677(7)(C)(iii).

[42] 19 U.S.C. § 1677(7)(C)(iii).

[43] 19 U.S.C. §§ 1671d(a), 1673d(a).

analysis is left to the Commission's reasonable exercise of its discretion.[44] In identifying a causal link, if any, between subject imports and material injury to the domestic industry, the Commission examines the facts of record that relate to the significance of the volume and price effects of the subject imports and any impact of those imports on the condition of the domestic industry. This evaluation under the "by reason of" standard must ensure that subject imports are more than a minimal or tangential cause of injury and that there is a sufficient causal, not merely a temporal, nexus between subject imports and material injury.[45]

In many investigations, there are other economic factors at work, some or all of which may also be having adverse effects on the domestic industry. Such economic factors might include nonsubject imports; changes in technology, demand, or consumer tastes; competition among domestic producers; or management decisions by domestic producers. The legislative history explains that the Commission must examine factors other than subject imports to ensure that it is not attributing injury from other factors to the subject imports, thereby inflating an otherwise tangential cause of injury into one that satisfies the statutory material injury threshold.[46] In performing its examination, however, the Commission need not isolate the injury caused by other factors from injury caused by unfairly traded imports.[47] Nor does the

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[44] *Angus Chemical Co. v. United States*, 140 F.3d 1478, 1484–85 (Fed. Cir. 1998) ("{T}he statute does not 'compel the commissioners' to employ {a particular methodology}."), *aff'g,* 944 F. Supp. 943, 951 (Ct. Int'l Trade 1996).

[45] The Federal Circuit, in addressing the causation standard of the statute, observed that "{a}s long as its effects are not merely incidental, tangential, or trivial, the foreign product sold at less than fair value meets the causation requirement*." Nippon Steel Corp. v. USITC*, 345 F.3d 1379, 1384 (Fed. Cir. 2003). This was further ratified in *Mittal Steel Point Lisas Ltd. v. United States*, 542 F.3d 867, 873 (Fed. Cir. 2008), where the Federal Circuit, quoting *Gerald Metals, Inc. v. United States*, 132 F.3d 716, 722 (Fed. Cir. 1997), stated that "this court requires evidence in the record 'to show that the harm occurred "by reason of" the LTFV imports, not by reason of a minimal or tangential contribution to material harm caused by LTFV goods.'" *See also Nippon Steel Corp. v. United States*, 458 F.3d 1345, 1357 (Fed. Cir. 2006); *Taiwan Semiconductor Industry Ass'n v. USITC*, 266 F.3d 1339, 1345 (Fed. Cir. 2001).

[46] SAA at 851–52 ("{T}he Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports."); S. Rep. 96-249 at 75 (1979) (the Commission "will consider information which indicates that harm is caused by factors other than less-than-fair-value imports."); H.R. Rep. 96-317 at 47 (1979) ("in examining the overall injury being experienced by a domestic industry, the ITC will take into account evidence presented to it which demonstrates that the harm attributed by the petitioner to the subsidized or dumped imports is attributable to such other factors;" those factors include "the volume and prices of nonsubsidized imports or imports sold at fair value, contraction in demand or changes in patterns of consumption, trade restrictive practices of and competition between the foreign and domestic producers, developments in technology and the export performance and productivity of the domestic industry"); *accord Mittal Steel*, 542 F.3d at 877.

[47] SAA at 851–52 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports."); *Taiwan Semiconductor Industry Ass'n,* 266 F.3d at 1345 ("{T}he Commission need not isolate the injury caused by other factors from injury caused by unfair imports ... . Rather, the Commission must examine other factors to ensure that it is not attributing injury from other sources to the subject imports." (emphasis in original)); *Asociacion de Productores de Salmon y Trucha*

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"by reason of" standard require that unfairly traded imports be the "principal" cause of injury or contemplate that injury from unfairly traded imports be weighed against other factors, such as nonsubject imports, which may be contributing to overall injury to an industry.[48] It is clear that the existence of injury caused by other factors does not compel a negative determination.[49]

Assessment of whether material injury to the domestic industry is "by reason of" subject imports "does not require the Commission to address the causation issue in any particular way" as long as "the injury to the domestic industry can reasonably be attributed to the subject imports" and the Commission "ensure{s} that it is not attributing injury from other sources to the subject imports."[50] Indeed, the Federal Circuit has examined and affirmed various Commission methodologies and has disavowed "rigid adherence to a specific formula."[51]

The Federal Circuit's decisions in *Gerald Metals, Bratsk*, and *Mittal Steel* all involved cases where the relevant "other factor" was the presence in the market of significant volumes of price-competitive nonsubject imports. The Commission interpreted the Federal Circuit's guidance in *Bratsk* as requiring it to apply a particular additional methodology following its finding of material injury in cases involving commodity products and a significant market presence of price-competitive nonsubject imports.[52] The additional "replacement/benefit" test looked at whether nonsubject imports might have replaced subject imports without any benefit

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(…Continued)
de Chile AG v. United States, 180 F. Supp. 2d 1360, 1375 (Ct. Int'l Trade 2002) ("{t}he Commission is not required to isolate the effects of subject imports from other factors contributing to injury" or make "bright-line distinctions" between the effects of subject imports and other causes.); *see also Softwood Lumber from Canada*, Inv. Nos. 701-TA-414 and 731-TA-928 (Remand), USITC Pub. 3658 at 100–01 (Dec. 2003) (Commission recognized that "{i}f an alleged other factor is found not to have or threaten to have injurious effects to the domestic industry, *i.e.*, it is not an 'other causal factor,' then there is nothing to further examine regarding attribution to injury"), *citing Gerald Metals,* 132 F.3d at 722 (the statute "does not suggest that an importer of LTFV goods can escape countervailing duties by finding some tangential or minor cause unrelated to the LTFV goods that contributed to the harmful effects on domestic market prices.").

[48] S. Rep. 96-249 at 74–75; H.R. Rep. 96-317 at 47.

[49] *See Nippon Steel Corp.*, 345 F.3d at 1381 ("an affirmative material-injury determination under the statute requires no more than a substantial-factor showing. That is, the 'dumping' need not be the sole or principal cause of injury.").

[50] *Mittal Steel*, 542 F.3d at 877–78; *see also id.* at 873 ("While the Commission may not enter an affirmative determination unless it finds that a domestic industry is materially injured 'by reason of' subject imports, the Commission is not required to follow a single methodology for making that determination ... {and has} broad discretion with respect to its choice of methodology.") *citing United States Steel Group v. United States*, 96 F.3d 1352, 1362 (Fed. Cir. 1996) and S. Rep. 96-249 at 75. In its decision in *Swiff-Train v. United States*, 793 F.3d 1355 (Fed. Cir. 2015), the Federal Circuit affirmed the Commission's causation analysis as comporting with the Court's guidance in *Mittal*.

[51] *Nucor Corp. v. United States*, 414 F.3d 1331, 1336, 1341 (Fed. Cir. 2005); *see also Mittal Steel*, 542 F.3d at 879 ("*Bratsk* did not read into the antidumping statute a Procrustean formula for determining whether a domestic injury was 'by reason' of subject imports.").

[52] *Mittal Steel*, 542 F.3d at 875–79.

to the U.S. industry. The Commission applied that specific additional test in subsequent cases, including the *Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago* determination that underlies the *Mittal Steel* litigation.

Mittal Steel clarifies that the Commission's interpretation of *Bratsk* was too rigid and makes clear that the Federal Circuit does not require the Commission to apply an additional test nor any one specific methodology; instead, the court requires the Commission to have "evidence in the record" to "show that the harm occurred 'by reason of' the LTFV imports," and requires that the Commission not attribute injury from nonsubject imports or other factors to subject imports.[53] Accordingly, we do not consider ourselves required to apply the replacement/benefit test that was included in Commission opinions subsequent to *Bratsk*.

The progression of *Gerald Metals, Bratsk*, and *Mittal Steel* clarifies that, in cases involving commodity products where price-competitive nonsubject imports are a significant factor in the U.S. market, the Court will require the Commission to give full consideration, with adequate explanation, to non-attribution issues when it performs its causation analysis.[54]

The question of whether the material injury threshold for subject imports is satisfied notwithstanding any injury from other factors is factual, subject to review under the substantial evidence standard.[55] Congress has delegated this factual finding to the Commission because of the agency's institutional expertise in resolving injury issues.[56]

B. Data Issues

In the final phase of these investigations, the Commission collected data in its questionnaire responses for the three-year period of January 2015-December 2017, and also collected more limited data for 2013 and 2014 pertaining to shipments and profitability. Petitioner argues that the Commission should use information available from the preliminary phase of these investigations concerning certain shipment, market share, and profitability data

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[53] *Mittal Steel*, 542 F.3d at 873 (quoting from *Gerald Metals*, 132 F.3d at 722), 875–79 & n.2 (recognizing the Commission's alternative interpretation of *Bratsk* as a reminder to conduct a non-attribution analysis).

[54] To that end, after the Federal Circuit issued its decision in *Bratsk*, the Commission began to present published information or send out information requests in the final phase of investigations to producers in nonsubject countries that accounted for substantial shares of U.S. imports of subject merchandise (if, in fact, there were large nonsubject import suppliers). In order to provide a more complete record for the Commission's causation analysis, these requests typically seek information on capacity, production, and shipments of the product under investigation in the major source countries that export to the United States. The Commission plans to continue utilizing published or requested information in the final phase of investigations in which there are substantial levels of nonsubject imports.

[55] We provide in our discussion below a full analysis of other factors alleged to have caused any material injury experienced by the domestic industry.

[56] *Mittal Steel*, 542 F.3d at 873; *Nippon Steel Corp*., 458 F.3d at 1350, *citing U.S. Steel Group*, 96 F.3d at 1357; S. Rep. 96-249 at 75 ("The determination of the ITC with respect to causation is ... complex and difficult, and is a matter for the judgment of the ITC.").

for examining a four-year (*i.e.*, 2014 to 2017) or five-year POI (*i.e.*, 2013 to 2017).[57] Respondents contend that the Commission should reach a negative determination regardless of whether it uses a three-year, four-year, or five-year POI.[58] In the preliminary phase of these investigations, we collected and examined data covering a four-year POI (*i.e.*, 2013 to 2016) in order to account for crop cycles and any distortions that these may have had on the data for growers and processors but concluded ultimately not to include growers in the domestic industry. Our examination of the information available in the record from the preliminary phase indicated that U.S. crop cycles did not distort the data relevant to the domestic industry in these investigations – *i.e.*, processors of ripe olives.[59] No conditions of competition examined in the final phase of these investigations, as detailed below, have led us to reconsider this conclusion. Accordingly, in these final phase investigations, we have examined data covering our typical three-year period of investigation (*i.e.*, January 2015-December 2017).

C. Conditions of Competition and the Business Cycle

The following conditions of competition inform our analysis of whether there is material injury or threat thereof by reason of subject imports.

1. Demand Conditions

U.S. demand for ripe olives depends on the demand for ripe olives in food uses.[60] Reported end uses include retail sales, food service (*e.g.* as pizza or salad toppings), and as an ingredient in other foods.[61]

Ripe olives are generally sold to distributors, retailers, and institutional/food processors.[62] Retailers that purchase ripe olives include large retailers like Walmart and Kroger for both branded and private label sales.[63] Large institutional customers, including restaurants, schools, and commercial food processors, also purchase ripe olives for use in their food products.[64] Domestically produced ripe olives were sold largely to retailers during the POI.[65]

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[57] *See, e.g.*, Petitioner's Prehearing Br. at 11-16; Petitioner's Posthearing Br. at 2-3 & Answers to Commissioners' Questions, Exh. 1 at 11-20.

[58] *See, e.g.*, ASEMESA Prehearing Br. at 27-31; ASEMESA Posthearing Br. at 4-6; AFI Group Prehearing Br. at 13-15; AFI Group Posthearing Br. at 9; Government of Spain Prehearing Br. at 4; European Commission Prehearing Br. at 4-5.

[59] The domestic industry in the final phase of these investigations consists of only processors of ripe olives and does not include olive growers.

[60] CR at II-14, PR at II-9.

[61] CR at II-14, PR at II-9.

[62] CR/PR at Table II-1.

[63] CR/PR at Table II-1; Hearing Tr. at 32 (Gleason).

[64] CR/PR at Table II-1; CR at II-3, PR at II-2; Hearing Tr. at 42 (Carter).

[65] CR/PR at Table II-1. As a share of total reported shipments between 2015 and 2017, U.S. producers' U.S. commercial shipments of ripe olives ranged from *** percent to *** percent for retailers, *** percent to *** percent for distributors, and *** to *** percent for institutional/food processors. *Id*.

The *** largest purchasers of ripe olives from the domestic industry over the POI were ***, respectively.[66] The retail sector, which accounted for between *** percent and *** percent of domestic shipments from 2015 to 2017, consists of both private label and branded sales.[67] While subject and nonsubject imports were sold mainly to distributors over the POI, subject imports increasingly were sold to the retail sector.[68]

*** responding U.S. processors, 8 of 31 responding importers, and 15 of 25 responding purchasers indicated in their questionnaire responses that the U.S. market for ripe olives was subject to business cycles or other distinctive conditions of competition.[69] Specifically, market participants reported that demand varies over the course of the year with somewhat higher demand around holidays (Christmas, Thanksgiving, and Easter) and the Super Bowl.[70] U.S. processors' responses regarding U.S. demand trends for ripe olives were ***.[71] U.S. importers and purchasers' responses also were mixed, although a plurality of both importers and purchasers reported that U.S. demand for ripe olives was unchanged since 2015.[72]

Apparent U.S. consumption of ripe olives declined from 2015 to 2017 by *** percent.[73] Apparent U.S. consumption of ripe olives totaled *** short tons in 2015, *** short tons in 2016, and *** short tons in 2017.[74]

2. Supply Conditions

The domestic industry was the largest supplier of ripe olives to the U.S. market throughout the POI, with subject imports being the second largest supplier followed by nonsubject imports. Together, the petitioning U.S. processors (Bell-Carter and Musco)

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[66] CR/PR at Table V-11.

[67] CR/PR at Table II-1.

[68] CR/PR at Table II-1. As a share of total reported shipments between 2015 and 2017, U.S. importers' U.S. commercial shipments of ripe olives from Spain ranged from 79.7 percent to 88.8 percent for distributors, 7.3 percent to 17.0 percent for retailers, and 3.3 percent to 4.0 percent for institutional/food processors. *Id*. As a share of total reported shipments between 2015 and 2017, U.S. importers' U.S. commercial shipments of ripe olives from Morocco, the largest source of nonsubject imports, ranged from *** percent to *** percent for distributors, and *** percent to *** percent for institutional/food processors. *Id*. As a share of total reported shipments between 2015 and 2017, U.S. importers' U.S. commercial shipments of ripe olives from all other nonsubject countries ranged from *** percent to *** percent for distributors, *** percent to *** percent for retailers, and *** percent to *** percent for institutional/food processors. *Id*.

[69] CR at II-14-15, PR at II-9-10.

[70] CR at II-15, PR at II-10.

[71] CR/PR at Table II-4.

[72] CR/PR at Table II-4. Eleven importers reported that U.S demand for ripe olives was unchanged since 2015, six importers reported that it fluctuated, five importers reported that it decreased, and four importers reported that it increased. Seven purchasers reported that U.S. demand for ripe olives was unchanged since 2015, five purchasers reported that it decreased, four purchasers reported that it increased, and three purchasers reported that it fluctuated. *Id*.

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

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

accounted for virtually all domestic production of ripe olives during the POI.[75] In 2017, Bell-Carter accounted for *** percent of production of the domestic like product while Musco accounted for *** percent.[76] U.S. processors' U.S. market share declined from *** percent in 2015 to *** percent in 2016 and then to *** percent in 2017, for an overall decline of *** percentage points between 2015 and 2017.[77]

Subject imports from Spain were the largest import source of supply over the POI. Subject imports' market share was *** percent in 2015, *** percent in 2016, and *** percent in 2017.[78]

Nonsubject imports were the smallest source of supply over the POI. Nonsubject imports' market share was *** percent in 2015, *** percent in 2016, and *** percent in 2017.[79] Morocco was the largest individual nonsubject source of supply to the U.S. market during the POI.[80]

Processing of ripe olives requires raw or provisionally prepared olives. The size of the crop of raw olives available for processing depends on several factors, including the acreage of orchards dedicated to the production of raw olives, the amount and timing of water provided, weather during blooming periods, freezes, and labor availability during harvest.[81] While U.S. growers harvest most raw table olives by hand, olive growers in Spain generally use mechanical harvesting techniques.[82] Olive trees naturally have a two-year olive production cycle, with larger crop yields alternating with smaller crop yields; the size of the individual olive is typically larger when the crop yield is smaller.[83] The record indicates that there has been year-to-year fluctuations in the crop yield for the U.S. raw table olives available to U.S. processors for their production of ripe olives.[84] U.S. growers of raw table olives reportedly use various methods, including pruning, irrigation, spray thinning, and fertilizing techniques, in an effort to achieve relatively stable crop cycles.[85] There is also information in the record indicating that the "regionality" of raw olive growing in the United States (*i.e.*, that olive growing is divided mainly between two regions of California's Central Valley which do not necessarily follow two-year alternating crop cycles) may minimize the effects of crop fluctuations on the raw olive harvest.[86] Moreover, U.S. processors report that although they prefer to purchase raw olives from California, they are able to maintain a stable supply of raw material for processing ripe

[75] CR at III-2, PR at III-1.
[76] CR/PR at Table III-1.
[77] CR/PR at Table IV-5.
[78] CR/PR at Table IV-5.
[79] CR/PR at Table IV-5.
[80] CR at VII-14-18, PR at VII-12-15; CR/PR at Table IV-5.
[81] CR at II-6, PR at II-4.
[82] CR at II-6 n.8, PR at II-4 n.8; Hearing Tr. at 21 (Grande), 126 (Musco), and 127 (Gleason).
[83] CR at II-6, PR at II-4.
[84] CR at II-13 n.24, PR at II-8 n.24; CR/PR at Appendix D, Table D-2; Hearing Tr. at 55 (Burreson), 78-79 (Paretzky), and 152 (Somers).
[85] CR at I-11, n.23, PR at I-9 n.23; Hearing Tr. at 59-60, 89-90, (Burreson).
[86] *See, e.g.*, CR at I-11 n.23, PR at I-9 n.23.

olives by supplementing domestic raw olives with imported raw or provisionally preserved olives from other countries including Argentina, Mexico, and Spain.[87]

Ripe olives are subject to a federal marketing order regulated by the U.S. Department of Agriculture ("USDA"), which creates mandatory uniform standards.[88] The marketing order designates grade, size, and quality criteria for all ripe olives.[89] Under its terms, all imports of ripe olives are required to meet the same minimum standards as domestically produced ripe olives.[90]

3. Substitutability and Other Conditions

We find based on the record in the final phase of these investigations that subject imports and the domestic like product have a high degree of substitutability.[91] The majority of U.S. purchasers and U.S. importers responding to the Commission's questionnaire and both responding U.S. producers reported that subject imports from Spain are always or frequently interchangeable with domestically produced ripe olives.[92]

Purchasers have indicated that price is one of several factors that are important in purchasing decisions, although non-price factors are also important.[93] Purchasers responding to the Commission's questionnaires most frequently cited quality, price, and availability/supply as the top three factors affecting their purchasing decisions for ripe olives.[94]

Raw olives are the main raw material used by U.S. processors for producing ripe olives.[95] The price of domestically grown raw table olives used for processing into ripe olives are the result of negotiations between the two major domestic processors of ripe olives (Musco and

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[87] CR at II-8, PR at II-5-6.

[88] CR/PR at III-1.

[89] CR/PR at III-1.

[90] CR/PR at III-1.

[91] CR at II-19, PR at II-12.

[92] CR/PR at Table II-12. Fourteen of 19 U.S purchasers and 16 of 22 U.S. importers reported that subject imports and the domestic like product were always or frequently interchangeable. *Id*. Five U.S. purchasers and three U.S. importers reported that subject imports and the domestic like product were sometimes interchangeable, and three importers reported that they were never interchangeable. *Id*.

[93] CR/PR at Tables II-7 and II-8.

[94] CR/PR at Table II-7. The most often cited top three factors in purchasing decisions for ripe olives were quality (22 purchasers), price (21 purchasers), and availability/supply (13 purchasers). *Id*. Eleven purchasers reported that quality was the most important factor in purchasing decisions, nine purchasers reported that it was the second-most important factor in purchasing decisions, and two purchasers reported that it was the third-most important factor in purchasing decisions. *Id*. Six purchasers reported that price was the most important factor in purchasing decisions, four purchasers reported that it was the second-most important factor in purchasing decisions, and eleven purchasers reported that it was the third-most important factor in purchasing decisions. *Id*. Two purchasers reported that availability/supply was the most important factor in purchasing decisions, seven purchasers reported that it was the second-most important factor in purchasing decisions, and five purchasers reported that it was the third-most important factor in purchasing decisions. *Id*.

[95] CR/PR at V-1.

Bell-Carter) and the California Olive Growers Council, a bargaining committee representing individual U.S. olive growers.[96] U.S. processors of ripe olives are contractually obligated to purchase 100 percent of U.S. growers' output of raw olives in any given year.[97] The average prices that U.S. processors paid for raw olives fluctuated from 2015 to 2017 and varied depending on the source, but increased overall by *** percent for raw olives from all sources (domestic and imported).[98]

Both U.S. processors and importers reported using mainly annual or long-term contracts for their sales of ripe olives, with the remainder being sold via spot sales and short-term contracts.[99] [100]

D. Volume of Subject Imports

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."[101]

Subject imports had a significant presence in the U.S. market throughout the POI on both an absolute and relative basis. The volume of subject imports increased from 35,037 short tons in 2015 to 35,139 short tons in 2016, and then declined to 32,782 short tons in 2017.[102] As observed above, subject imports' market share increased from *** percent in 2015 to *** percent in 2016 and then declined to *** percent in 2017.[103]

As discussed above, ripe olives are generally sold to distributors, retailers, and institutional/food processors. During the POI, the retail sector was the largest sector of the market for the domestic industry accounting for between *** percent and *** percent of U.S. processors' commercial shipments of ripe olives.[104] Subject imports increasingly entered the retail sector during the POI[105] as U.S. importers' commercial U.S. shipments from Spain

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[96] CR/PR at V-1; Hearing Tr. at 51 (Musco).

[97] Hearing Tr. at 76 (Paretzky); Petitioner's Prehearing Br. at 8-9.

[98] U.S. producers' purchase costs of raw olives from all sources (domestic and imported) were $*** per short ton in 2015, $*** per short ton in 2016, and $*** per short ton in 2017. CR/PR at Table V-1. U.S. producers' purchase costs of domestically grown raw olives were $*** per short ton in 2015, $*** per short ton in 2016, and $*** per short ton in 2017. *Id.* U.S. producers' purchase costs of raw olives from Spain were $*** per short ton in 2015, $*** per short ton in 2016, and $*** per short ton in 2017. *Id*. U.S. producers' purchase costs of raw olives from sources other than Spain were $*** per short ton in 2015, $*** per short ton in 2016, and $*** in 2017. *Id*.

[99] CR/PR at Table V-3.

[100] Commissioner Broadbent does not join the remainder of these views.

[101] 19 U.S.C. § 1677(7)(C)(i).

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

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

[104] CR/PR at Table II-1.

[105] CR/PR at Table II-1. As a share of total reported shipments to retailers, U.S. importers' U.S. commercial shipments of ripe olives from Spain increased from 7.3 percent in 2015 to 11.5 percent in 2016 and 17.0 percent in 2017. *Id*.

increased *** percent, allowing subject imports to capture *** percentage points of market share directly at the expense of the domestic industry in this sector between 2015 and 2017.[106] U.S. importers' U.S. commercial shipments of ripe olives from Spain to retailers as a share of their total reported shipments increased from *** percent in 2015 to *** percent in 2016 and *** percent in 2017; by contrast, U.S. producers' U.S. commercial shipments of ripe olives declined from *** percent in 2015 to *** percent in 2016 and *** percent in 2017.[107] The record also indicates that, as a share of U.S. commercial shipments to retailers of private label and branded products, subject imports captured *** percentage points and *** percentage points respectively of market share from the domestic industry between 2015 and 2017.[108]

In light of the foregoing, we find that the volume of subject imports from Spain is significant in absolute terms and relative to both apparent U.S. consumption and U.S. production.[109] [110]

E. Price Effects of the Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of subject imports, the Commission shall consider whether –

> (I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and
>
> (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.[111]

As discussed above, we find that the record demonstrates that there is a high degree of substitutability between subject imports and the domestic like product and that price is an important factor in purchasing decisions for ripe olives.

The Commission collected quarterly pricing data on four pricing products.[112] Two U.S. processors and 23 importers provided usable pricing data for sales of the requested products,

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[106] CR/PR at Table IV-7.

[107] CR/PR at Table IV-7.

[108] *See, e.g.*, *Derived from* U.S. Processors' Questionnaires (II-8), U.S. Importers' Questionnaires (II-6b, II-7b, and II-8b), and OINV Worksheet (EDIS Doc. No. 649224).

[109] As a ratio to U.S. production, subject imports ranged from *** percent to *** percent between 2015 and 2017. CR/PR at Table IV-2.

[110] Petitioner argues that the decline in subject import volumes in 2017 is largely attributable to the filing of the petition and that the Commission should therefore find post-petition effects. *See, e.g.*, Petitioner's Prehearing Br. at 14; Petitioner's Posthearing Br. at 10. Respondents contend that Petitioner's claim of post-petition effects is without merit. *See, e.g.*, ASEMESA Prehearing Br. at 63-64; ASEMESA Posthearing Br. at 12. As discussed above, we recognize that subject import volumes and market share declined from 2016 to 2017, which includes the period after the petition was filed. CR/PR at Tables IV-5, C-1. Nonetheless, our finding that the volume of subject imports is significant in absolute terms and relative to consumption and production does not rely upon post-petition effects.

[111] 19 U.S.C. § 1677(7)(C)(ii).

[112] CR at V-10-11, PR at V-5-6. The four pricing products are as follows:

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although not all firms reported pricing for all products for all quarters.[113] Pricing data reported by these firms accounted for approximately *** percent of U.S. processors' U.S. commercial shipments of ripe olives and approximately 65.5 percent of reported U.S. commercial shipments of subject imports from Spain in 2017.[114]

The pricing data show that subject imports from Spain undersold the domestic like product in 37 of 48 quarterly price comparisons.[115] The margins of underselling ranged from 4.4 percent to 37.8 percent, with an average margin of underselling of 30.3 percent.[116] There were *** cases of subject merchandise involved in the underselling comparisons and *** cases of subject merchandise involved in the overselling comparisons.[117] Of particular note is that subject imports undersold the domestic like product and captured market share in the retail sector of the market, which was the largest and most important sector of the U.S. market for the domestic industry, accounting for approximately *** percent of domestic shipments. The pervasive underselling by subject imports in 2016 and 2017 for Product 2 (*i.e.*, retail private label)[118] coincides with increasing volumes of subject imports, which captured *** percentage points of market share from the domestic industry in the retail private label sector from 2015 to 2017, increasing from *** percent in 2015 to *** percent in 2016 and *** percent in 2017.[119] Subject imports also undersold the domestic like product for Product 1 (i.e., retail branded) in

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Product 1.-- (Retail Branded).--Medium pitted black ripe olives in 300 cans, 24 cans per case. Can size is 300 x 407. Drain weight is 6 oz. per can, 144 oz. (4.08 kg) per case.

Product 2.-- (Retail Private Label).-- Sliced black ripe olives in 211 cans, 24 cans per case. Can size is 211 x 200. Drain weight is 2.25 oz. per can, 54 oz. (1.53 kg) per case.

Product 3.-- (Institutional).--Sliced black ripe olives in #10 cans, 6 cans per case. Can size is 603 x 700. Drain weight is 55 oz. per can, 330 oz. (9.36 kg) per case.

Product 4.— (Institutional).--Sliced black ripe olives in retortable pouches, 10 pouches per case. Drained weight is 33 oz. per pouch, 330 oz. (9.36 kg) per case.

CR at V-10-11, PR at V-5-6.

[113] CR at V-11, PR at V-6.

[114] CR at V-11, PR at V-6.

[115] CR at V-22, PR at V-11; CR/PR at Table V-10.

[116] CR at V-22, PR at V-11; CR/PR at Table V-10.

[117] CR at V-22, PR at V-11; CR/PR at Table V-10. We recognize that on an overall volume basis the underselling by subject imports was concentrated in Products 3 and 4 (*i.e.*, institutional), the two pricing products involving the largest quantities of subject imports during the POI and in the sector of the market where subject imports had a large presence. CR/PR at Tables V-7. V-8, and V-10.

[118] *See, e.g.*, CR/PR at Tables V-6 & V-10.

[119] *See, e.g.*, *Derived from* U.S. Processors' Questionnaires (II-8), U.S. Importers' Questionnaires (II-6b, II-7b, and II-8b), and OINV Worksheet (EDIS Doc. No. 649224). For private label retail, the domestic industry's market share declined from *** percent in 2015 to *** percent in 2016 and *** in 2017. *Id.* Subject imports' increase in market share in the retail sector was aided by the Spanish industry's aggressive bid for U.S. retail sales in its €7.5 million "Have an Olive Day with Olives from Spain" advertising campaign sponsored by the EU and Interaceituna, the Spanish table olive association. *See, e.g.*, Petitioner's Prehearing Br. at 3; Petitioner's Posthearing Br. at 8; Petition at 32.

2017 as they captured additional market share from the domestic industry in the retail branded sector of the market during the POI.[120]

Other information in the record regarding lost sales provides further support for the proposition that subject imports were sold at low prices and as a result captured market share from the domestic industry.[121] Of the 25 responding purchasers that responded to the Commission's lost sales and lost revenue survey, 13 reported that they had purchased subject imports instead of domestically produced product since 2015.[122] Twelve of these 13 purchasers reported that subject import prices were lower than those for the domestically produced product and six of these purchasers reported that price was a primary reason for its decision to shift its purchases from the domestic like product to subject imports.[123] Of the 24 responding purchasers, two of the largest purchasers (***) reported that U.S. producers had reduced prices ranging from 6.9 percent to 15 percent in order to compete with subject imports, 13 reported that they did not know whether U.S. producers had lowered prices to compete with subject imports, and nine reported that U.S. producers had not reduced prices in order to compete with subject imports.[124]

Considering all of the data in the record, we find the underselling by subject imports to be significant. As discussed above, several factors support our finding of significant underselling including: (1) the predominant underselling by subject imports on a per instance and volume basis; (2) the high degree of substitutability between the domestic like product and subject imports; (3) the importance of price in purchasing decisions; (4) the underselling by subject imports which enabled them to capture market share from domestic industry in the important retail sector; and (5) the reports of lost sales.

We do not find that subject imports depressed prices of the domestic like product to a significant degree. The pricing data indicate that from 2015 to 2017 prices for domestically produced ripe olives increased for all four pricing products, with price increases ranging from *** percent to *** percent.[125]

We also do not find that subject imports had the effect of preventing price increases which otherwise would have occurred to a significant degree. During the POI, the domestic

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[120] *See, e.g.*, CR/PR at Tables V-5, V-10, and *derived from* U.S. Processors' Questionnaires (II-8), U.S. Importers' Questionnaires (II-6b, II-7b, and II-8b), and OINV Worksheet (EDIS Doc. No. 649224). For branded retail, subject imports' market share increased from *** percent in 2015 to *** percent in 2016 and *** percent in 2017, while the domestic industry's market share declined from *** percent in 2015 to *** percent in 2016 and *** in 2017. *See, e.g.*, *Derived from* U.S. Processors' Questionnaires (II-8), U.S. Importers' Questionnaires (II-6b, II-7b, and II-8b), and OINV Worksheet (EDIS Doc. No. 649224). Nonsubject imports' market share in the branded retail sector was *** percent in 2015 and 2016 and was *** percent in 2017. *Id*.

[121] *See, e.g.*, CR/PR at Tables V-11, V-12, and V-13; CR at V-23-28, PR at V-12-14.

[122] CR/PR at Table V-11; CR at V-24, PR at V-13.

[123] CR/PR at Table V-11; CR at V-24, PR at V-13.

[124] CR/PR at Table V-13; CR at V-27-28, PR at V-14. We note that, according to Petitioner, the domestic industry lost *** to subject imports during the POI. *See, e.g.*, CR at V-23 n.9, PR at V-12 n.9; Petitioner's Posthearing Br. at 5-8, Exh. 6.

[125] CR/PR at Tables V-5 to V-9; CR at V-20, PR at V-10.

industry's COGS to net sales ratio declined from *** percent in 2015 to *** percent in 2016 and *** percent in 2017.[126] Given the domestic industry's improving COGS to net sales ratio, during a period of modestly declining apparent U.S. consumption, we do not find that subject imports had any significant price-suppressing effects.

Accordingly, based on the current record, we find that there was significant price underselling of the domestic like product by subject imports. As a result of this underselling, subject imports captured market share from the domestic industry in the large and important retail sector while maintaining their significant presence in the U.S. market for ripe olives throughout the POI. The low-priced subject imports consequently had significant adverse effects on the domestic industry, which are described further below.

F. Impact of the Subject Imports[127]

Section 771(7)(C)(iii) of the Tariff Act provides that in examining the impact of subject imports, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[128] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debts, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[129]

U.S. processors' output indicia were mixed from 2015 to 2017. On the one hand, U.S. processors' production capacity was stable between 2015 and 2017,[130] production increased by

[126] CR/PR at Table VI-3.

[127] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determination of sales at less than fair value, Commerce found dumping margins ranging from 16.88 to 25.50 percent for imports from Spain. 83 Fed. Reg. 28,193-28,194 (June 18, 2018). We take into account in our analysis the fact that Commerce has made final findings that all subject producers in Spain are selling subject imports in the United States at less than fair value. In addition to this consideration, our impact analysis has considered other factors affecting domestic prices. Our analysis of the significant underselling of subject imports, described in both the price effects discussion and below, is particularly probative to an assessment of the impact of the subject imports.

[128] 19 U.S.C. § 1677(7)(C)(iii); *see also* SAA at 851 and 885 ("In material injury determinations, 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 also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

[129] 19 U.S.C. § 1677(7)(C)(iii). This provision was amended by the Trade Preferences Extension Act of 2015, Pub. L. 114-27.

[130] U.S. processors' production capacity was *** short tons in 2015, 2016, and 2017. CR/PR at Table III-4.

*** percent,[131] and capacity utilization increased by *** percentage points.[132] On the other hand, U.S. processors' U.S. shipments (by quantity) declined by *** percent.[133] Inventories generally increased from 2015 to 2017.[134]

U.S. processors' employment-related data also were mixed. The number of production and related workers ("PRWs"), total hours worked, and hours worked per PRW each declined overall from 2015 to 2017.[135] However, wages paid, hourly wages, and worker productivity each increased overall between 2015 and 2017.[136]

Many of the U.S. processors' financial performance indicia deteriorated over the POI.[137] Net income fell by *** percent from 2015 to 2017 while operating income declined by *** percent during the same period.[138] [139] As a ratio to net sales, net income and operating income

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[131] U.S. processors' production was *** short tons in 2015, *** short tons in 2016, and *** short tons in 2017. CR/PR at Table III-4.

[132] U.S. processors' capacity utilization was *** percent in 2015, *** percent in 2016, and *** percent in 2017. CR/PR at Table III-4.

[133] By quantity, U.S. processors' U.S. shipments were *** short tons in 2015, *** short tons in 2016, and *** short tons in 2017. CR/PR at Table III-8. By value, U.S. processors' U.S. shipments increased from $*** in 2015 to $*** in 2016, and then declined to $*** in 2017, for an overall decline of *** percent between 2015 and 2017. CR/PR at Table III-8.

[134] *See, e.g.*, CR/PR at Table III-10; CR at III-11, PR at III-4-5. U.S. processors' end-of-period inventories increased by *** percent during the POI, increasing from *** short tons in 2015 to *** short tons in 2016 and *** short tons in 2017. CR/PR at Table III-10. As a ratio to U.S. shipments, U.S. processors' end-of-period inventories increased by *** percentage points between 2015 and 2017, increasing from *** percent in 2015 to *** percent in 2016 and *** percent in 2017. *Id*. As a ratio to total shipments, U.S. processors' end-of-period inventories increased by *** percentage points between 2015 and 2017, increasing from *** percent in 2015 to *** percent in 2016 and *** percent in 2017. *Id*. As a ratio to U.S. production, however, U.S. processors' end-of-period inventories declined by *** percentage points between 2015 and 2017, declining from *** percent in 2015 to *** percent in 2016, and then increasing to *** percent in 2017. *Id*.

[135] The number of PRWs declined from *** workers in 2015 to *** workers in 2016 and *** workers in 2017. CR/PR at Table III-13. Total hours worked remained constant, at *** hours in 2015 and 2016 and then declined to *** hours in 2017. *Id*. Hours worked per PRW were *** hours in 2015, *** hours in 2016, and *** hours in 2017. *Id*.

[136] Wages paid were $*** in 2015, $*** in 2016, and $*** in 2017. CR/PR at Table III-13. Hourly wages were $*** in 2015, $*** in 2016, and $*** in 2017. *Id*. Worker productivity was *** short tons per thousand hours in 2015, *** short tons per thousand hours in 2016, and *** short tons per thousand hours in 2017. *Id*.

[137] By contrast, gross profits increased irregularly during the POI. CR/PR at Table C-1. Gross profits increased overall by *** percent from 2015 to 2017, increasing from $*** in 2015 to $*** in 2016, and then declining to $*** in 2017. CR/PR at Tables VI-1, C-1.

[138] Net income declined from $*** in 2015 to $*** in 2016 and $*** in 2017. CR/PR at Tables V-1, C-1. Operating income declined from $*** in 2015 to $*** in 2016 and $*** in 2017. *Id*.

[139] Respondents argue that the declines in the domestic industry's operating and net income during the POI were attributable to increasing SG&A costs and certain non-recurring expenses, including interest expenses, and therefore were unrelated to import competition. *See, e.g.*, AFI Prehearing Br. at 20-21; AFI Posthearing Br. at 13-14. We reject Respondents' argument on this issue. The available (Continued…)

also both declined, by *** percentage points and *** percentage points, respectively.[140] Capital expenditures fell by *** percent, and research and development expenses also declined.[141] Although total net assets increased, the operating return on assets declined from 2015 to 2017.[142]

We find that subject imports from Spain had a significant impact on the domestic industry. As discussed above, the significant volumes of subject imports that undersold the domestic like product captured market share from the domestic industry in its largest sector of the market – the retail sector – and also resulted in U.S. processors of ripe olives carrying increasing inventories. There is evidence in the record indicating that the retail sector was the domestic industry's most important sector of the U.S. market for ripe olives and one in which the domestic industry lost profits during the POI.[143] As a result, several of the domestic producers' indicators were worse than they would have been otherwise.

Respondents argue that declines in domestic shipments of ripe olives and any losses suffered by U.S. processors of ripe olives stemmed from constraints to their supply of raw olives to process into ripe olives and other factors unrelated to subject imports. Specifically, they

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(…Continued)
information in the current record indicates that the domestic industry's SG&A costs were relatively flat between 2016 and 2017 while the domestic industry's operating income declined over the same period. CR/PR at Table VI-3. From 2016 to 2017, net sales quantity declined by *** short tons and net sales value ($***) declined more than operating expenses (COGS plus SG&A, which declined by $***), as low-priced subject imports captured market share in the important private label retail sector of the market. *See, e.g.*, CR/PR at Tables VI-1 and VI-3. Moreover, the non-recurring expenses identified by Respondents are germane to net income but do not account for the declines in the domestic industry's operating income during the POI, including in 2017. Finally, we note that there is information in the record indicating that the higher borrowing costs from banks and resultant higher interest costs incurred by the domestic industry have been partially due to increased inventories of both unprocessed raw olives purchased from growers and ripe olives as low-priced subject imports captured sales from the domestic industry particularly in the private label retail sector. *See, e.g.*, CR/PR at Tables III-10, VI-5, and VI-7; CR at VI-11-12, PR at VI-3; Musco's U.S. Producer Questionnaire at III-16, III-18; Bell Carter's U.S. Producer Questionnaire at III-18; Petitioner's Prehearing Br. at 29-30; Petitioner's Posthearing Br. at 13-14, Exh. 1 at 9-11, and Exh. 2.

[140] CR/PR at Table C-1. As a ratio to net sales, U.S. processors' net income declined from *** percent in 2015 to *** percent in 2016 and *** percent in 2017. CR/PR at Tables VI-1, C-1. As a ratio to net sales, U.S. processors' operating income declined from *** percent in 2015 to *** percent in 2016 and *** percent in 2017. *Id.* By quantity, net sales fell by *** percent from 2015 to 2017, declining from *** short tons in 2015 to *** short tons in 2017. *Id*. By value, net sales dropped by *** percent between 2015 and 2017, declining from $*** in 2015 to $*** in 2017. *Id*.

[141] CR/PR at Table C-1. Capital expenditures were $*** in 2015, $*** in 2016, and $*** in 2017. CR/PR at Table VI-4. Research and development expenses were $*** in 2015, $*** in 2016, and $*** in 2017. *Id*.

[142] U.S. processors' total net assets were $*** in 2015, $*** in 2016, and $*** in 2017. CR/PR at Table VI-5. U.S. processors' operating return on assets was *** percent in 2015, *** percent in 2016, and *** percent in 2017. *Id*.

[143] *See e.g.*, CR/PR at Tables II-1 and IV-7; Petitioner's Posthearing Br. at 4-5 & Exh. 6.

allege that the domestic processors' supply was negatively affected by the erratic and volatile domestic raw olive crop sizes and yields, adverse environmental factors (*i.e.*, California droughts and forest fires), diminished acreage dedicated to growing raw table olives due to repurposing of land use for oil olives and other more profitable agricultural products, and labor shortages.[144] We recognize that there may be constraints on the supply of domestically grown raw olives available for processing.[145] Nevertheless, U.S. processors of ripe olives are able to supply the U.S. market at recent historical levels using domestically grown raw olives, imports of raw olives, or from inventories of raw or ripe olives.[146] In fact, most purchasers (20 of 25) reported no supply constraints for ripe olives from any source, and only relatively small purchasers reported supply constraints for domestically produced ripe olives.[147]

We have considered whether there are other factors that may have had an impact on the domestic industry during the POI to ensure that we are not attributing injury from such other factors to subject imports. As discussed above, apparent U.S. consumption decreased by *** percent during 2015 to 2017.[148] However, this relatively modest decline in apparent U.S. consumption was smaller than the declines in shipments, net sales, and operating and net income experienced by the domestic industry.[149] While nonsubject imports were generally the lowest-priced and captured market share from both the domestic industry and subject imports,[150] subject imports had a substantially larger presence in the U.S. market than nonsubject imports throughout the POI.[151] Moreover, the record indicates that nonsubject imports captured market share from subject imports in the institutional sector of the U.S.

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[144] *See, e.g*, ASEMESA Prehearing Br. at 11-22; AFI Group Prehearing Br. at 4-12; European Commission Prehearing Br. at 6-7; Government of Spain Prehearing Br. at 6-9, 12 & Informa Report at 13-20

[145] *See, e.g.*, CR at II-12-13, PR at II-8-9.

[146] *See, e.g.*, CR/PR at Tables III-4, III-6, III-10, III-11, III-12, IV-2, IV-5, V-1, C-1, and Appendix D, Table D-1; CR at II-12-13, PR at II-8-9; Petitioner's Posthearing Br., Exh. 1 at 10-11 (Answers to Commissioners' Questions). Other information in the record further confirms that it is not cost prohibitive for U.S. processors of ripe olives to use imported raw olives, including that import AUVs for raw olives were comparable to AUVs for domestically sourced raw olives during the POI. *See, e.g.*, CR/PR at Table V-1; Petitioner's Posthearing Br. at 12-13 nn.53, 56 & Exh. 1 at 2 (Answers to Commissioners' Questions); Hearing Tr. at 56 (Carter).

[147] CR at II-12-13, PR at II-8-9.

[148] Apparent U.S. consumption of ripe olives totaled *** short tons in 2015, *** short tons in 2016, and *** short tons in 2017. CR/PR at Table IV-5.

[149] *See* CR/PR at Table C-1 (changes in indicators from 2015 to 2017).

[150] CR/PR at Tables IV-5, C-1, and Appendix E.

[151] As measured by quantity, nonsubject import market share was *** percent in 2015, *** percent in 2016, and *** percent in 2017. CR/PR at Table IV-5. As discussed above, subject imports' market share was *** percent in 2015, *** percent in 2016, and *** percent in 2017. *Id*. U.S. processors' market share was *** percent in 2015, *** percent in 2016, and *** percent in 2017. CR/PR at Tables IV-5, C-1.

market for ripe olives[152] while as discussed above subject imports took away market share from the domestic industry in the retail sector, a more important sector for the domestic industry.[153] Thus, other factors cannot explain the domestic industry's market share losses in the retail sector and overall financial performance declines.

Accordingly, for the above reasons, we conclude that subject Imports had a significant adverse impact on the domestic industry.

V. Conclusion

For the reasons stated above, we determine that an industry in the United States is materially injured by reason of subject imports of ripe olives from Spain found by Commerce to be sold in the United States at less than fair value and to be subsidized by the government of Spain.

[152] CR/PR at Table IV-8. Nonsubject imports had a minimal presence in the retail sector during the POI ranging from *** percent to *** percent. CR/PR at Table IV-7. There were not any nonsubject imports from Morocco in the retail sector. *Id*.

[153] Respondents argue that subject imports did not have a significant adverse impact claiming that the domestic industry largely competed in the retail sector while subject imports competed largely in the other sectors of the U.S. market for ripe olives. *See, e.g.*, ASEMESA Prehearing Br. at 42-45; Government of Spain Prehearing Br. at 10-11. As discussed above, however, the record indicates that subject imports were increasingly focused on the retail sector of the market during the POI, and that subject imports undersold and captured market share from the domestic industry in the retail sector, including for both retail private label and retail branded products.

Dissenting Views of Commissioner Meredith M. Broadbent

Based on the record in the final phase of these investigations, I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of ripe olives from Spain found by the U.S. Department of Commerce ("Commerce") to be sold at less-than-fair value and subsidized by the government of Spain. I join Sections I-IV.C of the Views of the Commission, except as otherwise indicated.

My negative determination is based on findings that: (1) subject imports decreased in absolute terms and relative to consumption; (2) there was a lack of adverse price effects caused by subject imports; (3) subject imports did not cause the domestic industry's output and financial condition to be worse than it would have been otherwise; and (4) the domestic industry is not threatened with material injury in the imminent future.

I. No Material Injury By Reason of Subject Imports

As discussed in Section IV of the Views of the Commission, I join my colleagues in the discussion of data issues and pertinent conditions of competition. As discussed in section IV.B, U.S. crop cycles did not distort the data relevant to the domestic industry, which is solely comprised of processors of ripe olives. Therefore, I have examined data covering a three-year period of investigation (i.e. January 2015-December 2017) ("POI"), consistent with the Commission's customary practice in original investigations.

a. **Volume of Subject Imports**

Section 771(7)(C)(i) of the Tariff Act provides that the "Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."

During the POI, the absolute volume of subject imports from Spain declined by 6.4 percent, from 35,037 short tons in 2015 to 32,782 short tons in 2017.[1] Subject imports declined not only in absolute terms, but also relative to apparent U.S. consumption, which fell by *** percent.[2] As a result, subject imports lost *** percentage points of U.S. market share during the POI, declining from *** percent in 2015 to *** percent in 2017.[3] The domestic industry also ceded some market share, with its share falling slightly from *** percent in 2015 to *** percent in 2017.[4] Importantly, imports from nonsubject sources, primarily from Morocco, increased in absolute terms by *** percent during 2015-2017, and the market share of nonsubject imports increased from *** percent in 2015 to *** percent in 2017.[5] Thus, the

[1] CR/PR at Table IV-2.
[2] CR/PR at Table IV-5.
[3] CR/PR at Table IV-5.
[4] CR/PR at Table IV-5.
[5] CR/PR at Table IV-5.

record demonstrates that the domestic industry lost a small amount of market share to imports from nonsubject sources, but not to subject imports.

Petitioner argues that importers have substantially expanded sales of subject merchandise to a specific subset of customer—retailers—with these increases coming at the domestic industry's expense.[6] Although importers increasingly sold subject imports to retailers over the POI,[7] this did not cause the domestic industry's overall market share to decline. The domestic industry's U.S. shipments to retailers remained steady relative to the overall market for ripe olives.[8] Instead, the slight decline in U.S. producers' overall market share that did occur over the period, as well as the overall decline in subject import market share, was driven by changes in sales to distributors.[9] As sales of subject imports and the domestic like product to distributors decreased by *** and *** percent, respectively, U.S. importers' shipments of nonsubject imports to distributors increased by *** percent.[10] Therefore, a closer observation of sales to different types of purchasers demonstrates the fact that nonsubject imports, rather than subject imports, caused the slight changes in overall market share that occurred during the POI.

While subject imports declined in absolute terms and relative to U.S. consumption, I nevertheless find that the volume of subject imports, in absolute terms and relative to U.S. consumption, is significant.[11] However, as discussed in greater detail below, I do not find that the declining volume of subject imports had significant adverse price effects or had a significant impact on the domestic industry.

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[6] Petitioner's Posthearing Brief at 3-6.

[7] U.S. importers of subject product from Spain increased their U.S. shipments to retailers from 2015 to 2017, rising rapidly (by *** percent) from a low base level. CR/PR at Table IV-7.

[8] U.S. producers' commercial U.S. shipments to retailers, as a ratio to overall apparent consumption, was *** percent in 2015, *** percent in 2016, and *** percent in 2017. CR/PR at Table IV-7.

[9] U.S. producers' commercial U.S. shipments to distributors, as a ratio to overall apparent consumption, was *** percent in 2015, *** percent in 2016, and *** percent in 2017. CR/PR at Table IV-6.

[10] CR/PR at Table IV-6.

[11] Petitioner argues that the Commission should give less weight to declines in subject imports in 2017 due to the filing of the petition. Petitioner's Posthearing Brief at 10. The petitions were filed on June 22, 2017, indicating that any post-petition effect would have occurred in the second half of 2017. However, subject imports as measured by pricing data, the only non-annual data available on the record, decreased only slightly between the first and second halves of 2017, by *** percent. The decrease in subject imports in the second half of 2017 was far less than the *** percent decrease that occurred between the second half of 2016 and the first half of 2017. CR/PR at Tables V-6 to V-8. Therefore, the decline in subject imports in 2017 began in large part before the filing of the petitions. In view of this information, I do not accord less weight to the volume of subject imports during 2017 as a result of the petition filing. Nonetheless, the volume of subject imports from 2015 to 2016 was steady in both absolute terms and relative to consumption. CR/PR at Table IV-5. Therefore, my findings that the volume of subject imports is significant, but did not capture market share from the domestic industry, would be the same even if I had given less weight to 2017 data.

b. Price Effects of Subject Imports

Section 771(7)(C)(ii) of the Tariff Act provides that, in evaluating the price effects of the subject imports, the Commission shall consider whether

(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and

(II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

As discussed in the Views of the Commission, the evidence on the record indicates that there is a high degree of substitutability between U.S. ripe olives and subject imports. In addition, while price is an important factor in purchasing decisions, other non-price factors, such as quality and availability, are also important factors considered by purchasers.

For all pricing products, domestic prices increased during the POI, with domestic price increases ranging from *** percent to *** percent from the first quarter of 2015 to the last quarter of 2017.[12] Moreover, subject import prices for pricing products 3 and 4 (the pricing products accounting for the largest volume of subject imports from Spain) increased as well.[13] Prices for product imported from Spain were below those for U.S.-produced product in 37 of 48 instances, with margins of underselling ranging from 4.4 percent to 37.8 percent.[14] Petitioner argues that lower-priced subject imports from Spain resulted in the domestic industry losing market share, but the evidence on the record indicates otherwise.[15] As discussed above, subject imports from Spain declined and lost market share between 2015 and 2017.[16] Data provided by purchasers is consistent with these trends: while some firms indicated that they purchased subject imports primarily due to price, purchasers overall indicated that they had sourced less from both domestic and subject sources over the POI, demonstrating a greater reliance on nonsubject imports.[17] To the extent subject import shipments were sold increasingly to retailers over the POI, their gains in sales to these customers did not have the

[12] CR/PR at Table V-9.

[13] CR/PR at Table V-9. Import prices for pricing products 1 and 2 declined over the POI. *Id*.

[14] CR/PR at Table V-10. In the remaining 11 instances, prices for product from Spain were between 0.5 percent and 21.5 percent above prices for the domestic product. *Id*.

[15] Petitioner's Prehearing Brief at 17.

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

[17] In response to purchaser questionnaires, 13 of 25 purchasers reported that they had purchased the subject imports instead of the domestic like product. Twelve of these purchasers indicated that subject imports were lower priced than the domestic like product, and six indicated that price was a primary reason in their decision to purchase the subject imports. However, the volume of subject imports purchased instead of the domestic like product due primarily to price totaled *** short tons, accounting for a small share of apparent U.S. consumption from 2015 to 2017. CR/PR at Table V-12. Overall, purchasers reported that their share of total purchases accounted for by subject imports decreased by 0.8 percentage points, while their share accounted for by domestic sources decreased by 1.1 percentage points. CR/PR at Table V-11.

effect of reducing domestic producers' overall shipments or market share to a significant degree.[18]

I do not find that subject imports depressed or suppressed domestic prices to a significant degree. As previously mentioned, apparent U.S. consumption declined over the POI, yet domestic prices increased across all pricing products, including sales to retailers and other types of purchasers.[19] The domestic industry's per-unit cost of goods sold ("COGS") increased by only *** percent from 2015 to 2017, from $*** in 2015 to $*** in 2017.[20] The unit net sales value increased by *** percent, from $*** per short ton in 2015 to $*** per short ton in 2017.[21] The domestic industry's COGS to net sales ratio declined from *** percent to *** percent from 2015 to 2017.[22]

Due to the increase in U.S. prices between 2015 and 2017 despite declining demand and relatively steady cost trends, I find that subject imports did not depress prices or prevent price increases, which otherwise would have occurred, to a significant degree. Subject imports also did not increase market share at the expense of the domestic industry. While I find that subject imports from Spain predominantly undersold the domestic product during the POI, I do not find

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[18] U.S. producers' commercial U.S. shipments to retailers, as a ratio to overall apparent consumption, was steady at *** percent in 2015, *** percent in 2016, and *** percent in 2017. CR/PR at Table IV-7.

Petitioner identified *** and ***, specifically, as retailers that had shifted substantial volumes of their overall purchases to subject imports at the expense of the domestic industry. Petitioner's Posthearing Brief at 5-8. These retailers did report a greater reliance on subject imports over the POI, and gave several reasons for these shifts, including cost factors and a need to diversify supply beyond one source. CR/PR at Tables V-11-12; CR at V-25 n. 12; PR at V-28. *** and *** reported shifting *** percent and *** percent, respectively, of their annual purchases from domestic to subject sources over the POI. CR/PR at Table V-11. However, while these two individual firms increased their purchases of subject imports, this did not result in a net gain in market share for subject imports at the domestic industry's expense. As stated above, purchasers as a whole reported only minor declines in their total purchases of both subject imports (down 0.8 percentage points) and the domestic like product (down 1.1 percentage points), even if individual firms reported more significant shifts between these sources. CR/PR at Table V-11. Therefore, Petitioner's identification of certain accounts in which U.S. producers lost business to subject imports does not contradict the overall steadiness, with slight declines, in both domestic industry and subject import market share over this period.

[19] Petitioner argues that the domestic industry was forced to reduce their prices in competition with subject imports in private label sales to retailers. Petitioner's Prehearing Brief at 26. The Commission's pricing data for the private label product sold to retailers, product 2, show that domestic prices fluctuated and increased overall during the POI notwithstanding subject import competition at low prices.

Only two of 26 responding purchasers indicated that U.S. producers had reduced prices in order to compete with subject imports. CR/PR at Table V-13. These limited responses do not contradict the evidence in our pricing data that U.S. prices increased despite the presence of low-priced subject imports.

[20] CR/PR at Table VI-1.

[21] CR/PR at Table VI-1.

[22] CR/PR at Table VI-1.

this underselling to be significant in the absence of adverse effects caused by that underselling.[23] Accordingly, I find no evidence on the record that subject imports caused significant price effects.

c. Impact of Subject Imports[24]

Section 771(7)(C)(iii) of the Tariff Act provides that examining the impact of subject imports, the Commission "shall evaluate all relevant economic factors which have a bearing on the state of the industry."[25] These factors include output, sales, inventories, capacity utilization, market share, employment, wages, productivity, gross profits, net profits, operating profits, cash flow, return on investment, return on capital, ability to raise capital, ability to service debts, research and development, and factors affecting domestic prices. No single factor is dispositive and all relevant factors are considered "within the context of the business cycle and conditions of competition that are distinctive to the affected industry."[26]

Between 2015 and 2017, the domestic industry's capacity remained stable at *** short tons, as production increased by *** percent.[27] As a result, the domestic industry's capacity utilization rates increased from *** percent in 2015 to *** percent in 2017.[28] U.S. inventories slightly increased, rising from *** short tons in 2015 to *** short tons in 2017.[29] Employment trends were mixed, with the number of production workers and hours worked falling by *** percent and *** percent, respectively, but wages paid, hourly wages, and productivity increased by *** percent, *** percent, and *** percent, respectively.[30]

As the domestic industry's U.S. shipments on a quantity basis declined by *** percent between 2015 and 2017, the unit values of U.S. shipments increased by *** percent over the

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[23] *Compare*, *e.g.*, Altx, Inc. v. United States, 26 CIT 1425, 1436-37 (2002) (affirming finding that underselling was not significant in the absence of adverse effects caused by the underselling), *aff'd*, 370 F.3d 1108 (Fed. Cir. 2004).

[24] The statute instructs the Commission to consider the "magnitude of the dumping margin" in an antidumping proceeding as part of its consideration of the impact of imports. 19 U.S.C. § 1677(7)(C)(iii)(V). In its final determinations of sales at less-than-fair value, Commerce found antidumping duty margins of 16.88 to 25.50 percent for imports from Spain. I take into account in my analysis the fact that Commerce has made these final findings, as well as consideration of other factors related to the domestic industry's condition.

[25] 19 U.S.C. § 1677(7)(C)(iii); *see also* SAA at 851 and 885 ("In material injury determinations, 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 also may demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.").

[26] 19 U.S.C. § 1677(7)(C)(iii). This provision was amended by the Trade Preferences Extension Act of 2015, Pub. L. 114-27.

[27] CR/PR at Table III-4.

[28] CR/PR at Table III-4.

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

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

same period.[31] Likewise, net sales on a quantity basis declined by *** percent between 2015 and 2017, yet net sales unit values increased by *** percent during the same period.[32] The domestic industry's gross income as a ratio to net sales increased from *** percent in 2015 to *** percent in 2017, while the domestic industry's operating income margins declined slightly from *** percent in 2015 to *** percent in 2017.[33] Thus, despite the domestic industry selling and shipping slightly lower volumes over the POI, it did so at higher unit values and maintained steady and improving gross profitability during a period of declining apparent U.S. consumption.

I also observe that in addition to declining demand during the POI, the domestic industry faced competition from increasing volumes of lower-priced imports of ripe olives from nonsubject sources, specifically Morocco. Imports of ripe olives from Morocco increased in absolute terms by *** percent over the POI, and increased market share from *** percent in 2015 to *** percent in 2017.[34] Prices for Moroccan ripe olives were lower than prices for Spanish ripe olives in 17 instances and higher in 7 instances.[35] Thus, the record indicates that imports of ripe olives from nonsubject sources, particularly low-priced imports from Morocco, gained market share at the expense of both the domestic industry and subject imports.

In conclusion, I find that the volume of subject imports decreased and did not gain market share at the domestic industry's expense. To the extent certain domestic industry output-related indicia declined over the POI, this was caused by declining demand for ripe olives and losses of market share to low-priced nonsubject imports. Similarly, in the absence of adverse price effects, subject imports did not cause the domestic industry's financial condition to be worse than it would have been otherwise, and the industry's gross profits remained stable throughout the POI.

In view of the foregoing, I find that subject imports did not have a significant impact on the domestic industry.

II. No Threat of Material Injury by Reason of Subject Imports

a. Legal Standard

Section 771(7)(F) of the Tariff Act directs the Commission to determine whether the domestic industry is threatened with material injury by reason of the subject imports by

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

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

[33] CR/PR at Table VI-1. The industry's net income as a ratio to net sales decreased from *** percent in 2015 to *** percent in 2017. *Id*. The slight declines in both operating income and net income margins primarily reflect increasing selling, general and administrative (SG&A) costs (such as ***) as well as certain non-recurring expenses. CR/PR at Table VI-1; CR at VI-10-12; PR at VI-3.

The domestic industry's capital expenditures and research and development were highest in 2015 and were lower in 2016 and 2017. CR/PR at Table VI-4. The domestic industry's total assets increased over the POI, while operating return on assets declined, reflecting the same operating income trends described above. CR/PR at Table VI-5.

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

[35] CR/PR at Appendix E-3, and Table E-3.

analyzing whether "further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted."[36] The Commission may not make such a determination "on the basis of mere conjecture or supposition," and considers the threat factors "as a whole" in making its determination whether dumped or subsidized imports are imminent and whether material injury by reason of subject imports would occur unless an order is issued.[37] In making my determination, I consider all statutory threat factors that are relevant to these investigations.[38]

b. Likely Volume

As noted in my discussion of present material injury, subject imports from Spain declined in absolute terms and relative to apparent U.S. consumption during the POI. The absolute volume of subject imports from Spain was 6.4 percent lower in 2017 than in 2015, and

[36] 19 U.S.C. § 1677(7)(F)(ii).

[37] 19 U.S.C. § 1677(7)(F)(ii).

[38] These factors are as follows:

(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement) and whether imports of the subject merchandise are likely to increase,

(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,

(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,

(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices and are likely to increase demand for further imports,

(V) inventories of the subject merchandise,

(VI) 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,

…

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time). Factor VII regarding raw and processed agricultural products is inapplicable in these investigations because the subject merchandise does not include a raw agricultural product, but only includes a processed agricultural product. *See* 19 U.S.C. 1677(7)(F)(i)(I), (VII).

19 U.S.C. § 1677(7)(F)(i).

subject import market share was *** percentage points lower in 2017 than in 2015.[39] Thus, while I found that the volume was significant in absolute terms and relative to apparent U.S. consumption, the declines in both indicia do not foreshadow a surge of subject imports into the U.S. market in the imminent future.

The Commission received foreign producer or exporter questionnaires from ten firms in Spain that accounted for approximately 87.9 percent of U.S. imports of ripe olives from Spain and approximately 44.5 percent of overall production of ripe olives in Spain in 2017.[40] Data submitted by these firms show that the Spanish ripe olives industry's capacity increased modestly during the POI, from 116,154 short tons in 2015 to 121,949 short tons in 2017.[41] Production also increased during the POI, from 100,244 short tons in 2015 to 103,623 short tons in 2017.[42] The Spanish industry's capacity utilization rates remained relatively stable throughout the POI, and were 86.3 percent in 2015, 85.7 percent in 2016, and 85.0 percent in 2017.[43]

Petitioners argue that the Spanish industry has significant excess capacity that could be used to increase exports to the U.S. market.[44] Notwithstanding some increases in capacity and existing excess capacity, the Spanish industry's reported exports of ripe olives to the United States declined during the POI, both in absolute terms and as a share of overall shipments of Spanish ripe olives.[45] By contrast, Spanish exports to other markets increased in absolute terms and relative to overall shipments.[46] Publicly available trade data indicate that the United States was the single largest export destination for Spanish olives (including out-of-scope merchandise) during the POI, but the volume of Spanish exports to the United States decreased between 2015 and 2017.[47] Therefore, the evidence on the record demonstrates that Spain was not filling excess capacity by exporting additional volumes of ripe olives to the U.S. market during the POI.

Petitioner's claim that U.S. importers' inventories of subject merchandise increased over the POI is also undermined by the record of this investigation.[48] Importers' inventories of

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

[40] CR at VII-5; PR at VII-4.

[41] CR/PR at Table VII-3. Spanish ripe olives capacity is expected to reach 123,054 short tons and 123,489 short tons in 2018 and 2019, respectively. *Id.*

[42] CR at Table VII-3.

[43] CR at Table VII-3.

[44] Petitioners Prehearing Brief at 32.

[45] Reported exports to the United States declined from 30,389 short tons in 2015 to 28,804 short tons in 2017. As a share of total shipments, exports to the United States accounted for 30.1 percent of total shipments of Spanish ripe olives in 2015 and 27.8 percent in 2017. CR/PR at Table VII-3.

[46] Exports to other markets increased from 62,358 short tons in 2015 to 67,525 short tons in 2017; as a share of total shipments, exports to other markets accounted for 61.8 percent in 2015 and 65.3 percent in 2017.

[47] CR/PR at Table VII-6.

[48] Petitioner's Prehearing Brief at 35.

subject imports from Spain declined by 7.2 percent over the POI.[49] In addition, end-of-period inventories held by the Spanish industry declined by 2.0 percent between 2015 and 2017.[50]

In light of the declining volume of subject imports and the Spanish industry's stable trends over the POI, I do not find that the volume of subject imports from Spain is likely to significantly increase in the imminent future.

c. Likely Price Effects

As discussed above, underselling by the subject imports was prevalent during the POI. However, I found that notwithstanding the significant volume of subject imports sold at lower prices during the POI, the subject imports did not have a significant adverse effect on prices for the domestic like product. Instead, domestic prices increased, both in general terms and in the retail market segment, specifically, and these price increases occurred despite declining apparent U.S. consumption and steady costs. In light of my finding that subject imports are not likely to increase significantly in the imminent future, I similarly do not consider it likely that the price trends that prevailed during the POI are likely to change either.

Therefore, I find that imports of ripe olives from Spain are not likely to enter at prices that will have a significant depressing or suppressing effect on domestic prices or to increase demand for further imports.

d. Likely Impact

As discussed above, I have found no significant causal relationship between subject imports and the domestic industry's performance during the POI. Subject import volumes decreased throughout the POI, and did not cause adverse price effects or lead to a loss in the domestic industry's market share. To the extent that specific domestic industry indicators were worse in 2017 than in 2015, I found that declining apparent U.S. consumption and increasing lower-priced nonsubject imports were the cause, not subject imports from Spain.

As discussed above, I do not find it likely that there will be a significant increase of subject imports in the imminent future. Although underselling may persist, as occurred throughout the POI, subject imports are not likely to have significant price depressing or suppressing effects on prices for U.S. ripe olives. Based on these considerations, I find that subject imports are not likely to have a significant impact on the domestic industry in the imminent future.

In view of the foregoing, I conclude that an industry in the United States is not threatened with material injury by reason of subject imports.

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

[50] CR/PR at Table VII-3. Spanish producers process Sicilian and Spanish style olives and other products on the same equipment used to process ripe olives. However, the potential for product shifting is limited, as the share of production of out-of-scope merchandise on this shared equipment remained stable over the POI. CR/PR at Table VII-5. There are no known trade remedy actions on ripe olives in third-country markets. CR at VII-14; PR at VII-12.

III. Conclusion

For the reasons stated above, I determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports of ripe olives from Spain that are sold in the United States at less-than-fair value and subsidized by the government of Spain.

PART I: INTRODUCTION

BACKGROUND

These investigations result from petitions filed with the U.S. Department of Commerce ("Commerce") and the U.S. International Trade Commission ("USITC" or "Commission") by the Coalition for Fair Trade in Ripe Olives, consisting of Bell-Carter Foods, Walnut Creek, California ("Bell-Carter") and Musco Family Olive Company, Tracy, California ("Musco"), on June 22, 2017, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and less-than-fair-value ("LTFV") imports of ripe olives[1] from Spain. The following tabulation provides information relating to the background of these investigations.[2] [3]

Effective date	Action
June 22, 2017	Petitions filed with Commerce and the Commission; institution of Commission investigations (82 FR 29327, June 28, 2017)
July 12, 2017	Commerce's notice of initiation of antidumping investigation (82 FR 33054, July 19, 2017)
July 12, 2017	Commerce's notice of initiation of countervailing duty investigation (82 FR 33050, July 19, 2017)
August 7, 2017	Commission's preliminary determinations (82 FR 37610, August 11, 2017)
November 28, 2017	Commerce's preliminary countervailing duty determinations (82 FR 56218)
January 26, 2018	Commerce's preliminary antidumping determinations (83 FR 3677); scheduling of final phase of Commission investigations (83 FR 7774, February 22, 2018)
May 24, 2018	Commission's hearing
June 18, 2018	Commerce's final determinations (83 FR 28186; 83 FR 28193)
July 10, 2018	Commission's vote
July 25, 2018	Commission's views

[1] See the section entitled "The Subject Merchandise" in *Part I* of this report for a complete description of the merchandise subject in this proceeding.

[2] Pertinent *Federal Register* notices are referenced in appendix A, and may be found at the Commission's website (www.usitc.gov).

[3] A list of witnesses appearing at the hearing is presented in appendix B of this report.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory criteria

Section 771(7)(B) of the Tariff Act of 1930 (the "Act") (19 U.S.C. § 1677(7)(B)) provides that in making its determinations of injury to an industry in the United States, the Commission--

> *shall consider (I) the volume of imports of the subject merchandise, (II) the effect of imports of that merchandise on prices in the United States for domestic like products, and (III) the impact of imports of such merchandise on domestic producers of domestic like products, but only in the context of production operations within the United States; and. . . may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.*

Section 771(7)(C) of the Act (19 U.S.C. § 1677(7)(C)) further provides that--[4]

> *In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States is significant.. . .In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether. . .(I) there has been significant price underselling by the imported merchandise as compared with the price of domestic like products of the United States, and (II) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.. . . In examining the impact required to be considered under subparagraph (B)(i)(III), the Commission shall evaluate (within the context of the business cycle and conditions of competition that are distinctive to the affected industry) all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to. . . (I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity, (II) factors affecting domestic prices, (III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, (IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more*

[4] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.

advanced version of the domestic like product, and (V) in {an antidumping investigation}, the magnitude of the margin of dumping.

In addition, Section 771(7)(J) of the Act (19 U.S.C. § 1677(7)(J)) provides that—[5]

(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved.

Organization of report

Part I of this report presents information on the subject merchandise, subsidy/dumping margins, and domestic like product. *Part II* of this report presents information on conditions of competition and other relevant economic factors. *Part III* presents information on the condition of the U.S. industry, including data on capacity, production, shipments, inventories, and employment. *Parts IV* and *V* present the volume of subject imports and pricing of domestic and imported products, respectively. *Part VI* presents information on the financial experience of U.S. producers. *Part VII* presents the statutory requirements and information obtained for use in the Commission's consideration of the question of threat of material injury as well as information regarding nonsubject countries.

MARKET SUMMARY

Ripe olives are generally used as ingredients in recipes, pizzas, salads, and sandwiches, but can also be eaten as snacks or appetizers.[6] The leading U.S. producers of ripe olives are Bell-Carter and Musco, while leading producers of ripe olives outside the United States *** of Spain. The leading U.S. importers of ripe olives from Spain are ***.[7] Leading importers of product from nonsubject countries (primarily ***) include ***. U.S. purchasers of ripe olives are retailers and distributors; leading purchasers include ***.

Apparent U.S. consumption of ripe olives totaled approximately *** short tons, drained weight ("short tons") ($***) in 2017. Currently, two firms are known to produce virtually all ripe olives in the United States. U.S. producers' U.S. shipments of ripe olives totaled *** short tons ($***) in 2017, and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from subject sources totaled 32,782 short tons ($76.3 million) in 2017 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value. U.S. imports from nonsubject sources totaled *** short tons ($***) in

[5] Amended by PL 114-27 (as signed, June 29, 2015), Trade Preferences Extension Act of 2015.
[6] Petition, p. 14.
[7] ***.

2017 and accounted for *** percent of apparent U.S. consumption by quantity and *** percent by value.

SUMMARY DATA AND DATA SOURCES

A summary of data collected in these investigations is presented in appendix C, table C-1. Except as noted, U.S. producer data are based on questionnaire responses of two firms that accounted for virtually all of U.S. processing of ripe olives during 2017.[8] U.S. import data are based on official import statistics, with the exception of Morocco, which is based on U.S. Importer's Questionnaire responses.[9]

[8] These firms are identified as the only producers of black ripe olives and producers of 'virtually all' ripe olives produced in the United States. Petitioners identified Graber Olive House ("Graber") as a small producer of green ripe olives, estimating that the firm produces about 150 tons per year (or *** percent of production reported by Bell-Carter and Musco). Petition, p. 5. The Commission issued a questionnaire to Graber, but did not receive a response.

[9] Official import statistics used in this report include those data reported under HTS statistical reporting numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070. These numbers were identified as the "most representative" numbers for ripe olives in the Commission's preliminary phase investigations. Conference transcript, p. 67 (Paretzky).

, the largest reported importer from Morocco, reported all of its 2017 imports (short tons) under HTS statistical reporting number 2005.70.7515 (olives in a saline solution, sliced, not green in color, packaged other than canned or in airtight containers of glass or metal), according to proprietary Customs data. This number is not one of the seven numbers which were used in compiling U.S. import statistics, and so questionnaire data was considered to more accurately reflect the market for imported ripe olives from Morocco. This firm's imports accounted for *** percent of all imports reported under this number in 2017. Imports from Spain reported under this number accounted for *** percent of total imports reported under this number in 2017.

The Commission's questionnaires in the final phase of these investigations requested data covering the period from 2015-17 and information in this report is presented covering those years. In the preliminary phase of these investigations, the Commission collected data over a four-year period (2013-16) to permit the assessment of any potential effect of two-year crop cycles on olive growers and ripe olive processors. The Commission determined not to include olive growers in the domestic industry in its preliminary phase determinations. Further, the Commission recognized that, while domestic raw olive harvests can vary, ripe olive processors have multiple sources from which to process and supply ripe olives, including using imported raw olives or from inventory. *Ripe Olives from Spain, Inv. Nos. 701-TA-582 and 731-TA-1377 (Preliminary)*, USITC Publication 4718, August 2017, pp. 8 and 26. Summary data from the preliminary phase investigations is available at the end of this report.

PREVIOUS AND RELATED INVESTIGATIONS

Ripe olives have not been the subject of any prior countervailing or antidumping duty investigations in the United States.[10]

NATURE AND EXTENT OF SUBSIDIES AND SALES AT LTFV

Subsidies

On June 18, 2018, Commerce published a notice in the *Federal Register* of its final determination of countervailable subsidies for producers and exporters of ripe olives from Spain.[11] Table I-1 presents Commerce's findings of subsidization of ripe olives in Spain.

Table I-1
Ripe olives: Commerce's final subsidy determination with respect to imports from Spain

Entity	Final countervailable subsidy margin (percent)
Aceitunas Gudalquivir S.L	27.02
Agro Sevilla Aceitunas S.COOP. And.	7.52
Angel Camacho Alimentación, S.L.	13.22
All others	14.75

Source: 83 FR 28186, June 18, 2018.

[10] In 1984, pursuant to section 104 of the Trade Agreements Act of 1979, the Commission conducted an investigation to determine whether imports of bottled green olives from Spain would materially injure, threaten to injure, or materially retard the establishment of, an industry in the United States if the existing countervailing duty order on that product (issued by the Department of the Treasury under section 303 of the Tariff Act of 1930) were to be revoked. The Commission reached a negative determination in the case.

The domestic like product in the investigation was determined to be 'bottled green olives'. While the staff report discussed 'California-style green ripe olives', it also noted that such olives are "…seldom, if ever, packed in glass containers." *Bottled Green Olives from Spain*, *Inv. No. 104-TAA-22*, USITC Publication 1531, May 1984.

[11] *Ripe Olives From Spain: Final Affirmative Countervailing Duty Determination*, 83 FR 28186, June 18, 2018. In its corresponding Issues and Decision Memorandum, Commerce determined the following programs to be countervailable: European Union (EU) Common Agricultural Policy (CAP) Pillar I – Basic Payment Scheme (BPS); EU CAP – Greening; EU CAP Pillar II – Agricultural Fund for Rural Development (Rural Development); Spanish Agricultural Insurance System (SAIS); EU Program for the Environment and Climate Action (LIFE); EU Regional Development Fund (ERDF) and Andalusia Energy Agency Sustainable Energy Development of Andalusia Scheme (Sustainable Energy Development of Andalusia Scheme); EU ERDF and Agency of Innovation and Development of Andalusia (IDEA); EU ERDF and Andalusian Promotion of Renewable Energy Installations (PROSOL); Centre for the Development of Industrial Technology (CDTI) Financing; ICO – Exporters; ICO – International Financing; Income Tax Credit for Foreign Trade Fair Expenses; and Unreported Grant to Angel Camacho Presented at Verification.

Sales at LTFV

On June 18, 2018, Commerce published a notice in the *Federal Register* of its final determination of sales at LTFV with respect to imports from Spain.[12] Table I-2 present Commerce's dumping margins with respect to imports of product from Spain.

Table I-2
Ripe olives: Commerce's final weighted-average LTFV margins with respect to imports from Spain

Exporter/producer	Estimated weighted-average dumping margin (percent)
Aceitunas Gudalquivir S.L.	17.46
Agro Sevilla Aceitunas S.Coop. Anndalusia	25.50
Angel Camacho Alimentación, S.L.	16.88
All others	20.04

Source: 83 FR 28193, June 18, 2018.

THE SUBJECT MERCHANDISE

Commerce's scope

Commerce has defined the scope of this investigation as follows:

> *The products covered by this investigation are certain processed olives, usually referred to as "ripe olives." The subject merchandise includes all colors of olives; all shapes and sizes of olives, whether pitted or not pitted, and whether whole, sliced, chopped, minced, wedged, broken, or otherwise reduced in size; all types of packaging, whether for consumer (retail) or institutional (food service) sale, and whether canned or packaged in glass, metal, plastic, multi-layered airtight containers (including pouches), or otherwise; and all manners of preparation and preservation, whether low acid or acidified, stuffed or not stuffed, with or without flavoring and/or saline solution, and including in ambient, refrigerated, or frozen conditions.*
>
> *Included are all ripe olives grown, processed in whole or in part, or packaged in Spain. Subject merchandise includes ripe olives that have been further processed in Spain or a third country, including but not limited to curing, fermenting, rinsing, oxidizing, pitting, slicing, chopping, segmenting, wedging, stuffing, packaging, or heat treating, or any other*

[12] *Ripe Olives From Spain: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 28193, June 18, 2018.

processing that would not otherwise remove the merchandise from the scope of the investigation if performed in Spain.

Subject merchandise includes ripe olives that otherwise meet the definition above that are packaged together with non-subject products, where the smallest individual packaging unit (e.g., can, pouch, jar, etc.) of any such product—regardless of whether the smallest unit of packaging is included in a larger packaging unit (e.g., display case, etc.)—contains a majority (i.e., more than 50 percent) of ripe olives by net drained weight. The scope does not include the non-subject components of such product.

Excluded from the scope are: (1) Specialty olives[13] (including "Spanish-style," "Sicilian-style," and other similar olives) that have been processed by fermentation only, or by being cured in an alkaline solution for not longer than 12 hours and subsequently fermented; and (2) provisionally prepared olives unsuitable for immediate consumption (currently classifiable in subheading 0711.20 of the Harmonized Tariff Schedule of the United States (HTSUS)).

The merchandise subject to this investigation is currently classifiable under subheadings 2005.70.0230, 2005.70.0260, 2005.70.0430, 2005.70.0460, 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070,

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[13] Some of the major types of specialty olives and their curing methods are:

"Spanish-style" green olives. Spanish-style green olives have a mildly salty, slightly bitter taste, and are usually pitted and stuffed. This style of olive is primarily produced in Spain and can be made from various olive varieties. Most are stuffed with pimento; other popular stuffings are jalapeno, garlic, and cheese. The raw olives that are used to produce Spanish-style green olives are picked while they are unripe, after which they are submerged in an alkaline solution for typically less than a day to partially remove their bitterness, rinsed, and fermented in a strong salt brine, giving them their characteristic flavor.

"Sicilian-style" green olives. Sicilian-style olives are large, firm green olives with a natural bitter and savory flavor. This style of olive is produced in small quantities in the United States using a Sevillano variety of olive and harvested green with a firm texture. Sicilian-style olives are processed using a brine-cured method, and undergo a full fermentation in a salt and lactic acid brine for 4 to 9 months. These olives may be sold whole unpitted, pitted, or stuffed.

"Kalamata" olives: Kalamata olives are slightly curved in shape, tender in texture, and purple in color, and have a rich natural tangy and savory flavor. This style of olive is produced in Greece using a Kalamata variety olive. The olives are harvested after they are fully ripened on the tree, and typically use a brine-cured fermentation method over 4 to 9 months in a salt brine.

Other specialty olives in a full range of colors, sizes, and origins, typically fermented in a salt brine for 3 months or more.

2005.70.7000, 2005.70.7510, 2005.70.7515, 2005.70.7520, and 2005.70.7525 HTSUS. Subject merchandise may also be imported under subheadings 2005.70.0600, 2005.70.0800, 2005.70.1200, 2005.70.1600, 2005.70.1800, 2005.70.2300, 2005.70.2510, 2005.70.2520, 2005.70.2530, 2005.70.2540, 2005.70.2550, 2005.70.2560, 2005.70.9100, 2005.70.9300, and 2005.70.9700. Although HTSUS subheadings are provided for convenience and US Customs purposes, they do not define the scope of the investigation; rather, the written description of the subject merchandise is dispositive.[14]

Tariff treatment

Based upon the scope set forth by the Department of Commerce, information available to the Commission indicates that the merchandise subject to these investigations is primarily imported under the following statistical reporting numbers of the Harmonized Tariff Schedule of the United States ("HTS"): 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070.[15] The 2017 general rate of duty is 9.3 cents/kilogram on drained weight for HTS subheading 2005.70.50 and 10.1 cents/kilogram on drained weight for HTS subheading 2005.70.60. Decisions on the tariff classification and treatment of imported goods are within the authority of U.S. Customs and Border Protection ("Customs").

THE PRODUCT

Description and applications

Ripe olives are a type of processed olive used as a topping or ingredient in a variety of food items, including pizza, sandwiches, and salads. Considered a commodity product by the industry, ripe olives are almost always black, firm and plump, and have a mild, nut-like flavor.[16] Ripe olives can be produced in several styles including whole, pitted, halved, segmented, sliced, chopped, and broken pitted.[17] According to the California Olive Association, the convenience of

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[14] *Ripe Olives From Spain: Final Affirmative Countervailing Duty Determination*, 83 FR 28186, June 18, 2018; *Ripe Olives From Spain: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 28193, June 18, 2018.

[15] Further discussion of relevant HTS numbers is provided in the "Summary Data and Data Sources" section earlier in this Part.

[16] Petitioner's prehearing brief, pp. 4, 11.

[17] "Whole" olives are those that have not been pitted. "Pitted" olives in contrast have had the pit removed. Halved olives are pitted olives cut lengthwise into two approximately equal parts. Segmented olives are pitted olives that are cut lengthwise into three or more approximately equal parts. Chopped olives are random-size cut pieces of pitted olives. Broken pitted olives consist of "substantially large pieces of olives that may have been broken in pitting but have not been sliced or cut". USDA "U.S.

(*continued*...)

segmented (i.e. sliced, wedged, and chopped) ripe olives has accounted for all of the growth in ripe olive sales over the last 20 years due to their convenience.[18]

Ripe olives are produced from upstream, out-of-scope raw table olives.[19] A raw olive is a type of fruit known as a "drupe," which contains a pit, and are the fruit of *Olea europaea*, a subtropical evergreen tree. Olive trees thrive in a Mediterranean-type climate with a long, warm, dry growing season and a mild winter. California, with its unique climatic and growing conditions, accounts for virtually all U.S. commercial production of raw table olives.[20] [21] Olive trees take 5-7 years to become commercially bearing but once established can bear fruit for thousands of years.[22] Olives are naturally an alternating type crop, meaning a large crop is usually followed by a small crop. Weather conditions and crop management techniques can affect the alternate bearing cycle of the olive tree.[23]

Ripe olives produced in the United States are made from table olives (raw olives grown for consumption). Among the various California tree crops, table olive groves have comparatively low water needs and withstand the lack of moisture well.[24] In the United States, the primary raw table olive varieties grown for the production of ripe olives are not used for olive oil extraction.[25] In contrast, Spain and some other nonsubject producers cultivate raw olive varieties that can be used to produce either ripe olives or olive oil.[26]

(…*continued*)
Standards for Grades of Canned Ripe Olives," September 13, 1983, p. 2. Accessed July 5, 2017. https://www.ams.usda.gov/sites/default/files/media/Canned%20Ripe%20Olives%20Standard.pdf.

[18] Petition, p. 18.

[19] Petition, p.2. U.S. Department of Agriculture ("USDA") data on various production statistics of U.S. raw olives (including but not limited to raw table olives) is available in appendix D.

[20] Petition, Exhibit I-8. Also USDA NASS Statistical Bulletin 1043, "Noncitrus Fruits and Nuts Final Estimates," 2007-2012, October 2013, p. 41. http://usda.mannlib.cornell.edu/usda/nass/SB985/sb1043.pdf.

[21] Most U.S. commercial olive acreage is located in California's Central Valley (specifically the Sacramento and San Joaquin Valleys). California Olive Committee Website, "About the Olive Industry," http://calolive.org/our-story/about-olive-industry/ accessed June 29, 2017.

[22] USITC Industry and Trade Summary, "Olives," USITC Publication 2636, May 1993, p. 1.

[23] Typical crop management techniques include pruning and spray-thinning accompanied with adequate fertilizer and irrigation. Hearing transcript, pp. 59-60; 89-90 (Burreson). Though the nature of the tree itself is alternate bearing, U.S. processors and growers have stated that the "regionality" of olive growing in the United States (i.e. that olive growing is divided mainly between two regions of California's Central Valley and that these regions do not necessarily follow the alternate bearing cycle uniformly) may minimize the effect of the alternate bearing nature for the overall harvest. Conference transcript, p. 75 (Carter); p. 112 (Garcia).

[24] Olive trees require approximately 36 inches of water per acre-foot while almonds and walnuts require around 40 inches of water per acre-foot. Petitioner's postconference brief, Exhibit 1, p 4.

[25] Petitioning firms allege that U.S. grown raw table olives are not used to produce olive oil in the U.S. due to market dynamics. Hearing transcript, pp. 58-59 (Burreson). Petitioning firms also stated that "Olive oil varietals often produce 40 gallons of oil per ton of olives, whereas the table olive might be lucky to get 20," making table olives unsuited for oil as a matter of economics.'" Petitioner's postconference brief, p. 10.

Table olives can be used in the production of both ripe olives and "specialty" olives.[27] In the United States, the two main table olive varieties used to produce ripe olives are the Manzanillo (or Manzanilla) and the Sevillano. Manzanillo olives are mostly processed into ripe olives; however, some are also used to produce fermented Spanish-style green olives (a kind of specialty olive). Sevillano olives are typically processed as either black ripe olives or as Sicilian-style fermented green olives.[28]

Federal marketing order for ripe olives

Both domestically produced and imported ripe olives are regulated by a USDA federal marketing order that covers both the raw olive and the processed ripe olive, thereby affecting both raw olive growers and ripe olive processors.[29] The marketing order designates grade, size, and quality criteria. Under the terms of the marketing order, ripe olives are designated as Grades A, B, C, or as substandard if they fail to meet the lowest standard (Grade C).[30] The U.S. standards for the size of whole or pitted olives are based on diameter and the average count of olives per container on a drained weight basis and include small, medium, large, extra large, jumbo, colossal, and super colossal (figure I-1).

(…*continued*)

[26] The Hojiblanca olive is one such variety. Hearing transcript, p. 192 (McCullough).

[27] Specialty olives include Spanish- or Sicilian- style olives, and are excluded from Commerce's scope. Ripe olives are typically processed into a black color whereas Spanish-style and Sicilian-style olives are usually green in color when marketed. Another specialty olive, Greek-style (Kalamata) olives, are known for their purple-black color, tender texture, and rich, smoky flavor. Petition, p. 8. For more information, see "The Subject Merchandise" section in this part.

[28] According to petitioners, there is a small amount of U.S. production of Sicilian-style olives which use only the Sevillano variety. Petition, p. 9.

[29] Conference transcript, p.21 (Gleason).

[30] For a complete description of these different grading standards, see USDA "U.S. Standards for Grades of Canned Ripe Olives," September 13, 1983, p. 8. Accessed July 5, 2017. https://www.ams.usda.gov/sites/default/files/media/Canned%20Ripe%20Olives%20Standard.pdf.

Figure I-1

Ripe olives: USDA size designations for whole and pitted styles.

DESIGNATION	COUNT PER POUND	APPROXIMATE DIAMETER RANGE ILLUSTRATED
SMALL	128 – 140	16 - 17 (mm)
MEDIUM	106 – 121	17 - 19 (mm)
LARGE	91 – 105	19 - 20 (mm)
EXTRA LARGE	65 – 88	20 - 22 (mm)
JUMBO	51 – 60	22 - 24 (mm)
COLOSSAL	41 – 50	24 - 26 (mm)
SUPER COLOSSAL	40 OR LESS	26 and over (mm)

Source: USDA "U.S. Standards for Grades of Canned Ripe Olives," September 13, 1983, p. 4.

Domestically, olives cannot be processed into ripe olives if they are sourced from growers who do not participate in the federal marketing order or if the olives do not meet marketing order criteria for canning size (processed into whole or pitted olives) or limited size (processed as broken, sliced, wedged or chopped olives). Instead, these olives may be crushed for oil, freeze dried, or placed in brine in anticipation of future processing as Spanish, Sicilian or Greek-style olives.

Imported ripe olives are also regulated by a U.S. federal marketing order.[31] Like domestically produced ripe olives, imported ripe olives have to meet quality requirements that apply to canned whole, pitted, sliced, segmented, halved, chopped and broken pitted olives.[32] Only canned ripe olives, or bulk olives for processing into canned, that are inspected and meet the specific minimum size and quality requirements set by the marketing order are allowed to be imported into the United States.[33] [34]

[31] Section 8e of the Agricultural Marketing Agreement Act of 1937(AMAA) applies to specific fruit, vegetable, and specialty crop imports into the United States. Section 8e applies to imported olives other than Spanish style. USDA, AMS website https://www.ams.usda.gov/rules-regulations/section8e

[32] USDA, AMS website https://www.ams.usda.gov/rules-regulations/section8e/olives.

[33] USDA, AMS website https://www.ams.usda.gov/rules-regulations/section8e/olives.

[34] Spanish-style green olives are exempt from the marketing order. Spanish-style green olives are defined as those table olives that are packed in brine and fermented and cured. They are otherwise known as "green olives" for the purposes of the federal marketing order. USDA, AMS website https://www.ams.usda.gov/rules-regulations/section8e/olives.

Manufacturing processes

Ripe olives are all prepared from raw olive fruit. Due to the presence of a bitter component (*oleuropein*), raw olives are generally not consumed fresh and need to be cured, with the exception of a few olive varieties which ripen on the tree.[35] Raw olives can be cured through the use of lye, brine, salt, or water and can be quick-processed or fermented. Each process confers different flavors on the raw olive.

The U.S. table olive industry relies largely on the "black ripe" curing method where ripe olives are quick-processed and not fermented.[36] This processing method begins with raw olives that are picked before they are ripe, when they are still green or straw yellow in color.[37] The California style of processing raw table olives into ripe olives is a multiple-day process that does not rely on fermentation (whereas methods of curing olives through fermentation can take two to twelve months). The raw olives are cured in a series of lye and oxygenated water baths for multiple days or until the solution penetrates to the olive pit.[38] The curing process removes the bitter flavor of the olive while exposure to oxygen changes the color of the olives to black.[39] After a final rinse, an iron salt (ferrous gluconate) is usually added as a color stabilizer and carbon dioxide is introduced to neutralize the lye. The olives are then sorted to remove off-color, soft, or broken olives before being pitted and often sliced.[40] The olives are then packed in a mild salt solution (brined) and heat processed in hermetically sealed airtight containers (canned) to destroy or inactivate micro-organism that could cause spoilage.[41] While not common, ripe olives can be green in color, and are called "green ripe olives".[42] Such ripe olives are similarly processed with lye and brine but are not oxidized so they remain green after canning and when marketed.[43] Figure I-2 illustrates the steps for processing ripe olives.

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[35] International Olive Council Website, http://www.internationaloliveoil.org/estaticos/view/77-about-olives.

[36] Domestically produced and imported ripe olives are produced in the same manner. Conference transcript, p. 172 (Escudero).

[37] In California, raw olives destined for processing into ripe olives are harvested from September through mid-October to avoid frost damage.

[38] Petition, p. 7, and USITC Industry and Trade Summary, "Olives," USITC Publication 2636, May 1993, p. 2.

[39] Petition, p. 7, and USITC Industry and Trade Summary, "Olives," USITC Publication 2636, May 1993, p. 2.

[40] Petition, p. 7, and USITC Industry and Trade Summary, "Olives," USITC Publication 2636, May 1993, p. 2.

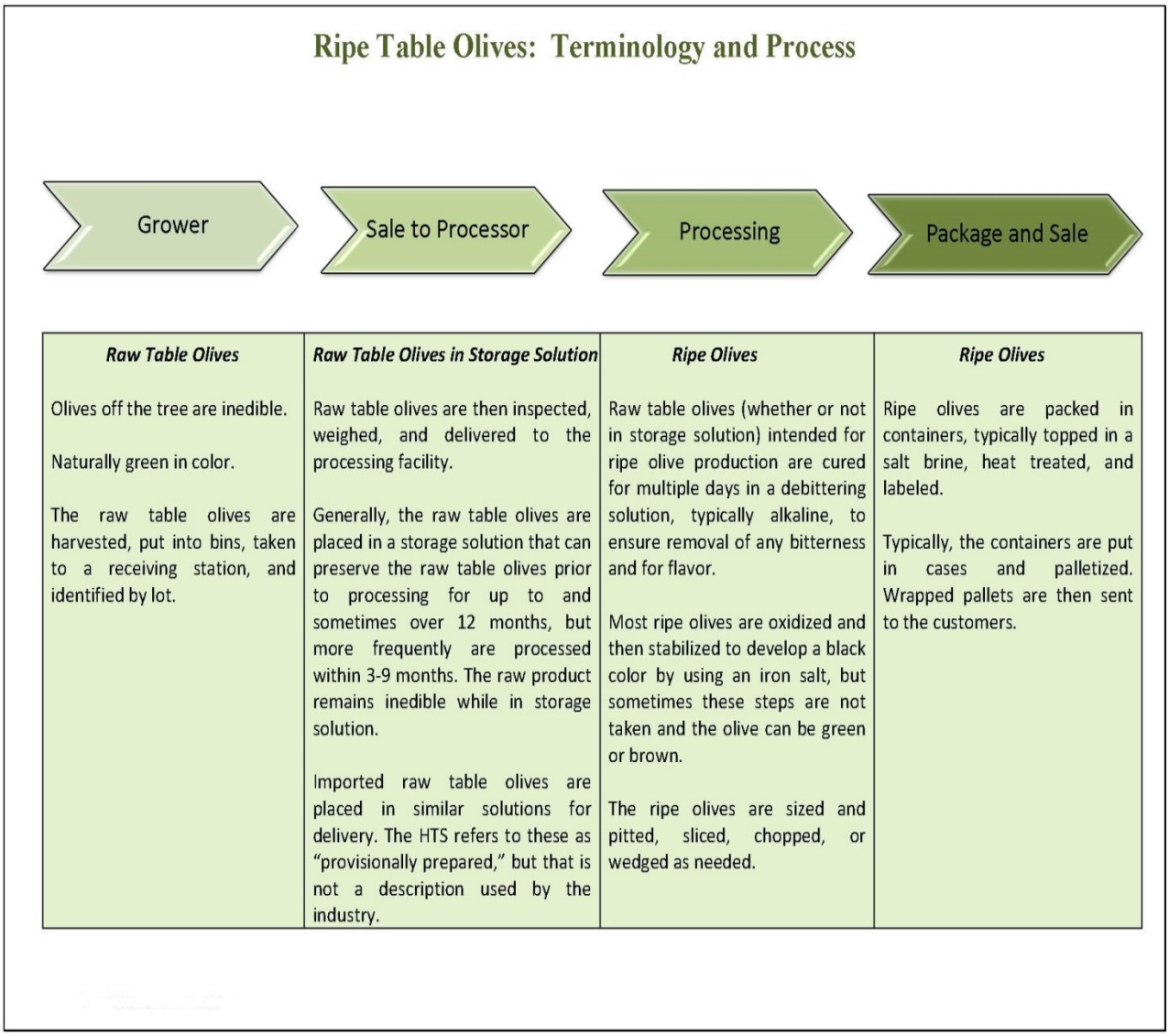
[41] Petition, p. 7, and USITC Industry and Trade Summary, "Olives," USITC Publication 2636, May 1993, p. 2.

[42] Green ripe olives are not the same as Spanish green olives, which are fermented olives not covered by the scope. Hearing transcript, p. 200 (McCullough).

[43] For example, Musco markets a "Fresh Cured Green Ripe Olive" while Bell-Carter markets Lindsay Naturals "California Green Ripe Olive." Musco Family Olive website accessed July 7, 2017, http://www.olives.com/pearls/products.php; Bell-Carter Foods Inc. website accessed July 7, 2017,

(*continued*...)

Figure I-2
Ripe Olives: Production Process



Source: Petitioners' postconference brief, exh. 19.

Since the fruit on table olive trees are typically harvested once each year (normally from September through November), producers may place the raw fruit in brine to store them for processing later in the year or hold them until the next year.[44] The combination of ripe olives

(…*continued*)
http://www.bellcarter.com/all-about-olives/curing-methods.html; Lindsay website accessed July 7, 2017, http://www.ilovelindsay.com/products/naturals/.

[44] Raw olive fruit stored in bins for up to two years are referred to as "put down fruit" by U.S. processors. The fruit stored in brine can be held up to two years before they must be processed. When (*continued*...)

held in inventory ("finished goods") and the raw fruit held in storage (raw materials inventory) for future processing is known as "carry-out".[45] The levels of finished goods and raw fruit can change in response to crop sizes of preceding years.

DOMESTIC LIKE PRODUCT ISSUES

No issues with respect to domestic like product have been raised in these investigations. Respondents have not contested Petitioner's proposed like product definition in the final phase of these investigations.[46] [47]

(…*continued*)
this put down fruit is taken out of storage and starts the 7-day processing into a ripe olive, it is called "work-in-process".

[45] Carry-out is not a term related to the valuation of either finished goods or raw materials inventory.

[46] In the preliminary phase of these investigations, the Commission defined "a single domestic like product consisting of all ripe olives corresponding to Commerce's scope definition." *Ripe Olives from Spain, Inv. Nos. 701-TA-582 and 731-TA-1377 (Preliminary)*, USITC Publication 4718, August 2017, p.8.

Respondent parties ASEMESA and AFI Group did not address domestic like party arguments in either their prehearing or posthearing briefs. Both parties either agreed with or did not contest Petitioner's proposed like product definition in the preliminary phase of the investigations. *See* ASEMESA's postconference brief, p. 3, and AFI Group's postconference brief, App. A (Answers to Staff Questions).

In their comments on draft questionnaires issued for the final phase of these investigations, no party proposed questions concerning additional data for potential domestic like product issues.

[47] The Commission determined in the preliminary phase of these investigations that olive growers are not included in the domestic industry due to insufficient coincidence of economic interest between olive growers and ripe olive producers. *Ripe Olives from Spain, Inv. Nos. 701-TA-582 and 731-TA-1377 (Preliminary)*, USITC Publication 4718, August 2017, pp. 9-13. The Petitioner does not challenge this determination in these final phase investigations. Petitioner's prehearing brief, p. 6.

The Commission also found that appropriate circumstances did not exist to exclude *** from the domestic industry as a related party. The Petitioner argues that the Commission should continue to reach this determination in the final phase of these investigations, while neither Respondent party raised domestic industry issues in their pre- or posthearing briefs. Petitioner's prehearing brief, p. 5.

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

U.S. MARKET CHARACTERISTICS

In food service, ripe olives tend to be used for pizzas, sandwiches, salads, and other food.[1] Retail consumers also use ripe olives for food and food preparation.[2] Ripe olives are sold in retail stores under either branded or private label.[3] There are several olive varieties used for ripe olives. As shown in figure II-1, Manzanilla olives and Hojiblanca olives are the two most common olive varieties used for ripe olives. Ripe olives are sold in a variety of processing styles including whole ripe olives (with pit), whole pitted, segmented, sliced, and chopped ripe olives. Sliced olives and whole pitted were the most common processing style sold in the U.S. market in 2017; sliced olives represented *** percent of total U.S. commercial shipments of ripe olives and whole pitted olives represented *** percent of total U.S. commercial shipments of ripe olives in 2017 (figure II-1). Apparent U.S. consumption of ripe olives, by quantity, decreased during 2015-17. Overall, apparent U.S. consumption in 2017 was *** percent lower than in 2015.

Figure II-1
Ripe olives: Share of U.S. producers' and importers' U.S. commercial shipments by olive variety and processing style, 2017

* * * * * * *

U.S. PURCHASERS

The Commission received 26 usable questionnaire responses from firms that have purchased ripe olives since 2015.[4] Thirteen responding purchasers are distributors, ten are retailers (including three big box stores), three are restaurants or chains, one is a cooperative, and one is a consumer packaged foods company. Purchasers sold ripe olives to foodservice distributors, independent restaurants, retail grocery stores, hotels, hospitals, schools, and retail consumers The largest responding purchasers of ripe olives are ***,[5] [6] in order of size.

Five distributors reported that they competed for sales to customers with the manufacturers and/or importers from which they purchased ripe olives. Three distributors, ***, reported that they compete for sales with other distributors and two distributors, ***, reported that they compete with their suppliers. In addition, two purchasers, ***, stated that their own private label olives compete with suppliers' brands.

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[1] Petition, p. 2.

[2] Petition, p. 7.

[3] Petition, p. 2.

[4] Of the 26 responding purchasers, 19 purchased the domestic ripe olives, 20 purchased imports of the subject merchandise from Spain, and 7 purchased imports of ripe olives from other sources.

[5] Purchaser *** certified and submitted a purchaser questionnaire response. The staff report refers to this purchaser as ***.

[6] ***.

CHANNELS OF DISTRIBUTION

U.S. producers and importers generally sell ripe olives to distributors, retailers, and institutional/food processors. U.S. producers sold to all three channels of distribution, but sold primarily to retailers, both branded and private label, during 2015-17. U.S. importers of ripe olives from Spain sold to all three channels of distribution, with at least 80 percent of their commercial shipments sold to distributors with distributors of institutional product the largest channel (table II-1).[7] U.S. importers of ripe olives from nonsubject sources sold primarily to distributors of institutional product.

Table II-1
Ripe olives: U.S. producers' and importers' U.S. commercial shipments, by sources and channels of distribution, 2015-17

Item	Calendar year		
	2015	2016	2017
	Share of reported shipments (percent)		
U.S. producers' U.S. commercial shipments of ripe olives:			
Distributors	***	***	***
of branded product	***	***	***
of private label product	***	***	***
of institutional product	***	***	***
Retailers	***	***	***
of branded product	***	***	***
of private label product	***	***	***
Institutional/food processors	***	***	***
U.S. importers' U.S. commercial shipments of ripe olives from Spain:			
Distributors	88.8	84.7	79.7
of branded product	15.2	18.4	21.4
of private label product	31.4	26.6	23.3
of institutional product	42.2	39.7	35.0
Retailers	7.3	11.5	17.0
of branded product	6.1	7.8	8.7
of private label product	1.1	3.7	8.3
Institutional/food processors	4.0	3.8	3.3
U.S. importers' U.S. commercial shipments of ripe olives from Morocco:			
Distributors	***	***	***
of branded product	***	***	***
of private label product	***	***	***
of institutional product	***	***	***
Retailers	***	***	***
of branded product	***	***	***
of private label product	***	***	***
Institutional/food processors	***	***	***

Table continued on next page.

[7] Petitioner contends that shipments to distributors of branded and private label product generally reflect sales to the institutional segment. Petitioner's posthearing brief, exhibit 1, question 7, pp. 20-22. *** was the largest importer reporting U.S. importers' U.S. commercial shipments of ripe olives from Spain to distributors of branded product and private label product, representing more than *** of the quantities reported in both of these subcategories. As petitioner noted, all but one of *** ten customers are either food service distributors *** or are in the food service segment.

Table II-1—Continued
Ripe olives: U.S. producers' and importers' U.S. commercial shipments, by sources and channels of distribution, 2015-17

Item	Calendar year		
	2015	2016	2017
	Share of reported shipments (percent)		
U.S. importers' U.S. commercial shipments of ripe olives from all other countries:			
Distributors	***	***	***
of branded product	***	***	***
of private label product	***	***	***
of institutional product	***	***	***
Retailers	***	***	***
of branded product	***	***	***
of private label product	***	***	***
Institutional/food processors	***	***	***

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

GEOGRAPHIC DISTRIBUTION

U.S. producers reported selling ripe olives to all regions in the United States (table II-2). Fourteen of 27 importers reported selling to all regions in the contiguous United States. For U.S. producers, *** percent of sales were within 100 miles of their factory or storage facility, *** percent were between 101 and 999 miles, and *** percent were over 1,000 miles. Importers sold 51.4 percent within 100 miles of their U.S. point of importation or storage facility, 27.9 percent between 101 and 1000 miles, and 20.6 percent over 1,000 miles.

Table II-2
Ripe olives: Geographic market areas in the United States served by U.S. producers and importers

Region	U.S. producers	Importers
Northeast	***	24
Midwest	***	21
Southeast	***	21
Central Southwest	***	17
Mountain	***	17
Pacific Coast	***	20
Other[1]	***	6
All regions (except Other)	***	14
Reporting firms	2	27

[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

Table II-3 provides a summary of the supply factors regarding ripe olives from U.S. producers and from Spain. Production of ripe olives requires both processing facilities and raw

or provisionally preserved olives.[8] Olive trees naturally have a two-year olive production cycle, with larger crops typically alternating with smaller crops. These alternative crops also affect the size of the olives produced (with larger olives when the crops are smaller).[9]

The size of the crop available for processing also varies with the amount and timing of water provided, weather during blooming period, freezes,[10] and labor availability during harvest.[11] Increasing acreage will increase availability of olives for processing with a lag, as olive trees do not reach full production until after 10 years after the trees are planted.[12]

Table II-3
Ripe olives: Capacity, capacity utilization, inventories, ability to shift to alternative products, home market share, and share sold to other export markets by country

Country	Capacity (short tons drained weight)		Capacity utilization (percent)		Ratio of inventories to total shipments (percent)		Shipments by market, 2017 (percent)		Able to shift to alternate products (no. of firms reporting "yes")
	2015	2017	2015	2017	2015	2017	Home market shipments	Exports to non-U.S. markets	
United States	***	***	***	***	***	***	***	***	***
Spain	116,154	121,949	86.3	85.0	3.9	3.7	6.9	65.3	5 of 10

Note.—Responding U.S. producers accounted for virtually all of U.S. processing of ripe olives in 2017. Responding foreign producer/exporter firms accounted for almost 90 percent of U.S. imports of ripe olives from Spain during 2017. For additional data on the number of responding firms and their share of U.S. production and of U.S. imports from each subject country, please refer to Part I, "Summary Data and Data Sources."

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

[8] Olives grown for processing into table olives have some different attributes than olives grown for the purpose of olive oil extraction. First, particularly in the United States, table olives and olive oil tend to be produced from different olive cultivars. Second, irrigation and crop management styles differ for olive trees grown for olive oil production and table olive production. Finally, in the United States olives destined for olive oil are typically mechanically harvested while olives used in table olive production are typically hand harvested. Petition p. 10 and *Olives - UC Drought Management,* http://ucmanagedrought.ucdavis.edu/Agriculture/Crop_Irrigation_Strategies/Olives/, retrieved June 23, 2017.

[9] Since larger olives have higher prices than small olives, growers have an incentive to try to limit swings in crop sizes. Although olive growers may attempt to reduce this variation by growing techniques, these techniques can increase their costs. Conference transcript, p. 74 (Burreson).

[10] "Despite Drought, Calif. Olive Growers Will See Good Return", https://www.oliveoiltimes.com/olive-oil-business/north-america/despite-drought-calif-olive-growers-will-see-good-return/41014, retrieved June 23 2017,

[11] Petition, p. 10. Growers reported that for the majority of the olive picking period, there is relatively little competition for farm labor. Hearing transcript pp. 137-38 (Burreson). Respondents report labor shortages reduce harvests and contribute to olive growers shifting from olive production to alternative less labor intensive crops. ASEMESA prehearing brief, pp. 16-19.

[12] Conference transcript, p. 76 (Silveira).

Domestic production

Based on available information, U.S. producers of ripe olives have the ability to respond to changes in demand with moderately-large changes in the quantity of shipments of U.S.-produced ripe olives to the U.S. market in the near term. The main contributing factors to this degree of responsiveness of supply are the availability of unused capacity and the ability to shift shipments from inventories. Factors mitigating responsiveness of supply include the limited ability to shift shipments from alternate markets and no ability to shift production to or from alternate products.

Industry capacity

Domestic capacity utilization fluctuated, but increased overall from *** percent in 2015 to *** percent in 2017, as a result of fluctuating production. This relatively low level of capacity utilization suggests that U.S. producers may have substantial ability to increase production of ripe olives in response to an increase in prices.[13] [14]

The U.S. producers report that they prefer to purchase upstream out-of-scope raw olives from California.[15] In recent years, large crops in one part of the olive growing region of California have been offset by small crops in other areas. *** indicated that the availability of domestically grown upstream raw olives has been cyclical due to the two-year growth cycle of olive trees, stating that 2016 was the lowest production year and 2017 was the highest production year. Processors supplement upstream out-of-scope raw olives grown in California

[13] Petitioner reported that the production capacity reported by each U.S. producer represented capacity on currently installed equipment running ***. Petitioner's prehearing brief, p. 13, fn. 42.

[14] Respondents contend that U.S. capacity is limited to the available domestic upstream out-of-scope raw olives. It also argues that the crop acreage for domestic upstream out-of-scope raw olives is insufficient and can't fully serve the U.S. ripe olive market. Respondents contend that crop acreage for domestic upstream out-of-scope raw olives has decreased due to more profitable crop such as almonds, pistachios, and olive oil, higher labor costs compared to other crops, and limited labor availability. ASENESA prehearing brief, pp. 7-8; AFI posthearing brief, pp. 3-6, and exhibit 1, p. 5.

[15] In 2017, *** percent of U.S. producers' production of ripe olives was from domestic upstream out-of-scope raw olives.

with imported upstream out-of-scope raw or provisionally preserved olives from other countries including Argentina, Mexico, and Spain.[16] [17] ***.[18]

Alternative markets

U.S. producers' exports, as a percentage of total shipments, remained relatively constant. U.S. producers' export shipments rose slightly from *** percent to *** percent indicating that U.S. producers may have limited ability to shift shipments between the U.S. market and other markets in response to price changes.

Inventory levels

U.S. producers' inventories increased slightly. Relative to total shipments, U.S. producers' inventory levels increased from *** percent in 2015 to *** percent in 2017. These inventories only include finished ripe olive products in packaging.[19] These inventory levels suggest that U.S. producers may have substantial ability to respond to changes in demand with changes in the quantity shipped from inventories.

Production alternatives

Musco reported that it processes specialty olives (Kalamata) as well as ripe olives. It has specialty olive processing operations in Orland, California and processes ripe olives in Tracy, California.[20]

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[16] Hearing transcript, p. 44 (Carter).

[17] U.S. producers are not required to label the country of origin of upstream out-of-scope raw olives used in producing their processed ripe olives in California. Petitioner's posthearing brief, exhibit 1, p. 32.

[18] Respondents argue that purchasing imports of upstream out-of-scope raw olives is economically impractical. It contends that the use of imported upstream out-of-scope raw olives adds substantial transportation and handling costs. Respondents also argue that while imports of upstream out-of-scope raw olives can fill in gaps, it cannot be used for the majority of U.S. producers' production of ripe olives "due to the unpredictable nature of the domestic crops." It contends that U.S. producers cannot predict what size proportions and the overall quantity a harvest will yield. AFI's posthearing brief, p. 3 and exhibit 1, p. 8; ASEMESA prehearing brief, pp. 11-12. U.S. producers' purchase costs of upstream out-of-scope raw olives from imported sources were generally *** than domestically grown raw olives. See Part V for more information.

[19] Petitioner's posthearing brief, p. 13 and exhibit 1, p. 10. U.S. producers also hold inventories of provisionally prepared olives. Petitioner contends that these inventories allow the industry to smooth out its production over the year. Petitioner reported that inventories of provisionally prepared olives can be processed into finished product in one to two weeks. U.S. producers' inventories of provisionally prepared olives increased from *** short tons in 2015 to *** short tons in 2017. Petitioner's posthearing brief, exhibit 1, pp. 10-11 and exhibit 2, table 6A.

[20] Hearing transcript, p. 48 (Musco).

Subject imports from Spain

Based on available information, producers of ripe olives from Spain have the ability to respond to changes in demand with large changes in the quantity of shipments of ripe olives to the U.S. market in the near term. The main contributing factors to this degree of responsiveness of supply are the availability of some unused capacity, ability to shift shipments from alternate markets, and some ability to shift production to or from alternate products. Limited inventories may mitigate responsiveness of supply.

Industry capacity

The Spanish industry capacity utilization decreased from 86.3 percent to 85.0 percent, driven by both increasing production and capacity. This moderately high level of capacity utilization suggests that Spain processors may have some ability to increase production of ripe olives in response to an increase in prices.

All nine responding Spanish producers indicated that they have not experienced cyclical availability of raw olives grown in Spain due to the two-year growth cycle of olives trees.

Alternative markets

Spain shipments of ripe olives to markets other than the United States, as a percentage of total shipments, fluctuated but increased overall from 61.8 percent in 2015 to 65.3 percent in 2017. Shipments to the Spanish domestic market fell from 8.1 percent to 6.9 percent. Spanish exports indicate that processors may have substantial ability to shift shipments between domestic or other markets and the U.S. market in response to price changes.

Inventory levels

Responding Spanish firms' inventories remained relatively unchanged. Relative to total shipments, inventory levels decreased from 3.9 percent in 2015 to 3.7 percent in 2016-17. These inventory levels suggest that responding foreign firms may have limited ability to respond to changes in demand with changes in the quantity shipped from inventories.

Production alternatives

Five of the nine responding foreign processors stated that they could switch production from ripe olives to other products and one responding foreign processor produced pickled onions on the same equipment as ripe olives.

Imports from nonsubject sources

Imports from nonsubject countries accounted for *** percent of total U.S. imports in 2017. The largest nonsubject sources of imports during 2015-17 were Morocco and Portugal. Combined, these countries accounted for *** percent of ripe olives imports in 2017.[21]

Supply constraints

Both U.S. producers reported that they have not experienced constraints in supplying ripe olives to their retail and institutional customers since 2015. ***.

Two of 25 responding importers reported supply constraints to their retail customers, and two of 28 responding importers reported supply constraints with their institutional customers since 2015. Importer *** stated that due to insufficient stocks, existing retail and institutional customers were allocated and new customers were delayed. Importer *** stated that for private label bids, it tells the retailer that it can only supply Hojiblanca olives unless it has a commitment with the retailer at the time of harvest for the Manzanilla olive. Similarly for institutional bids, it tells the customer how many pounds it is able to supply based on the availability of the specific sized olive. Importer *** reported that it has refused or declined to sell private label olives because it did not have a large enough and consistent supply source.

Most purchasers (20 of 25) reported no supply constraints for ripe olives from any source. However, four purchasers (***) reported limited availability for ripe olives processed domestically and one purchaser (***) reported limited availability from a Moroccan supplier due to a poor crop yield. Purchaser *** stated that Musco did not have sliced ripe olives available and another purchaser *** stated that Musco raised its prices due to a poor crop yield. Purchaser and importer Mario Camacho stated that Bell-Carter was unable to supply jumbo ripe olives.[22] [23]

Ten of 22 responding purchasers reported that the availability of U.S.-produced ripe olives in the U.S. market has changed since 2015. Four purchasers cited alternating crop cycles as reasons for the changes.[24] Six purchasers stated that the availability of domestically produced ripe olives has declined with three of these purchasers (***) citing crop shortages as the reason for the decreased availability. Three of 16 responding purchasers (***) reported that the availability of ripe olives from Spain in the U.S. market has increased since 2015. *** stated that there has been an increase in the availability of ripe olives from Spain due to an improved

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[21] These data are from HTS statistical reporting numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, and 2005.70.6070.

[22] Hearing transcript, pp. 177-178 (Kaddoura).

[23] According to Bell-Carter, it stopped supplying Mario Camacho with jumbo olives because Mario Camacho's orders were below minimum order quantity. Bell-Carter stated that the costs for labeling changeovers for small quantities of low volume cases are very high. Petitioner's posthearing brief, p. 14.

[24] According to USDA, olive production have fluctuated widely from 2007 to 2016. For example, in 2014, 95,000 tons of olives were produced and in 2015 production almost doubled to 179,000 tons. Olive production was 159,600 in 2016 (the most recent year for which USDA data is available). See appendix D for more information.

acceptance of Spanish product in the U.S. market as a result of quality improvements and price competitiveness. One of 13 responding purchasers (***) reported that the availability of ripe olives from all other sources has increased in the U.S. market since 2015.

New suppliers

One of 24 purchasers indicated that new suppliers entered the U.S. market since January 1, 2015. Purchaser *** reported that it will be adding a supplier from Greece in 2018.

U.S. demand

Based on available information, the overall demand for ripe olives is likely to experience small-to-moderate changes in response to changes in price. Consumer preference for ripe olives is unlikely to shift substantially in the next two years. Additionally, substitute products for ripe olives are limited and ripe olives account for a small cost share in food products such as salads, pizza, and sandwiches.

End uses and cost share

U.S. demand for ripe olives depends on the demand for ripe olives in food uses. Reported end uses include retail sales, food service, pizza topping, salad topping, and as an ingredient.

Ripe olives account for a small share of the cost of most end-use products in which they are used.[25] Two purchasers reported the cost share of olives in their final products. *** reported that olives account for less than 1 percent of the total cost of sandwiches, salads, and wraps. *** reported that olives account for 2 to 15 percent of the total cost of a pizza, depending on the type of pizza.

Business cycles

*** U.S. producers, 8 of 31 responding importers,[26] and 15 of 25 responding purchasers indicated that the market was subject to business cycles or other conditions of competition. Additionally, 12 of 25 purchasers indicated that the ripe olives market was subject to crop shortages and 5 of 25 purchasers indicated that the market was subject to changes in acreage. Regarding business cycles, firms reported that demand varies over the year with higher demand around holidays (Christmas, Thanksgiving, and Easter) and the Super Bowl. Regarding other conditions of competition, *** stated that two major retailers (Walmart and Kroger) have shifted a portion of their private label ripe olives to Spain, as a result of Spanish suppliers increased efforts to sell to the retail sector. Previously, these retailers were wholly supplied by

[25] Petitioners estimated the share of the costs of ingredients represented by olives in pizza (22 percent), enchiladas (23 percent), and chopped salad (19 percent). Petitioners' postconference brief, exh. 1, pp. 7-8.

[26] One of these importers ***.

U.S. producers. Two importers and one purchaser noted fluctuating currency exchange rates which affect the price of olives. Three importers and three purchasers reported that annual crop yields as well as quality can differ among country sources. Purchaser *** stated that crop shortages in one country can lead to purchasers shifting their purchases to another county source as well as affect the overall market price. Three purchasers reported that there have been crop shortages in the United States. Purchaser *** stated that U.S. demand has outpaced U.S. supply, as there has been little change in California acreage over the recent years.

The majority of importers and purchasers reported that conditions of competition have not changed since 2015. However, ***, five of 15 responding importers, and five of 19 purchasers reported changed conditions of competition. *** reported increased competition from Spanish product; and two importers and three purchasers reported domestic crop shortages. Two firms stated that the domestic shortages were of specific sized olives with one purchaser specifically noting a shortage of domestic jumbo ripe olives.

Demand trends

U.S. producers' responses regarding U.S. demand trends for ripe olives ***. U.S. importers' and purchasers' responses were mixed; a plurality of both importers and purchasers reported that demand has not changed since 2015 (table II-4). Importers and purchasers which indicated declining demand reported a decline in customer preference for ripe olives.[27] Purchaser *** stated that the foodservice business in general has declined; therefore, olive consumption within its chain has decreased. Purchasers *** stated that the decline in the demand for ripe olives is due to changes in its customer demographics and preferences. Firms that indicated an increase in demand reported an increase in fast casual dining, growth in organic ripe olives sales, increased pizza consumption, and consumers linking ripe olives to the health benefits of a Mediterranean diet.

[27] Purchasers' responses varied within firm type/market segment. Of the six purchasers that identified themselves as retailers, *** indicated an increased demand for ripe olives, *** indicated that demand has not changed; and *** indicated that demand has decreased. Of the three purchasers that identified themselves as a restaurant or chain, *** indicated that demand has increased, *** indicated that demand has remained unchanged, and *** indicated that demand has decreased. Similarly for distributors, three purchasers indicated an increase in demand, four indicated no change, one indicated that demand decreased, and three indicated that demand fluctuated.

Table II-4
Ripe olives: Firms' responses regarding U.S. demand and demand outside the United States

Item	Increase	No change	Decrease	Fluctuate
Demand in the United States				
U.S. producers	***	***	***	***
Importers	4	11	5	6
Purchasers	4	7	5	3
Demand outside the United States				
U.S. producers	***	***	***	***
Importers	3	5	1	3
Purchasers	3	4	---	3

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

Two of five responding purchasers reported that the demand for their firms' final products incorporating ripe olives has increased since January 2015, citing growth in organic sales and additional customers. One purchaser reported declining demand for its end-use product citing a decline in general sales in the foodservice segment coupled with increased competition; and one purchaser indicated fluctuating demand for its final product. Three of the five responding purchasers indicated that the change in the demand for their final products has had an effect on their firms' demand for ripe olives. Purchasers *** reported an increased demand for ripe olives because of increased demand for their firms' final products; purchaser *** reported that as its sales of all food items have decrease, its demand for ripe olives has also decreased.

Substitute products

Virtually all firms indicated that there were no substitutes for ripe olives. Only one importer (***) reported that other olives (e.g. green olives or other varieties) or vegetables could be substituted for ripe olives in pizza and sandwiches.

Ripe green olives and ripe black olives have similar flavors textures and sizes.[28] Specialty olives typically have different flavors, textures, and may be different sizes than ripe olives and are therefore of limited use as substitutes.[29] In addition, specialty olives tend to be more expensive than ripe olives.[30] Specialty olives fermentation typically takes longer than processing ripe olives.[31] Respondents explained that ripe olives are ready for shipment weeks after the fruit is harvested (October/November) while specialty olives are ready for shipment in March/April of the following year.[32]

[28] Conference transcript, pp. 95-96 (Carter).

[29] Hearing transcript, p. 124 (Musco). AFI Group's posthearing brief, exhibit 1, p. 21.

[30] Conference transcript, p. 97 (Musco).

[31] Conference transcript, pp. 178-180 (Kaddoura, Valkai). Petitioner's postconference brief, responses to questions, p. 9.

[32] AFI Group postconference brief, exh 11, question from page 161, question 7.

The vast majority of purchasers (23 of 25) indicated that the consumption of table olives other than ripe olives has not affected demand for ripe olives since January 2015.[33] However, two purchasers, ***, stated that specialty olives and stuffed olives have increased in popularity and indicated that this has affected demand for ripe olives.

The majority of responding purchasers (21 of 23) indicated that any discernable shift in end consumer preferences for olives other than ripe olives has not impacted demand for ripe olives since January 2015. Purchaser *** stated that consumers are substituting ripe olives for specialty olives such as stuffed colossal and Kalamata olives. Purchaser *** stated that the demand for specialty olives has increased by 30 to 40 percent while the demand for ripe olives has decreased.

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported ripe olives depends upon such factors as relative prices, quality (e.g., grade standards, defect rates, etc.), and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, reliability of supply, product services, etc.). Based on available data, staff believes that there is high degree of substitutability between domestically produced ripe olives and ripe olives imported from Spain.

Lead times

Ripe olives are primarily sold from U.S. inventory. Firms reported that *** percent of U.S. producers' and 64.7 percent of importers' commercial shipments were from U.S. inventories, with lead times averaging *** days for U.S. producers and 14 days for importers. The remaining *** percent of U.S. producers' commercial shipments were produced-to-order, with lead times averaging *** days. Importers sold 23.5 percent of their commercial shipments produced-to-order with lead times of 66 days and the remaining 11.8 percent from foreign inventories with lead times of 60 days.

Knowledge of country sources

Of the 26 purchasers, the majority indicated they had purchased domestic ripe olives and product from Spain (table II-5).

[33] Respondents reported that the consumption of specialty olives has had little impact on the consumption of ripe olives. Respondents stated that "The two olives have very different flavors and are served differently. Ripe olives have a mild flavor and are typically pitted and used as an ingredient in other foods, such as pizzas and sandwiches. Specialty olives have stronger flavors and are often not pitted. They are usually eaten alone as appetizers." AFI Group's posthearing brief, exhibit 1, p. 21.

Table II-5
Ripe olives: Purchasing decisions based on country knowledge

Decision	U.S.	Spain	Other
Actual purchases	20	19	10
Considered purchasing	5	4	4
Other direct information	3	---	---
Other sources of information	4	3	3

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

As shown in table II-6, most purchasers and their customers sometimes or never make purchasing decisions based on the producer or country of origin. Of the four purchasers that reported that they always make decisions based the manufacturer, only one firm (***) provided an explanation and stated that producer and country of origin evaluations are part of all buying decisions.

Table II-6
Ripe olives: Purchasing decisions based on producer and country of origin

Purchaser/customer decision	Always	Usually	Sometimes	Never
Purchaser makes decision based on producer	4	5	6	9
Purchaser's customers make decision based on producer	---	2	7	12
Purchaser makes decision based on country	3	2	8	10
Purchaser's customers make decision based on country	2	1	9	8

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

Factors affecting purchasing decisions

The most often cited top three factors firms consider in their purchasing decisions for ripe olives were quality (22 firms), price (21 firms), and availability/supply (13 firms) as shown in table II-7. Quality was the most frequently cited first-most important factor (cited by 11 firms), followed by price (6 firms); quality was the most frequently reported second-most important factor (9 firms); and price was the most frequently reported third-most important factor (11 firms).

Table II-7
Ripe olives: Ranking of factors used in purchasing decisions as reported by U.S. purchasers, by factor

Factor	First	Second	Third	Total
Quality	11	9	2	22
Price	6	4	11	21
Availability/supply	2	7	5	13
Other[1]	6	5	7	NA

[1] Other includes food safety, country of origin, brand, service stability, and customer demand for first factor; manufacturer, product range, reliability, and volume for second factor; and supplier's service quality, customer demand, order minimums, supplier's capacity, product range, and supplier assessment for third factor.

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

A plurality of purchasers (12 of 25) reported that they usually purchase the lowest-priced product; 11 reported that they sometimes purchase the lowest-priced product, and two reported that they never do. Both *** reported that they use bids to purchase ripe olives.[34]

The majority of purchasers (16 of 25) indicated that their firm and their customers do not have country preferences when purchasing ripe olives. However, nine purchasers reported that they or their customers have specifically ordered ripe olives from one country in particular over other possible sources of supply. Six purchasers reported a preference for ripe olives from Spain. Purchaser *** stated that Spanish product is preferred because of the product quality. *** stated that it has a preference to purchase from Morocco and Spain due to lower prices and consistent high quality. *** stated that its customers perceive Spanish olives to be the best product. Purchaser *** stated that it orders a portion of ripe olives from Spain due to quality, reliability of supply, crop/product availability, packaging technology advantages, and overall value. *** stated that some industrial/foodservice customers specify ripe olives from Spain for reliability of supply. *** stated that if the supply of ripe olives from Spain declines or the prices increase, it shifts its purchases to Morocco. Three purchasers (***) reported a preference for domestic olives because of consumer preference and domestic requirements for military and public schools. *** stated that some retailers prefer domestic ripe olives for their private label products.

Three of 23 responding purchasers reported that certain types or sizes of ripe olives were only available from certain country sources. Purchaser *** reported that Beldi olives[35] are only available from Morocco. Purchaser *** reported that U.S. producers and producers from Spain use different olive varieties for their jumbo ripe olives. Purchaser *** stated that domestically produced ripe olives uses the Manzanilla olive variety while Spanish producers use several olive varieties.

[34] U.S. purchaser questionnaire response, section III-12.

[35] Beldi olives are cured between layers of sea salt, then rinsed and packed in olive oil.

Importance of specified purchase factors

Purchasers were asked to rate the importance of 20 factors in their purchasing decisions (table II-8). The factors rated as very important by more than half of responding purchasers were availability (25 firms), reliability of supply (25), product consistency (24), quality meets industry standards (23), price (22), delivery time (20), availability of sliced olives (19), quality exceeds industry standards (14), delivery terms (14), and packaging (14).

Table II-8
Ripe olives: Importance of purchase factors, as reported by U.S. purchasers, by factor

Factor	Very important	Somewhat important	Not important
Availability	25	---	---
Availability of specific sizes of olives	11	12	2
Availability of sliced olives	19	1	5
Availability of green ripe olives	6	6	13
Availability in plastic pouches	5	5	15
Availability of ripe olives by variety (i.e. Manzanilla, Sevillano, Mission)	9	11	5
Delivery terms	14	10	1
Delivery time	20	4	1
Discounts offered	9	10	6
Extension of credit	6	10	9
Minimum quantity requirements	5	10	9
Packaging	14	11	---
Price	22	3	---
Product consistency	24	1	---
Product range	6	13	6
Quality meets industry standards	23	2	---
Quality exceeds industry standards	14	10	1
Reliability of supply	25	---	---
Technical support/service	10	15	---
U.S. transportation costs	10	11	4

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

Supplier certification

Most responding purchasers (19 of 24) require their suppliers to become certified or qualified to sell ripe olives to their firm. Purchasers reported that the time to qualify a new supplier ranged from one week to one year, with most purchasers reporting a time between 30 and 90 days. Three purchasers reported that a domestic or foreign supplier had failed in its attempt to qualify ripe olives, or had lost its approved status since 2015. One purchaser identified Allied International, citing poor taste and quality. Another purchaser stated that suppliers from Turkey, Morocco, and Egypt were not preferred because of quality and capacity reasons.

The vast majority of purchasers indicated that no supplier had delivered product that did not meet the purchasers' standards since January 2015. However, one purchaser (***) reported that Mario Camacho delivered ripe olives from Spain which did not meet certain USDA standards.

Decisions based on brand

Purchasers were asked how frequently they or their customers made purchase decisions based on brands of ripe olives and their willingness to pay more based on brand (table II-9). The vast majority of purchasers reported that they never make purchasing decisions based on brands of ripe olives while a plurality of purchasers reported that their customers sometimes make purchasing decisions based on brands. Firms that reported making purchasing decisions based on brand at least sometimes reported the following reasons: customer preference for a particular brand, brand loyalty, offering a full assortment to customer base including a value brand to a high-end specialty brand. Purchaser *** stated that U.S. producers have better brand name recognition than imported product.

Purchasers did not report a strong willingness to pay more for a branded product (table II-9). In general, purchasers indicated that consumers tend to pay more for a branded product which is often perceived to be higher quality. According to ***, brand has a perceived higher value, and therefore, the customers are willing to pay more for a branded product. *** stated that 50 percent of its customers buy a national brand at a higher price. Purchasers *** stated that they carry a range of price points from private label to specialty brands. *** stated that specialty retailers will pay more for a boutique brand; and *** stated that customers consider their brand loyalty before considering price.

Table II-9
Ripe olives: Purchasing decisions based on brand and willingness to pay more for branded ripe olives

Purchaser/Customer Decision	Always	Usually	Sometimes	Never
Purchaser makes decision based on brand	2	3	4	15
Purchaser's customers make decision based on brand	---	3	9	8
Purchaser willing to pay more for branded ripe olives	3	2	5	11
Purchaser's customers willing to pay more for branded ripe olives	1	2	7	9

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

Bundling purchases

Eight of 25 responding purchasers indicated that they bundle purchases of ripe olives with other products.[36] Purchasers reported bundling other products such as mushrooms, California canned tomatoes, canned fruit, roasted red peppers, tuna, and other olive products such as Spanish olives and green olives. One purchaser, ***, reported that it bundled less than 1 percent of its 2017 purchases of ripe olives, two purchasers, *** reported that they bundled 20 to 30 percent of their 2017 purchases of ripe olives, two purchasers, ***, reported bundling 50 and 57 percent of their ripe olive purchases, respectively, and *** reported bundling 100 percent of its 2017 ripe olive purchases with other products.

[36] Three of these purchasers were relatively small and reported purchasing less than 100 short tons drained weight of ripe olives annually during 2015-17.

One of 24 responding purchasers reported declining a suppliers' offer based on the suppliers' inability to supply a full product line of olives. *** stated that "our olive purchases are made through a third party, ***, who sources various in-scope and out-of-scope olives from different suppliers for our business needs. At one point in time, we decided not to proceed with two of the suppliers that *** presented for black olives because of capacity and quality issues."

Changes in purchasing patterns

Purchasers were asked about changes in their purchasing patterns from different sources since 2015 (table II-10). Those describing decreased or fluctuated purchases from the United States cited decreased demand from their customers (***), shifting their purchases to product from Spain (***), decreased crop availability (***), and a shift away from cans to pouches (***). *** stated that its purchasing patterns reflect a combination of declining customers and competing promotions between its private brand and competing mainstream brands. A plurality of purchasers reported increased purchases from Spain, with a majority of these purchasers citing increased purchases of Spanish ripe olives for their private label business. *** stated that it began purchasing Spanish ripe olives for a portion of its private label business starting in late 2015 and *** reported that it began selling private label olives in late 2016.

Table II-10
Ripe olives: Changes in purchase patterns from U.S., subject, and nonsubject countries

Source of purchases	Did not purchase	Decreased	Increased	Constant	Fluctuated
United States	5	9	3	5	3
Spain	4	3	8	5	4
All other sources	12	---	---	3	5

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

Nine of 25 responding purchasers reported that they had changed suppliers since January 1, 2015. Four of these purchasers reported dropping Bell-Carter. *** reported that they dropped Bell-Carter and switched to Mario Camacho due to competitive pricing. *** dropped Bel Carter because of pricing and lack of crop availability and added National Cortina and Golden Bay Foods. One purchaser (***) stated that it dropped Musco for a very small portion of its purchases in 2015 and 2016 because it switched from ripe olives packaged in cans to those packaged in pouches which Musco didn't supply. One firm dropped a supplier from Morocco due to quality and supply issues. *** stated that it added Agro Sevilla and *** reported that it added Blackhive.

Importance of purchasing domestic product

Purchasers reported that purchasing domestic ripe olives was not required for most of their purchasing decisions (representing 93.1 percent of total reported purchases). Two purchasers reported that domestic product was required by law (for 2 and 3 percent of their purchases), seven firms reported it was required by their customers (for 1 to 100 percent of

their purchases),[37] and one reported other preferences for domestic product. *** reported that its reason for preferring domestic product was "based on historic demand."

Comparisons of domestic products, subject imports, and nonsubject imports

Purchasers were asked a number of questions comparing ripe olives produced in the United States, Spain, and nonsubject countries. First, purchasers were asked for a country-by-country comparison on the same 20 factors (table II-11) for which they were asked to rate the importance.

More than half of purchasers reported that U.S. and Spanish ripe olives were comparable on all factors except for availability in plastic pouches (for which five purchasers rated the U.S. product inferior)[38] [39] and price (for which 12 purchasers rated the Spanish product as lower-priced). Most purchasers reported that U.S. and nonsubject ripe olives were comparable on all factors except for delivery time (for which two purchasers rated the domestic product superior and two purchasers rated the products comparable), minimum requirements (for which two purchasers rated the domestic product superior and two purchasers rated the products comparable), and price (for which three purchasers rated ripe olives from nonsubject countries as lower-priced).

[37] Purchases required by the customers accounted for 3.3 percent of total reported purchases. Only one purchaser reported buying 100 percent of its purchases for customers that required domestic product. Four purchasers reported shares less than 25 percent and two purchasers reported shares less than 50 percent.

[38] Most purchasers rated the availability in plastic pouches as not an important factor in their purchasing decisions.

[39] Petitioner contends that ripe olives in pouches are available from U.S. producers as demonstrated by Product 4 (which covers sliced olives in pouches) in the pricing data. Petitioner's prehearing brief, p. 14. However, U.S. producers' shipments of Product 4 were relatively small.

Table II-11
Ripe olives: Purchasers' comparisons between U.S.-produced and imported product

Factor	U.S. vs. Spain			U.S. vs. nonsubject			Spain vs. nonsubject		
	S	C	I	S	C	I	S	C	I
Availability	---	11	9	1	4	---	2	5	---
Availability of specific sizes of olives	---	12	6	---	5	---	1	6	---
Availability of sliced olives	---	12	6	---	5	---	2	5	---
Availability of green ripe olives	1	8	6	---	3	1	1	4	---
Availability in plastic pouches	---	5	5	---	4	---	1	3	1
Availability of ripe olives by variety (i.e. Manzanilla, Sevillano, Mission)	---	11	5	---	4	---	2	4	---
Delivery terms	---	18	---	---	5	---	1	5	---
Delivery time	7	11	---	3	2	---	2	4	---
Discounts offered	---	16	---	---	5	---	---	6	---
Extension of credit	---	15	---	---	4	---	---	5	---
Minimum quantity requirements	2	15	---	2	3	---	1	4	---
Packaging	---	16	2	---	5	---	---	6	---
Price[1]	---	4	13	---	1	4	---	6	---
Product consistency	1	17	1	---	4	1	2	5	---
Product range	---	17	1	---	4	---	1	4	---
Quality meets industry standards	---	18	---	1	4	---	1	6	---
Quality exceeds industry standards	2	16	---	1	4	---	3	4	---
Reliability of supply	---	14	5	---	4	1	2	5	---
Technical support/service	1	17	---	---	4	1	2	5	---
U.S. transportation costs[1]	5	11	1	1	4	---	---	6	---

[1] A rating of superior means that price/U.S. transportation cost 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 ripe olives

In order to determine whether U.S.-produced ripe olives can generally be used in the same applications as imports from Spain, U.S. producers, importers, and purchasers were asked whether the products can always, frequently, sometimes, or never be used interchangeably. As shown in table II-12, both U.S. producers and most importers and purchasers reported that domestic ripe olives and subject imports are always or frequently interchangeable. When comparing domestic product and ripe olives from nonsubject countries, firms' responses varied. *** indicated that domestic product and ripe olives from Morocco and other nonsubject countries were only sometimes interchangeable and stated that there were pronounced quality differences. A plurality of importers reported that domestic product and ripe olives from Morocco and other nonsubject countries were frequently interchangeable and most purchasers reported that they were always interchangeable. Importer *** stated that "Most customers that use US ripe olives will substitute the product with the same from other countries if the

availability is limited or the price of domestic olives is significantly higher. Their first choice for a substitute will be Spanish." Purchaser *** stated that availability of ripe olives by variety and by size may not be interchangeable from different sources year to year.

Table II-12
Ripe olives: Interchangeability between ripe olives produced in the United States and in other countries, by country pair

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. subject countries:												
U.S. vs. Spain	1	1	---	---	4	12	3	3	9	5	5	---
Nonsubject countries comparisons:												
U.S. vs. Morocco	1	---	1	---	3	4	3	2	4	---	3	---
Spain vs. Morocco	1	---	1	---	2	4	5	2	5	---	2	---
U.S. vs. all other countries	1	---	1	---	5	6	3	1	5	1	3	---
Spain vs. all other countries	1	---	1	---	5	4	5	1	5	1	3	---
Morocco vs. all other countries	1	1	---	---	5	3	3	---	4	1	2	---

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

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

As can be seen from table II-13, all responding purchasers reported that domestically produced ripe olives and ripe olives from Spain always or usually met minimum quality specifications.

Table II-13
Ripe olives: Ability to meet minimum quality specifications, by source[1]

Source	Always	Usually	Sometimes	Rarely or never
United States	12	9	0	0
Spain	9	10	0	0
Morocco	1	4	3	0

[1] Purchasers were asked how often domestically produced or imported ripe olives meet minimum quality specifications for their own or their customers' uses.

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

In addition, U.S. producers, importers, and purchasers were asked to assess how often differences other than price were significant in sales of ripe olives from the United States, Spain, or nonsubject countries (table II-14). When comparing domestic ripe olives to that imported from both Spain and nonsubject sources, *** a plurality of importers reported that differences other than price were sometimes a factor in their firms' sales of ripe olives. Purchasers' responses were varied. A plurality of purchasers reported that differences other than price were always a factor in their firms' purchases when comparing ripe olives produced

in the United States and product from Spain;[40] when comparing ripe olives produced domestically and ripe olives imported from nonsubject countries, most purchasers reported that factors other than price were sometimes a factor in their firms' purchases. Differences other than price cited by purchasers include product quality, availability, product packaging, and customer demand. Purchaser *** stated that "United States producers were unable to meet our technical specifications in years past and did not approach us in the years in question (2015-2017) with interest in obtaining *** business." Purchaser *** reported differences in upstream out-of-scope raw olive availability, noting the different crop production and irrigation capabilities between the United States and Spain.

Table II-14
Ripe olives: Significance of differences other than price between ripe olives produced in the United States and in other countries, by country pair

Country pair	Number of U.S. producers reporting				Number of U.S. importers reporting				Number of purchasers reporting			
	A	F	S	N	A	F	S	N	A	F	S	N
U.S. vs. subject countries:												
U.S. vs. Spain	---	---	1	1	4	6	10	2	8	2	6	4
Nonsubject countries comparisons:												
U.S. vs. Morocco	---	---	1	1	3	2	7	---	2	---	4	2
Spain vs. Morocco	---	1	---	1	4	2	5	1	1	---	5	2
U.S. vs. nonsubject	---	---	1	1	1	1	11	2	1	---	5	1
Spain vs. nonsubject	---	---	1	1	2	2	9	2	---	---	6	2
Morocco vs. all other countries	---	1	---	1	2	3	7	1	---	---	4	2

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. Staff notes that the time period for which its elasticity estimates are based is one to two years. Parties were encouraged to comment on these estimates in their prehearing or posthearing brief. Party comments are presented and addressed below.

U.S. supply elasticity

The domestic supply elasticity[41] for ripe olives measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of ripe olives. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with

[40] These eight purchasers include ***.

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

which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced ripe olives. In the prehearing report, staff estimated that the U.S. supply elasticity for ripe olives fell in the range of 6 to 8. Petitioner agrees with staff's estimates.[42] Respondents took issue with the estimate, and argue that the quantity supplied is constrained by the ability to source raw material. They argue that the volume responses would be unfeasible due to the lack of availability of the raw material.[43] Respondents also argue that the U.S. producers' inventories are at standard inventory levels for the industry, as the olive harvest occurs once per year.[44] Respondents suggested a range of 0.00 to 0.50.[45] Staff notes that U.S. producers have not experienced supply constraints in their purchases of domestic and imported upstream out-of-scope raw olives[46] and the majority of purchasers did not report any supply constraints during the period. However, responsiveness of supply for ripe olives may be mitigated by large fluctuations in availability of upstream out-of-scope raw olives as a handful of purchasers identified domestic crop availability as a reason for diversifying their sources of purchased ripe olives. Staff is revising its estimated range to 4 to 6.

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[42] Petitioner's prehearing brief, p. 13.

[43] Respondents argues that the crop acreage for domestic upstream out-of-scope raw olives can't fully serve the U.S. ripe olive market. Respondents also argue that while imports of upstream out-of-scope raw olives can fill in gaps, it cannot be used for the majority of U.S. producers' production of ripe olives "due to the unpredictable nature of the domestic crops." It contends that U.S. producers cannot predict what size proportions and the overall quantity a harvest will yield. AFI's posthearing brief, pp. 3-6 and exhibit 1, pp. 5-8; ASEMESA prehearing brief, pp. 7-12. However, petitioner contends that because U.S. producers can purchase raw olives from both domestic and foreign sources, the capacity figures reflect U.S. producers' actual ability to supply the U.S. market. Petitioner's posthearing brief, exhibit 1, question 4, p. 9.

[44] Respondents argue that if anything, U.S. producers' inventories are at the low end of what the industry normally holds. ASEMESA's posthearing brief, exhibit 1, Answers to Commissioners'' Questions, pp. 44-46. Petitioner disagrees with respondents and contends that in addition to their inventories of ripe olives, U.S. producers' inventories of upstream out-of-scope raw olives have increased during the period. Petitioner argues that these inventories of upstream out-of-scope raw olives can be processed into finished product in 1 to 2 weeks and demonstrate that the U.S. producers can supply a *** portion of the domestic industry. Petitioner's posthearing brief, exhibit 1, question 5, pp. 10-11.

[45] Respondents stated that the U.S. olive crop acreage has decreased 47 percent since 2001 and 17 percent during the period of investigation. ASEMESA's prehearing brief, pp. 23-24.

[46] According to International Olive Council, the global production of table olives has increased from 2.58 million tons in 2014/15 to 2.95 million tons in 2017/18. Argentina, Egypt, Morocco, Turkey, and the EU were the largest growers of table olives, with increasing table olive yields in each of those countries except for the EU from 2014/15 to 2017/18. ASEMA's prehearing brief, exhibit 16, IOOC Table Olive Production and Export Data. Therefore, it is feasible to assume that U.S. producers would have the ability to source more raw material from outside the United States in the short run.

U.S. demand elasticity

The U.S. demand elasticity for ripe olives measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of ripe olives. 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 ripe olives in the production of any downstream products. In the prehearing report, staff estimated the aggregate demand elasticity for ripe olives fell in the range of -0.3 to -0.7. Petitioner agrees with staff's estimates.[47] Respondents took issue with the estimate, and recommended a demand elasticity of -1.0 to -1.5. Respondents argued that in the retail segment, ripe olives compete with specialty olives and other canned and jarred vegetables.[48] Staff notes that nonetheless, virtually all purchasers indicated that the consumption of table olives other than ripe has not affected demand for ripe olives since 2015; and virtually all purchasers indicated that any discernable shift in end consumer preferences for olives other than ripe olives has not impacted demand for ripe olives. Consumer preference for ripe olives is unlikely to shift substantially in the next two years. Respondents also contend that in the institutional market, the use of ripe olives in recipes and menus depends on ripe olives' cost competitiveness; and therefore, if prices increased substantially, franchises/restaurants would remove ripe olives from their menus or would put fewer ripe olives per sandwich or pizza.[49] Staff notes that both institutional purchasers (***), reported small cost shares of ripe olives in their final food products. However, ripe olives used in recipes are a discretionary input. Taking into consideration the narrow profit margins of most food franchises and restaurants, changes in the U.S. market price of ripe olives may impact quantity demanded in the institutional segment, regardless of the small cost share. Staff is revising its estimated range to -0.5 to -1.0.

Substitution elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.[50] Product differentiation, in turn, depends upon such factors as quality (e.g., chemistry, appearance, etc.) and conditions of sale (e.g., availability, sales terms/ discounts/ promotions, etc.). Based on available information, the elasticity of substitution between U.S.-produced ripe olives and imported ripe olives is likely to be in the range of 4 to 7.

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[47] Petition stated that it also agrees with staff's elasticity estimates for substitution. Petitioner's prehearing brief, p. 13.

[48] ASEMESA's prehearing brief, pp. 25-26.

[49] ASEMESA's prehearing brief, pp. 25-26.

[50] 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.

PART III: U.S. PRODUCERS' PRODUCTION, SHIPMENTS, AND EMPLOYMENT

The Commission analyzes a number of factors in making injury determinations (see 19 U.S.C. §§ 1677(7)(B) and 1677(7)(C)). Information on the subsidies and dumping margins was presented in *Part I* of this report and information on the volume and pricing of imports of the subject merchandise is presented in *Part IV* and *Part V*. Information on the other factors specified is presented in this section and/or *Part VI* and (except as noted) is based on the questionnaire responses of two U.S. producers. These firms account for virtually all U.S. processing of ripe olives in 2017.

Virtually all U.S. olive production is based in California.[1] Ripe olive producers are subject to a USDA federal marketing order for ripe olives established in 1965 under the Agricultural Marketing Act of 1937.[2] The marketing order serves several functions. It establishes grade and size standards to ensure quality of olive shipments, and authorizes projects related to research and marketing. Further, pursuant to section 8e of the Agricultural Marketing Act, all imports of ripe olives must meet the same minimum standards for domestic ripe olives as established in the marketing order. The order applies only to ripe olives and not specialty olives.[3]

The marketing order's programs are administered by the California Olive Committee ("COC") which was established when the order went into effect. The COC is comprised of eight growers (from two districts, as defined in the regulations of the order) and eight "handlers", with each group (i.e. growers and handlers) having eight alternate members as well. Members serve 2-year terms.[4]

U.S. PRODUCERS

Bell-Carter and Musco are the two main producers in the ripe olives industry, accounting for virtually all processing of ripe olives in 2017.[5]

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[1] Petition, p. 9.

[2] The order was last amended under formal rulemaking on November 12, 1982. See "932 Olives", https://www.ams.usda.gov/rules-regulations/moa/932-olives, accessed July 20, 2017.

[3] Petition, p. 9. Conference transcript, p. 120 (Silveira).

[4] "Handlers" includes processors of ripe olives. See 7 C.F.R. § 932.16. The committee is barred from serving as the price bargainer on behalf of the growers. Programs under the order cannot be involved in political or legislative issues as well. The industry's government advocacy arm is called the California Olive Association (COA). Conference transcript p. 21 (Gleason) p. 45 (Burreson); and "The Olive Branch" Summer 2016, Issue 10, accessible at http://calolive.org/category/industry/news/newsletters/. The COC and the COA represent both growers and processors. Conference transcript p. 45 (Burreson).

[5] The Petitioner identifies Graber Olive House as a small producer of green ripe olives, estimating that the firm produces about 150 tons per year (or *** percent of production reported by Bell-Carter and Musco). Petition, p. 5. A questionnaire was issued to this firm, but the Commission did not receive a response.

Table III-1 lists U.S. producers of ripe olives, their production locations, positions on the petition, and shares of total production. Table III-2 presents information on U.S. producers' ownership and related and/or affiliated firms.

Table III-1
Ripe olives: U.S. producers, their position on the petition, location of production, and share of reported production, 2017

Firm	Position on petition	Production location(s)	Share of production (percent)
Bell-Carter	Support (Petitioner)	Corning, CA	***
Musco	Support (Petitioner)	Tracy, CA	***
Total			100.0

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

Table III-2
Ripe olives: U.S. producers' ownership, related and/or affiliated firms

* * * * * * *

Table III-3 presents U.S. producers' reported changes in operations since January 1, 2015.

Table III-3
Ripe olives: U.S. producers' reported changes in operations, since January 1, 2015

* * * * * * *

As discussed in greater detail below, *** directly imports the subject merchandise.

Production, capacity, and capacity utilization

Table III-4 and figure III-1 present U.S. producers' production, capacity, and capacity utilization. While capacity *** during 2015-17, production increased by *** percent during the same period. Average capacity utilization increased by *** percentage points from 2015 to 2017.

Discussing production constraints, Bell-Carter reported that "***", while Musco reported "***" as a constraint.

Table III-4
Ripe olives: U.S. producers' capacity, production, and capacity utilization, 2015-17

* * * * * * *

Figure III-1
Ripe olives: U.S. producers' capacity, production, and capacity utilization, 2015-17

* * * * * * *

Tables III-5 and III-6 present U.S. producers' ripe olive production by olive size and by source of raw olives, respectively. In 2017, the majority of ripe olives produced by U.S. producers were small olives, followed by extra large and medium sizes.[6]

In 2017, *** percent of U.S. producers' ripe olives were made from domestic raw olives, with the next largest source being imports of raw olives from all other sources. The share of ripe olives produced from domestic raw olives increased by *** percentage points from 2015 to 2017, while the share of ripe olives produced from imports of raw olives from Spain fell by *** percentage points. The share of ripe olives produced from imports of raw olives from all other sources grew by *** percentage points from 2015 to 2017.

Table III-5
Ripe olives: U.S. producers' ripe olive production by olive size, 2017

* * * * * * *

Table III-6
Ripe olives: U.S. production, by source, 2015-17

* * * * * * *

Alternative products

As shown in table III-7, *** percent of the products produced during 2017 by U.S. producers was subject product. Musco *** reported producing other products, including Sicilian-style olives[7] and ***.[8]

Table III-7
Ripe olives: U.S. producers' overall capacity and production on the same equipment as subject production, 2015-17

* * * * * * *

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[6] Respondents have asserted that U.S. producers are not able to adequately supply a full range of sizes to their customers. ASEMESA prehearing brief, p. 12; Hearing transcript, p. 167 (Seidel). Petitioner asserts, however, that U.S. producers have "all" sizes available, ***. Hearing transcript, p. 94 (Musco) and Petitioners' posthearing brief, exh. 1, p. 10.

[7] Conference transcript, p. 122 (Musco).

[8] Bell-Carter explains that it *** shift production capacity to different products because, "***." Although Musco reported producing out-of-scope products on the same machinery it uses to make ripe olives, ***. See producers' questionnaires, responses to question II-3f.

U.S. shipments and exports

Table III-8 presents U.S. producers' U.S. shipments, export shipments, and total shipments.[9] The majority of U.S. producers' shipments are U.S. shipments, accounting for *** percent of total shipments in 2017 by quantity, and *** percent of total shipments in 2017 by value. U.S. shipments decreased by *** percent by quantity and *** percent by value from 2015 to 2017. Export shipments by quantity were *** in 2015 and 2017, while export shipment values decreased by *** percent from 2015 to 2017. [10]

U.S. shipment unit values increased by *** percent from 2015 to 2017, while export shipment unit values decreased by *** percent from 2015 to 2017.

Table III-8
Ripe olives: U.S. producers' U.S. shipments, export shipments, and total shipments, 2015-17

* * * * * * *

Table III-9 presents U.S. producers' U.S. shipments by olive variety and type of processing in 2017. *** percent of U.S. producers' total ripe olives shipments were comprised of manzanilla olives, with the remainder comprised of sevillano olives. No U.S. producer reported shipping hojiblanca olive varieties or any other olive. By processing style, most U.S. shipments of ripe olives produced by U.S. producers were whole pitted olives (olives with the pit removed), which represented *** percent of all U.S. shipments. Sliced olives comprised the second-most shipped processing style, accounting for *** percent of all U.S. shipments.

Table III-9
Ripe olives: U.S. producers' commercial U.S. shipments, by olive variety and type of processing, 2017

* * * * * * *

U.S. producers' inventories

Table III-10 presents U.S. producers' end-of-period inventories and the ratio of these inventories to U.S. producers' production, U.S. shipments, and total shipments.[11] Overall

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[9] "U.S. shipments" refers only to U.S. commercial shipments. No firm reported internal consumption or transfers to related firms.

[10] *** accounted for *** exports during 2015-17. ***. See producers' questionnaires, responses to question II-7.

[11] During the Commission's hearing, several questions were raised as to how Petitioner reported inventories during the course of the investigations. For these data, Petitioner confirmed in its posthearing brief that these inventories reflect "finished goods inventory (i.e. packaged or bulk product ready for sale to customers), not raw materials or work-in-progress" as requested in the Commission's

(*continued*...)

inventories held by U.S. producers increased *** percent from 2015 to 2017, but consistently reflected *** ratios to producers' production and shipments. Inventories fluctuated between ratios of *** and *** percent of production from 2015 to 2017, and between ratios of *** and *** percent of U.S. shipments from 2015 to 2017.

Table III-10
Ripe olives: U.S. producers' inventories, 2015-17

* * * * * * *

Table III-11 and figure III-2 present U.S. producers' inventories by month from 2015 to 2017.

Table III-11
Ripe olives: U.S. producers' inventories by month, 2015-17

* * * * * * *

Figure III-2
U.S. producers' inventories, by month, 2015-17

* * * * * * *

U.S. producers' imports and purchases

Table III-12 presents import data for ***, the only producer to report importing ripe olives directly. No producer reported purchases of ripe olives from importers or other sources. *** did not report any other sources of ripe olives besides *** in its importer's questionnaire.

Table III-12
Ripe olives: U.S. producers' direct imports, 2015-17

* * * * * * *

U.S. producers' employment, wages, and productivity

Table III-13 shows U.S. producers' employment-related data year over year from 2015 to 2017. The number of production and related workers ("PRWs") declined by *** percent overall (by *** PRWs) from 2015 to 2017. Likewise, the total hours worked by PRWs also decreased, although wages paid increased from 2015 to 2017. Hourly wages increased by ***

(…*continued*)
Processors' Questionnaire. See Petitioner's posthearing brief, exh. 1, p. 30. Inventories of olives held by processors before processing into ripe olives are provided in Petitioner's posthearing brief, exh. 2, tables 6A-6C. Petitioner noted in its posthearing brief that U.S. producers' year-end inventories of unprocessed olives increased *** percent. Petitioner's posthearing brief, exh. 1, p. 11.

percent from 2015 to 2017, while productivity increased by *** percent from 2015 to 2017, resulting in a modest increase in unit labor costs.

Table III-13
Ripe olives: U.S. producers' employment related data, 2015-17

* * * * * * *

PART IV: U.S. IMPORTS, APPARENT U.S. CONSUMPTION, AND MARKET SHARES

U.S. IMPORTERS

The Commission issued importer questionnaires to 55 firms believed to be importers of subject ripe olives, as well as to all U.S. producers of ripe olives.[1] Usable questionnaire responses were received from 32 companies, representing 96.7 percent of U.S. imports from Spain in 2017 under HTS subheadings 2005.70.50 and 2005.70.60.[2] Table IV-1 lists all responding U.S. importers of ripe olives from Spain and other sources, their locations, and their shares of U.S. imports, in 2017.

[1] The Commission issued questionnaires to those firms identified in the petition, along with firms that, based on a review of data provided by U.S. Customs and Border Protection ("Customs"), may have accounted for more than one percent of total imports under HTS statistical reporting numbers 2005.70.0230, 2005.70.0260, 2005.70.0430, 2005.70.0460, 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070, 2005.70.7000, 2005.70.7510, 2005.70.7515, 2005.70.7520, and 2005.70.7525 in 2017.

[2] Import data in this report for countries other than Morocco are based on official import statistics reported under HTS statistical reporting numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, 2005.70.6070. These statistical reporting numbers are elements of subheadings for canned olives in a saline solution, not green in color, and either not pitted (HTS subheading 2005.70.50) or whole pitted or prepared in different ways (i.e. sliced, chopped, minced, wedged, or broken, HTS subheading 2005.70.60). Using the full list of numbers described in footnote 1 above, imports from Spain reported under these seven numbers accounted for *** percent of total imports from Spain in 2017, according to proprietary Customs data.

Table IV-1
Ripe olives: U.S. importers, their headquarters, and share of total imports by source, 2017

Firm	Headquarters	Share of imports by source (percent)				
		Spain	Morocco	All other sources	Nonsubject sources	All import sources
Acme Food	Seattle, WA	***	***	***	***	***
Acorsa	Fort Lee, NJ	***	***	***	***	***
AGT Clic	Edison, NJ	***	***	***	***	***
Agro Sevilla	Herndon, VA	***	***	***	***	***
Atalanta	Elizabeth, NJ	***	***	***	***	***
Atlantic Beverage	Edison, NJ	***	***	***	***	***
Bell-Carter	Walnut Creek, CA	***	***	***	***	***
Blue Planet	Naperville, IL	***	***	***	***	***
Borges	Fresno, CA	***	***	***	***	***
Camerican International, Inc	Paramus, NJ	***	***	***	***	***
Dolgen	Goodlettsville, TN	***	***	***	***	***
Euro-Mid	Houston, TX	***	***	***	***	***
Food Match	New York, NY	***	***	***	***	***
George DeLallo	Mount Pleasant, PA	***	***	***	***	***
Golden Bridge	Sun Valley, CA	***	***	***	***	***
Goya Foods	Jersey City, NJ	***	***	***	***	***
Jose Santiago	San Juan, PR	***	***	***	***	***
Limson	Norwalk, CT	***	***	***	***	***
Mario Camacho	Plant City, FL	***	***	***	***	***
Mitsui	Norwood, NJ	***	***	***	***	***
National Cortina	Ridgewood, NJ	***	***	***	***	***
Orleans	Hyde Park, MA	***	***	***	***	***
Pastene	Canton, MA	***	***	***	***	***
Rema Foods	Englewood Cliffs, NJ	***	***	***	***	***
Roland	New York City, NY	***	***	***	***	***
Ron Son	Swedesboro, NJ	***	***	***	***	***
Savor	Chesterfield, MO	***	***	***	***	***
Schreiber Foods	Upper Saddle River, NJ	***	***	***	***	***
St. Charles	Batavia, IL	***	***	***	***	***
Transmed	Baltimore, MD	***	***	***	***	***
Transnational Foods	Miami, FL	***	***	***	***	***
Walmart	Bentonville, AR	***	***	***	***	***
Total		100.0	100.0	100.0	100.0	100.0

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

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

U.S. IMPORTS

Table IV-2 and figure IV-1 present data for U.S. imports of ripe olives from Spain and all other sources from 2015 to 2017. Subject imports from Spain decreased by 6.4 percent by quantity from 2015 to 2017, while imports from nonsubject sources increased by *** percent by quantity over the same time period. Imports from Morocco increased by *** percent from 2015 to 2017. Most imports of ripe olives in 2017 were from Spain (*** percent share by quantity, a *** percentage point decrease from 2015). Imports from Morocco accounted for *** percent of imports by quantity, a *** percentage point increase from 2015. Imports of ripe olives from all sources increased by 0.2 percent from 2015 to 2017.

Subject imports from Spain increased by 6.6 percent by value from 2015 to 2017, while imports from nonsubject sources increased by *** percent by value from 2015 to 2017. Imports from Spain accounted for most imports of ripe olives by value (*** percent, a decrease of *** percentage points from 2015). Imports from Morocco accounted for *** percent of imports by value in 2017, a *** percentage point increase from 2015.

The unit value for subject imports from Spain increased by 13.9 percent from 2015 to 2017, while the unit value for imports from nonsubject countries increased by *** percent from 2015 to 2017.

Imports of ripe olives from Spain by quantity were equivalent to *** percent of U.S. production in 2017 (a *** percentage point decrease from 2015), while nonsubject imports of ripe olives by quantity were equivalent to *** percent of U.S. production in 2017 (a *** percentage point increase from 2015).

Table IV-2
Ripe olives: U.S. imports, by source, 2015-17

Item	Calendar year		
	2015	2016	2017
	Quantity (short tons dry weight)		
U.S. imports from.--			
Spain	35,037	35,139	32,782
Morocco	***	***	***
All other sources	6,169	6,320	7,030
Nonsubject sources	***	***	***
All import sources	***	***	***
	Value (1,000 dollars)		
U.S. imports from.--			
Spain	71,535	80,174	76,263
Morocco	***	***	***
All other sources	13,036	13,936	16,099
Nonsubject sources	***	***	***
All import sources	***	***	***
	Unit value (dollars per short ton dry weight)		
U.S. imports from.--			
Spain	2,042	2,282	2,326
Morocco	***	***	***
All other sources	2,113	2,205	2,290
Nonsubject sources	***	***	***
All import sources	***	***	***

Table continued on next page.

Table IV-2—Continued
Ripe olives: U.S. imports, by source, 2015-17

Item	Calendar year		
	2015	2016	2017
	Share of quantity (percent)		
U.S. imports from.-- Spain	***	***	***
Morocco	***	***	***
All other sources	***	***	***
Nonsubject sources	***	***	***
All import sources	100.0	100.0	100.0
	Share of value (percent)		
U.S. imports from.-- Spain	***	***	***
Morocco	***	***	***
All other sources	***	***	***
Nonsubject sources	***	***	***
All import sources	100.0	100.0	100.0
	Ratio to U.S. production		
U.S. imports from.-- Spain	***	***	***
Morocco	***	***	***
All other sources	***	***	***
Nonsubject sources	***	***	***
All import sources	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires and from official U.S. import statistics using HTS numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, and 2005.70.6070.

Figure IV-1
Ripe olives: U.S. import volumes and average unit values, 2015-17

* * * * * * *

Importers' U.S. shipments

Table IV-3 presents U.S. importers' U.S. shipments by olive variety and type of processing in 2017.

The majority of U.S. importers' U.S. shipments of imports from Spain consist of hojiblanca olives (70.0 percent), with the remainder comprised mostly of manzanilla olives (28.1 percent) and sevillano olives (1.3 percent). By processing style, most U.S. shipments of ripe olives imported from Spain were sliced olives, which represented 70.4 percent of all U.S. shipments. Whole pitted olives comprised the second-most shipped processing style, accounting for 20.7 percent of all U.S. shipments of ripe olives imported from Spain.

The vast majority of U.S. importers' U.S. shipments of imports from Morocco were "other" olive varieties (*** percent),[3] with the remainder consisting of manzanilla olives (*** percent). By processing style, most U.S. shipments of ripe olives imported from Morocco were sliced olives, which represented *** percent of all U.S. shipments. Segmented olives comprised the second-most shipped processing style, accounting for *** percent of all U.S. shipments of ripe olives imported from Morocco.

More than half of U.S. importers' U.S. shipments of imports from all other sources were comprised of hojiblanca olives (56.4 percent), with the remainder comprised of manzanilla olives (22.8 percent) and "other" olive varieties (20.8 percent).[4] By processing style, most U.S. shipments of ripe olives imported from all other sources were sliced olives, which represented 68.9 percent of all U.S. shipments. Whole pitted olives comprised the second-most shipped processing style, accounting for 17.9 percent of all U.S. shipments of ripe olives imported from all other sources.

[3] Two firms identified these "other" varieties from Morocco as Beldi olives.

[4] One firm identified these "other" varieties from all other sources as "mixed pitted" olives.

Table IV-3

Ripe olives: Importers' U.S. shipments by product type, 2017

Item	Olive variety				
	Manzanilla	Sevillano	Hojiblanca	Other	All varieties
	Quantity (short tons dry weight)				
Commercial U.S. shipments:					
Spain					
Whole with pit	808	---	63	---	871
Whole pitted	3,094	392	2,811	124	6,421
Segmented	---	---	1,716	13	1,729
Sliced	4,736	---	17,036	9	21,781
Chopped	56	---	42	45	143
Other	---	---	---	---	---
All product styles	8,694	392	21,668	191	30,945
	Share across (percent)				
Commercial U.S. shipments:					
Spain					
Whole with pit	92.8	---	7.2	---	100.0
Whole pitted	48.2	6.1	43.8	1.9	100.0
Segmented	---	---	99.2	0.8	100.0
Sliced	21.7	---	78.2	0.0	100.0
Chopped	39.2	---	29.4	31.5	100.0
Other	---	---	---	---	---
All product styles	28.1	1.3	70.0	0.6	100.0
	Share down (percent)				
Commercial U.S. shipments:					
Spain					
Whole with pit	9.3	---	0.3	---	2.8
Whole pitted	35.6	100.0	13.0	64.9	20.7
Segmented	---	---	7.9	6.8	5.6
Sliced	54.5	---	78.6	4.7	70.4
Chopped	0.6	---	0.2	23.6	0.5
Other	---	---	---	---	---
All product styles	100.0	100.0	100.0	100.0	100.0

Table continued next page.

Table IV-3--Continued

Ripe olives: Importers' U.S. shipments by product type, 2017

Item	Olive variety				
	Manzanilla	Sevillano	Hojiblanca	Other	All varieties
	Quantity (short tons dry weight)				
Commercial U.S. shipments:					
Morocco					
Whole with pit	***	***	***	***	***
Whole pitted	***	***	***	***	***
Segmented	***	***	***	***	***
Sliced	***	***	***	***	***
Chopped	***	***	***	***	***
Other	***	***	***	***	***
All product styles	***	***	***	***	***
	Share across (percent)				
Commercial U.S. shipments:					
Morocco					
Whole with pit	***	***	***	***	***
Whole pitted	***	***	***	***	***
Segmented	***	***	***	***	***
Sliced	***	***	***	***	***
Chopped	***	***	***	***	***
Other	***	***	***	***	***
All product styles	***	***	***	***	***
	Share down (percent)				
Commercial U.S. shipments:					
Morocco					
Whole with pit	***	***	***	***	***
Whole pitted	***	***	***	***	***
Segmented	***	***	***	***	***
Sliced	***	***	***	***	***
Chopped	***	***	***	***	***
Other	***	***	***	***	***
All product styles	***	***	***	***	***

Table continued next page.

Table IV-3--Continued

Ripe olives: Importers' U.S. shipments by product type, 2017

Item	Olive variety				
	Manzanilla	Sevillano	Hojiblanca	Other	All varieties
	Quantity (short tons dry weight)				
Commercial U.S. shipments: All other sources					
Whole with pit	---	---	---	154	154
Whole pitted	403	---	141	248	792
Segmented	---	---	---	---	---
Sliced	608	---	2,358	88	3,054
Chopped	---	---	---	189	189
Other	---	---	---	242	242
All product styles	1,011	---	2,499	921	4,431
	Share across (percent)				
Commercial U.S. shipments: All other sources					
Whole with pit	---	---	---	100.0	100.0
Whole pitted	50.9	---	17.8	31.3	100.0
Segmented	---	---	---	---	---
Sliced	19.9	---	77.2	2.9	100.0
Chopped	---	---	---	100.0	100.0
Other	---	---	---	100.0	100.0
All product styles	22.8	---	56.4	20.8	100.0
	Share down (percent)				
Commercial U.S. shipments: All other sources					
Whole with pit	---	---	---	16.7	3.5
Whole pitted	39.9	---	5.6	26.9	17.9
Segmented	---	---	---	---	---
Sliced	60.1	---	94.4	9.6	68.9
Chopped	---	---	---	20.5	4.3
Other	---	---	---	26.3	5.5
All product styles	100.0	---	100.0	100.0	100.0

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

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

NEGLIGIBILITY

The statute requires that an investigation be terminated without an injury determination if imports of the subject merchandise are found to be negligible.[5] Negligible imports are generally defined in the Tariff Act of 1930, as amended, as imports from a country of merchandise corresponding to a domestic like product where such imports account for less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period for which data are available that precedes the filing of the petition or the initiation of the investigation. However, if there are imports of such merchandise from a number of countries subject to investigations initiated on the same day that individually account for less than 3 percent of the total volume of the subject merchandise, and if the imports from those countries collectively account for more than 7 percent of the volume of all such merchandise imported into the United States during the applicable 12-month period, then imports from such countries are deemed not to be negligible.[6] Based on data submitted in response to Commission questionnaires and official U.S. import statistics, imports from Spain accounted for *** percent of total imports of ripe olives by quantity during June 2016 to May 2017, as presented in table IV-4.

Table IV-4

Ripe olives: U.S. imports in the twelve months preceding the filing of the petition, June 2016 through May 2017

Source	June 2016 through May 2017	
	Quantity (short tons dry weight)	Share of quantity (percent)
Spain	33,373	***
Morocco	***	***
All other sources	6,058	***
Nonsubject sources	***	***
All imports sources	***	100.0

Source: Compiled from data submitted in response to Commission questionnaires and from official U.S. import statistics using HTS numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, and 2005.70.6070.

[5] Sections 703(a)(1), 705(b)(1), 733(a)(1), and 735(b)(1) of the Act (19 U.S.C. §§ 1671b(a)(1), 1671d(b)(1), 1673b(a)(1), and 1673d(b)(1)).

[6] Section 771 (24) of the Act (19 U.S.C § 1677(24)).

APPARENT U.S. CONSUMPTION

Table IV-5 and figure VI-2 present data on apparent U.S. consumption and U.S. market shares for ripe olives. U.S. producers accounted for *** percent of market share by quantity in 2017, a decrease of *** percentage points from 2015. Subject imports from Spain accounted for *** percent market share by quantity in 2017, a *** percentage point decrease from 2015. The market share accounted for by nonsubject imports was *** percent by quantity in 2017, an increase of *** percentage points from 2015.[7]

U.S. producers accounted for *** percent of market share by value in 2017, a decrease of *** percentage points from 2015. Subject imports from Spain accounted for *** percent market share by value in 2017, a *** percentage point increase from 2015. The market share accounted for by nonsubject imports was *** percent by value in 2017, an increase of *** percentage points from 2015.

Table IV-5
Ripe olives: Apparent U.S. consumption, 2015-17

Item	Calendar year		
	2015	2016	2017
	Quantity (short tons dry weight)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Spain	35,037	35,139	32,782
Morocco	***	***	***
All other sources	6,169	6,320	7,030
Nonsubject sources	***	***	***
All import sources	***	***	***
Apparent U.S. consumption	***	***	***
	Value (1,000 dollars)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Spain	71,535	80,174	76,263
Morocco	***	***	***
All other sources	13,036	13,936	16,099
Nonsubject sources	***	***	***
All import sources	***	***	***
Apparent U.S. consumption	***	***	***

Table continued on next page.

[7] Nonsubject import data for Morocco are for U.S. shipments of imports as reported in response to Commission questionnaires.

Table IV-5--Continued
Ripe olives: Apparent U.S. consumption, 2015-17

Item	Calendar year		
	2015	2016	2017
	Share of quantity (percent)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Spain	***	***	***
Morocco	***	***	***
All other sources	***	***	***
Nonsubject sources	***	***	***
All import sources	***	***	***
	Share of value (percent)		
U.S. producers' U.S. shipments	***	***	***
U.S. imports from.--			
Spain	***	***	***
Morocco	***	***	***
All other sources	***	***	***
Nonsubject sources	***	***	***
All import sources	***	***	***

Source: Compiled from data submitted in response to Commission questionnaires and from official U.S. import statistics using HTS numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, and 2005.70.6070.

Figure IV-2
Ripe olives: Apparent U.S. consumption, 2015-17

* * * * * * *

U.S. market shares by sector

U.S. market share data by sector (i.e., distributors, retailers, and institutional/food processors) are presented in tables IV-6 through IV-8 and figures IV-3 through IV-5.

Table IV-6
Ripe olives: U.S. producers' and U.S. importers' commercial U.S. shipments to distributors, 2015-17

Item	Calendar year			Comparison years		
	2015	2016	2017	2015-17	2015-16	2016-17
	Quantity (short tons dry weight)			Change (percent)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	27,247	27,100	24,672	(9.5)	(0.5)	(9.0)
Morocco	***	***	***	***	***	***
All other sources	2,759	3,529	2,905	5.3	27.9	(17.7)
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
Combined: U.S. producers and U.S. importers	***	***	***	***	***	***
	Share of quantity (percent)			Change (percentage points)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
	Ratio to overall apparent consumption (percent)			Change (percentage points)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***

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

Figure IV-3
Ripe olives: U.S. producers' and U.S. importers' commercial U.S. shipments to distributors, 2015-17

* * * * * * *

Table IV-7
Ripe olives: U.S. producers' and U.S. importers commercial U.S. shipments to retailers, 2015-17

Item	Calendar year			Comparison years		
	2015	2016	2017	2015-17	2015-16	2016-17
	Quantity (short tons dry weight)			Change (percent)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	2,231	3,679	5,259	135.7	64.9	42.9
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
Combined: U.S. producers and U.S. importers	***	***	***	***	***	***
	Share of quantity (percent)			Change (percentage points)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
	Ratio to overall apparent consumption (percent)			Change (percentage points)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***

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

Figure IV-4
Ripe olives: U.S. producers' and U.S. importers commercial U.S. shipments to retailers, 2015-17

* * * * * * *

Table IV-8
Ripe olives: U.S. producers' and U.S. importers commercial U.S. shipments to institutional/food processors, 2015-17

Item	Calendar year			Comparison years		
	2015	2016	2017	2015-17	2015-16	2016-17
	Quantity (short tons dry weight)			Change (percent)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	1,218	1,229	1,013	(16.8)	0.9	(17.6)
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
Combined: U.S. producers and U.S. importers	***	***	***	***	***	***
	Share of quantity (percent)			Change (percentage points)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
	Ratio to overall apparent consumption (percent)			Change (percentage points)		
U.S. producers' commercial U.S. shipments	***	***	***	***	***	***
U.S. importers' commercial U.S. shipments from.--						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***

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

Figure IV-5

Ripe olives: U.S. producers' and U.S. importers commercial U.S. shipments to institutional/food processors, 2015-17

* * * * * * *

PART V: PRICING DATA

FACTORS AFFECTING PRICES

Raw material costs

The main raw material for the production of ripe olives is raw olives. Prices for domestically grown upstream out-of-scope raw olives are negotiated between the Olive Growers Council and olive processors. Prices agreed to in these negotiations become "the base price of the entire industry."[1] Prices are set annually with different prices for different sizes of olives. U.S. producers also purchase/import upstream out-of-scope raw or provisionally prepared olives from Argentina, Mexico, Spain, and other countries. The average price of upstream out-of-scope raw olives was relatively stable, fluctuating in a narrow range between 2015 and 2016 (table V-1). Overall, U.S. producers' purchase costs of upstream out-of-scope raw olives from all sources increased by *** percent from *** per short ton dry weight in 2015 to *** per short ton dry weight in 2017.

Table V-1
Raw olives: U.S. producers' upstream out-of-scope raw olives costs

* * * * * * *

Both U.S. producers and 16 of 28 responding importers reported that the cost of upstream out-of-scope raw olives increased during 2015-17; the remaining 12 importers reported that costs have fluctuated. U.S. producer *** stated that the increase in the cost of raw olives was modest from 2015 to 2017; U.S. producer *** stated that the increase in the cost of raw olives is attributed to the higher costs of labor and water. Importers reported crop shortages and the fluctuating exchange rate as factors that have affected the cost of upstream out-of-scope raw olives.

U.S. inland transportation costs

***. Most importers (15 of 26) reported that they typically arrange transportation to their customers. U.S. producers reported U.S. inland transportation costs of *** while importers reported costs of 1 to 9 percent with an average reported cost of 4 percent.[2]

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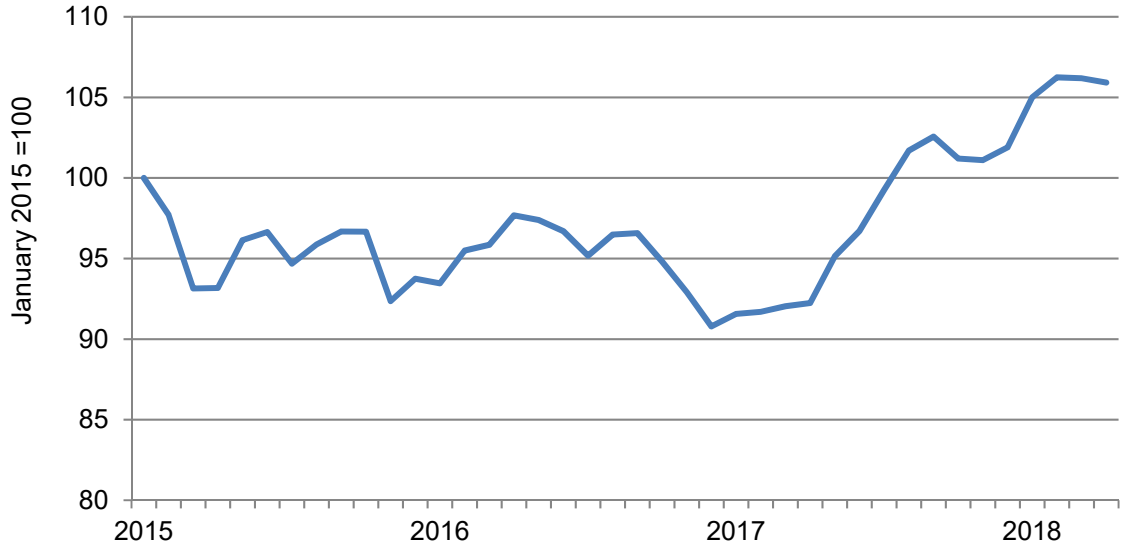
[1] "Bargaining," Olive Growers Council of California, http://www.olivecouncil.com/Bargaining/Bargaining.html,retrieved June 26, 2017

[2] Respondents report that the cost of supplying customers on the East Coast is lower from Spain ($1,500) than from California ($3,000). AFI's prehearing brief, p. 11. Petitioner reported that the freight costs from Spain to York, PA is $*** and its freight costs from California to York, PA is $***. Petitioner's posthearing brief, exhibit 6, attachment 4.

Exchange rates

The value of the dollar, relative to the value of the euro, has fluctuated since the beginning of 2015 (figure V-1).[3] Between January 2015 and December 2016, the value of the dollar fluctuated but appreciated by 9 percent overall relative to the value of the euro. The value of the dollar, relative to the value of the euro, depreciated overall by 12 percent between December 2016 and December 2017.

Figure V-1
Nominal value of the U.S. dollar compared to the Euro, monthly, January 2015 to April 2018



Source: Federal Reserve Economic Data (FRED), Federal Reserve Bank of St. Louis, https://fred.stlouisfed.org/series/EXUSEU, retrieved April 19, 2018.

PRICING PRACTICES

Pricing methods

U.S. producers and importers price setting methods did not differ greatly between sales of ripe olives to retailers and institutional purchasers. For sales to retailers, U.S. producers and importers reported using a variety of price setting methods including transaction-by-transaction negotiations, contracts, price lists, and other methods (table V-2). Other methods reported by *** and two importers included cost-plus prices, competitive prices, and pricing methods that differ by channel and between customers. For sales of ripe olives to institutional purchasers,

[3] In the preliminary phase of these investigations, the petitioner stated that the "collapse of the Euro against the dollar and slow recovery has impacted the prices of ripe olives." Conference transcript, p. 27 (Ludwikowski). The value of the dollar has appreciated approximately 21 percent relative to the value of the euro between May 2014 and March 2015.

*** and importers reported using transaction-by-transaction negotiations, contracts, and price lists.

Table V-2
Ripe olives: U.S. producers' and importers' reported price setting methods, by purchaser type, by number of responding firms[1]

Method	U.S. producers	U.S. importers
Retailers:		
Transaction-by-transaction	***	10
Contract	***	9
Set price list	***	8
Other	***	2
Responding firms	***	22
Institutional:		
Transaction-by-transaction	***	13
Contract	***	16
Set price list	***	13
Other	***	---
Responding firms	***	25

[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. producers reported selling more than half of their product ***; *** were the second most common type of sale. Importers sold ripe olives primarily through contracts, with annual contracts accounting for the largest share (table V-3).

Table V-3
Ripe olives: U.S. producers' and importers' shares of U.S. commercial shipments by type of sale, 2017

Type of sale	U.S. producers	Importers
Long-term contracts	***	23.8
Annual contracts	***	44.6
Short-term contracts	***	19.8
Spot sales	***	11.9

Note.--Because of rounding, figures may not add to the totals shown.

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

U.S. producers' responses on long-term contracts ***. ***. ***. ***. These contracts did not allow for price renegotiation, fixed price, and did not contain meet-or-release provisions.

Five importers reported using long-term contracts, with four reporting an average duration of two years and one reporting an average duration of three years. The majority of these importers (4 of 5) reported that their long-term contracts allowed for price renegotiation; three reported that both price and quantity were fixed, two reported that prices were fixed, and three reported that there were no meet-or-release provisions under these contracts.

Nineteen importers reported using annual contracts and 15 importers reported using short-term contracts typically ranging from 90 to 180 days. For annual contracts, 10 of 19 importers reported that their contracts did not allow for price renegotiation and fixed both price and quantity. For short-term contracts, 8 of 15 importers that their contracts did not allow for price renegotiation, nine importers reported that their short-term contracts fixed both price and quantity, and six importers reported that it fixed price. Most importers reported that both their annual and short-term contract did not contain a meet-or-release provisions under these contracts.

Nine purchasers reported that they purchase product weekly, seven purchase monthly, five purchase annually, one purchases daily, and one purchases quarterly. The vast majority of responding purchasers (22 of 25) reported that their purchasing frequency had not changed since 2015. Three purchasers reported a change in their purchasing frequency. ***, a "member distributor cooperative," reported that it had loss distributors within the cooperative, *** stated that its purchases decreased *** pounds since 2015, and *** stated that it began importing olives for its stores in late 2016 and has continued to do so during 2017-18. Most purchasers contact 1 to 5 suppliers before making a purchase.

Sales terms, discounts, and fees

Both U.S. producers and more than half of responding importers (14 of 27) typically quote prices on an f.o.b. basis. Both U.S. producers reported offering discounts. *** reported that discounts vary by channel and customer. ***. ***. Most importers (20 of 31) reported that they did not have a discount policy. Four importers reported quantity or annual volume discounts and 10 importers reported other discounts. Other discounts reported by importers included: sales allowance to customer added to net selling price, customer specific discounts, contract specific discounts, marketing program and early payment discount, rebate program for all institutional items, and promotional time period discounts. U.S. producers reported sales terms of *** and importers reported a variety of sales terms with more than half (16 of 27) indicating sales terms of net 30 days.[4]

Slotting and advertising or promotional fees

*** one of 30 responding importers reported that they had paid slotting fees. *** indicated that slotting fees were paid to branded product distributors on any branded product that are newly placed with a customer. *** indicated that it paid slotting fees to branded retailers ***. *** indicated that slotting fees were paid to branded product retailers on ripe olives and several other products including fruit spreads, organic olives, green olives, and Kalamata olives. All firms paying slotting fees reported that they are a one-time payment. Relative to commercial shipments, slotting fees decreased during 2015-17 and represent less than *** percent of the value of commercial shipments in 2017 (table V-4).

[4] Six importers reported sales terms of 2/10 net 30 days, three reported net 60 days, two reported net 10 days, and two reported net 15 days.

Table V-4
Ripe olives: U.S. producers and importers reported slotting and advertising or promotional fees

* * * * * * *

*** six of 30 responding importers reported paying advertising and/or promotional fees. Most firms reported paying advertising and/or promotional fees to customers of branded product. *** and two importers indicated that they paid advertising and/or promotional fees to retailers selling branded product; four importers reported paying fees to distributors of branded product, and two importers reported paying advertising and/or promotional fees to distributors of private label product. *** stated that it consistently paid for advertising and promotions with most of its customers. These fees, relative to commercial shipments, decreased during 2015-17 and never exceeded *** percent of the value of commercial shipments (table V-4). Half of the importers that pay advertising and/or promotional fees (3 of 6) reported that the fees are a one-time payment. One importer reported that it consistently pays advertising and/or promotional fees, although the frequencies vary by customer; and two importers reported paying the fees annually. Importers' advertising and/or promotional fees, relative to commercial shipments, remained flat during 2015-16 and fell slightly in 2017.

Price leadership

The most frequently cited price leaders were Musco (9 purchasers), Bell-Carter (8), Agro Sevilla (4), and Mario Camacho (3). When describing how Bell-Carter and Musco exhibited price leadership, purchasers reported that Bell-Carter and Musco were leading national brands, competitive cost suppliers, were good quality and service suppliers at competitive pricing, and a leader in both innovation and sustainability. Purchasers described Agro Sevilla as a leading Spanish supplier, having a strong reputation for honesty and integrity, offering competitive prices based on product quality, origin, and availability, and a supplier in both the retail and food service sector.

PRICE DATA

The Commission requested U.S. producers and importers to provide quarterly data for the total quantity and f.o.b. value of the following ripe olives products shipped to unrelated U.S. customers during 2015-17.

Product 1.-- (Retail branded).--Medium pitted black ripe olives in 300 cans, 24 cans per case. Can size is 300 x 407. Drain weight is 6 oz. per can, 144 oz. (4.08 kg) per case.

Product 2.-- (Retail private label).--Sliced black ripe olives in 211 cans, 24 cans per case. Can size is 211 x 200. Drain weight is 2.25 oz. per can, 54 oz. (1.53 kg) per case.

Product 3.-- (Institutional).--Sliced black ripe olives in #10 cans, 6 cans per case. Can size is 603 x 700. Drain weight is 55 oz. per can, 330 oz. (9.36 kg) per case.

Product 4.-- (Institutional).—Sliced black ripe olives in retortable pouches, 10 pouches per case. Drained weight is 33 oz. per pouch, 330 oz. (9.36 kg) per case

Two U.S. producers and 23 importers provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters.[5] [6] Pricing data reported by these firms accounted for approximately *** percent, by value, of U.S. producers' commercial shipments of ripe olives and 65.5 percent, by value, of U.S. shipments of subject imports from Spain in 2017.

Price data for products 1-4 are presented in tables V-5 to V-8 and figures V-2 to V-5.[7] Nonsubject prices for imports from Morocco are presented in Appendix E.

Table V-5
Ripe olives: Weighted-average f.o.b. prices and quantities of domestic and imported product 1[1] and margins of underselling/(overselling), by quarters, January 2015-December 2017

* * * * * * *

Table V-6
Ripe olives: Weighted-average f.o.b. prices and quantities of domestic and imported product 2[1] and margins of underselling/(overselling), by quarters, January 2015-December 2017

* * * * * * *

[5] Products 1 and 3 are the same as products 1 and 4 from the preliminary phase. Products 2 and 4 are new products added during the final phase of the investigations. Petitioners suggested 4 and Staff added product 2.

[6] Per-unit pricing data are calculated from total quantity and total value data provided by U.S. producers and importers. The precision and variation of these figures may be affected by rounding, limited quantities, and producer or importer estimates.

[7] Importer *** provided price data for products 2 and 4 from Spain. These data have lower than average unit values, with a quarterly average of $***. The firm confirmed the accuracy of the data but did not provide an explanation as to why the product was priced low. See staff email with ***. Staff has not included its data for product 2.

Importer *** provided price data for product 3 from Spain. The firm's reported price data reflect year end totals divided quarterly. *** stated that its sales are stable all year long and do not fluctuate seasonally. See staff email with ***. These data have been included in the pricing analysis.

Table V-7
Ripe olives: Weighted-average f.o.b. prices and quantities of domestic and imported product 3[1] and margins of underselling/(overselling), by quarters, January 2015-December 2017

Period	United States		Spain		
	Price (dollars per case)	Quantity (cases)	Price (dollars per case)	Quantity (cases)	Margin (percent)
2015:					
Jan.-Mar.	***	***	24.53	337,165	***
Apr.-June	***	***	24.55	338,862	***
July-Sept.	***	***	24.49	351,518	***
Oct.-Dec.	***	***	23.96	381,559	***
2016:					
Jan.-Mar.	***	***	25.24	319,941	***
Apr.-June	***	***	25.30	303,988	***
July-Sept.	***	***	25.51	358,497	***
Oct.-Dec.	***	***	25.01	367,367	***
2017:					
Jan.-Mar.	***	***	26.23	314,737	***
Apr.-June	***	***	25.44	315,208	***
July-Sept.	***	***	25.09	352,100	***
Oct.-Dec.	***	***	25.26	283,519	***

[1] Product 3: (Institutional).--Sliced black ripe olives in #10 cans, 6 cans per case. Can size is 603 x 700. Drain weight is 55 oz. per can, 330 oz. (9.36 kg) per case.

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

Table V-8
Ripe olives: Weighted-average f.o.b. prices and quantities of domestic and imported product 4[1] and margins of underselling/(overselling), by quarters, January 2015-December 2017

Period	United States		Spain		
	Price (dollars per case)	Quantity (cases)	Price (dollars per case)	Quantity (cases)	Margin (percent)
2015:					
Jan.-Mar.	***	***	25.51	138,664	***
Apr.-June	***	***	25.64	184,309	***
July-Sept.	***	***	25.40	209,991	***
Oct.-Dec.	***	***	27.60	390,440	***
2016:					
Jan.-Mar.	***	***	26.98	263,337	***
Apr.-June	***	***	26.13	236,343	***
July-Sept.	***	***	25.27	216,393	***
Oct.-Dec.	***	***	26.00	197,164	***
2017:					
Jan.-Mar.	***	***	25.51	179,275	***
Apr.-June	***	***	26.54	212,321	***
July-Sept.	***	***	26.27	177,018	***
Oct.-Dec.	***	***	26.59	178,117	***

[1] Product 4: (Institutional).—Sliced black ripe olives in retortable pouches, 10 pouches per case. Drained weight is 33 oz. per pouch, 330 oz. (9.36 kg) per case.

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

Figure V-2
Ripe olives: Weighted-average prices and quantities of domestic and imported product 1, by quarters, January 2015-December 2017

* * * * * * *

Figure V-3
Ripe olives: Weighted-average prices and quantities of domestic and imported product 2, by quarters, January 2015-December 2017

* * * * * * *

Figure V-4
Ripe olives: Weighted-average prices and quantities of domestic and imported product 3, by quarters, January 2015-December 2017

* * * * * * *

Figure V-5
Ripe olives: Weighted-average prices and quantities of domestic and imported product 4, by quarters, January 2015-December 2017

* * * * * * *

Price trends

In general, domestic prices increased during 2015-17. As shown in the table V-9, domestic price increases ranged from *** percent to *** percent during 2015-17. Import prices decreased for products 1-2[8] and increased for products 3-4. As shown in figure V-6, domestic prices for product 1 (retail branded olives) were seasonal, with prices peaking during the second quarter during 2015-17 and falling through the fourth quarter. Domestic prices for products 2 and 3 both peaked in the fourth quarter of 2016. As shown in figure V-7, import prices for products 3 and 4 (the largest-volume of price products for imports from Spain) increased slightly with no large fluctuations in price.

Table V-9
Ripe olives: Summary of weighted-average f.o.b. prices for products 1-4 from the United States and Spain

Item	Number of quarters	Low price (per case)	High price (per case)	Change in price[1] (percent)
Product 1				
United States	12	***	***	***
Spain	12	***	***	***
Product 2				
United States	12	***	***	***
Spain	12	***	***	***
Product 3				
United States	12	***	***	***
Spain	12	23.96	26.23	2.9
Product 4				
United States	12	***	***	***
Spain	12	25.27	27.60	4.2

[1] Percentage change from the first quarter of 2015 to the last quarter of 2017.

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

[8] ***.

Figure V-6
Ripe olives: Indexed price trends of domestic products 1-4, by quarters, January 2015-December 2017

* * * * * * *

Figure V-7
Ripe olives: Indexed price trends of imported products 1-4, by quarters, January 2015-December 2017

* * * * * * *

Price comparisons

As shown in table V-10, prices for product imported from Spain were below those for U.S.-produced product in 37 of 48 instances (*** cases); margins of underselling ranged from 4.4 percent to 37.8 percent. In the remaining 11 instances (*** cases), prices for product from Spain were between 0.5 percent and 21.5 percent above prices for the domestic product. Instances of overselling occurred in products 1-2 (retail products) in 2015 and 2016 only.

Table V-10
Ripe olives: Instances of underselling/overselling and the range and average of margins,[1] by product, 2015-17

Source	Underselling				
	Number of quarters	Quantity (cases)	Average margin (percent)	Margin Range (percent)	
				Min	Max
Product 1	4	***	***	***	***
Product 2	9	***	***	***	***
Product 3	12	***	***	***	***
Product 4	12	***	***	***	***
Total, underselling	37	***	30.3	4.4	37.8
Source	**(Overselling)**				
	Number of quarters	**Quantity (cases)**	**Average margin (percent)**	**Margin Range (percent)**	
				Min	**Max**
Product 1	8	***	***	***	***
Product 2	3	***	***	***	***
Product 3	0	***	---	---	---
Product 4	0	***	---	---	---
Total, overselling	11	***	(10.9)	(0.5)	(21.5)

[1] These data include only quarters in which there is a comparison between the U.S. and subject product.

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

LOST SALES AND LOST REVENUE

In the preliminary phase of the investigations, the Commission requested that U.S. producers of ripe olives report purchasers where they experienced instances of lost sales or revenue due to competition from imports of ripe olives from Spain during 2014-16. Both U.S. producers submitted lost sales and lost revenue allegations, identifying 16 firms where they lost sales or revenue (10 consisting lost sales allegations, 4 consisting of lost revenue allegations, and 2 consisting of both types of allegations).[9]

In the final phase of the investigations, both U.S. producers reported that they had to either reduce prices or roll back announced price increases, and both firms reported that they had lost sales.[10]

Staff contacted 80 purchasers and received responses from 26 purchasers.[11] Responding purchasers reported purchasing and/or importing 211,633 short tons drained weight of ripe olives during 2015-17 (table V-11).

[9] In its prehearing brief, petitioner notes that in the preliminary phase, *** confirmed that it shifted purchases from domestic producers to subject imports on the basis of price and it contends that *** response in the preliminary phase confirms that price was the reason that the retailer shifted a significant portion of its private label business from domestic producers to subject imports. Petitioner's prehearing brief, pp. 22-24.

[10] According to petitioner, the domestic industry lost *** to imports of ripe olives from Spain. ***. ***. ***. Petitioner's posthearing brief, pp. 5-8, and exhibit 6.

[11] Two purchasers, ***, submitted lost sales lost revenue survey responses in the preliminary phase, but did not submit purchaser questionnaire responses in the final phase.

Table V-11
Ripe olives: Purchasers' responses to purchasing patterns

Purchaser	Purchases and imports in 2015-17 (short tons drained weight)			Change in domestic share[2] (pp, 2015-17)	Change in subject country share[2] (pp, 2015-17)
	Domestic	Subject	All other[1]		
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***
Total	75,309	73,787	62,537	(1.1)	(0.8)

[1] Includes all other sources and unknown sources.
[2] Percentage points (pp) change: Change in the share of the firm's total purchases of domestic and/or subject country imports between first and last years.

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

Of the 25 responding purchasers, 13 reported that, since 2015, they had purchased imported ripe olives from Spain instead of U.S.-produced product. Twelve of these purchasers reported that subject import prices were lower than U.S.-produced product, and six of these purchasers reported that price was a primary reason for the decision to purchase imported ripe olives rather than U.S.-produced ripe olives. Five purchasers estimated the quantity of ripe olives from Spain purchased instead of domestic product; quantities ranged from 50 short tons to 665 short tons (table V-12). Purchasers identified availability, reliability of supply, product

packaging, price, customer request, and quality as non-price reasons for purchasing imported rather than U.S.-produced product.[12]

Table V-12
Ripe olives: Purchasers' responses to purchasing subject imports instead of domestic product

* * * * * * *

Table V-13
Ripe olives: Purchasers' responses to U.S. producers price reductions

* * * * * * *

Of the 24 responding purchasers, two purchasers (***) reported that U.S. producers had reduced prices in order to compete with lower-priced imports from Spain (table V-13; 13 purchasers reported that they did not know). The reported estimated price reductions were 6.9 percent and 15 percent. In describing the price reductions, purchasers stated that U.S. producers reduced their price during the 2015 and 2017 bid reviews.

[12] *** reported that it shifted a portion of its business from Bell-Carter to imported product because it was concerned of relying upon one source. It stated that due to decreasing U.S. acreage dedicated to olive cultivation and domestic producers themselves using raw and ripe Spanish olives, *** has shifted a portion of its purchases to imported product. AFI Group's posthearing brief, exhibit 2, Statement of Walmart Inc., April 2, 2018.

PART VI: FINANCIAL EXPERIENCE OF U.S. PRODUCERS

BACKGROUND

Two U.S. producers provided usable financial data on their operations processing certain upstream out-of-scope raw olives (referred to in this Part as "fruit" or "raw fruit") into ripe olives for calendar years 2015 to 2017.[1] Neither producer grows the fruit needed for processing operations; instead, the fruit is sourced primarily through contracts with unrelated growers based on the weight of raw fruit harvested each year.[2] Both producers imported raw fruit to supplement domestic fruit supply during poor crop years.

U.S. PRODUCERS' OPERATIONS ON RIPE OLIVES

Table VI-1 presents aggregated data on U.S. producers' operations in relation to ripe olives. Table VI-2 shows U.S. producers' changes in AUVs of select financial indicators. Table VI-3 presents selected firm-specific financial data of U.S. producers. No producer reported internal consumption or transfers to related firms. *** reported that ripe olives accounted for all of its net sales and *** reported that ripe olives accounted for *** percent of its net sales, with *** percent of its net sales accounted for by repackaging Kalamata and Spanish-style olives.[3]

Table VI-1
Ripe olives: Results of operations of U.S. producers, 2015-17

* * * * * * *

[1] Producers presented in this section are the two petitioners, Bell-Carter and Musco. Financial data for ripe olives include cleaning, sorting, blanching, canning, and other packaging operations. A third processor, Graber Olive House ("Graber"), was identified in the petition and estimated to process 150 tons of ripe olives per year, or less than *** percent of all ripe olives produced in the United States each year. Graber's webpage states that it was established in 1894 and is the oldest existing business in Ontario, California. "Graber Olives" are sold in 7.5 ounce drained weight tins. Unlike the petitioners, Graber may be an integrated producer that grows and processes ripe olives. Petition, p. 5 and *Graber's webpage,* http://www.graberolives.com, retrieved July 25, 2017.

[2] ***. The Olive Growers Council negotiates the raw fruit prices paid each year by Bell-Carter and Musco, ***. ***. *Investigation Nos. 701-TA-582 and 731-TA-1377 (Preliminary): Ripe Olives from Spain--Staff Report*, INV-PP-104, July 31, 2017, p. VI-1, *Ripe Olives from Spain, Inv. Nos. 701-TA-582 and 731-TA-1377 (Preliminary)*, USITC Publication 4718, August 2017, p. VI-2, conference transcript, p. 47 (Burreson), p. 90 (Silveira), and p. 135 (Musco), and staff verification reports, Bell-Carter, May 8, 2018 and Musco, May 9, 2018.

[3] ***, email to USITC staff, July 24, 2017.

Table VI-2
Ripe olives: Changes in AUVs of U.S. producers, between calendar years

* * * * * * *

Revenue

As presented in tables VI-1 and VI-3, net sales quantity and value decreased from 2015 to 2017. On a per-short ton basis, net sales revenue increased from $*** in 2015 to $*** in 2017. ***. ***. ***.[4] ***.

Table VI-3
Ripe olives: Select results of operations of U.S. producers, by firm, 2015-17

* * * * * * *

COGS and gross profit or (loss)

As presented in tables VI-1 and VI-3, raw materials represent the largest component of overall COGS for producers. Raw fruit sourced from domestic growers accounted for the largest (and increasing) share of overall COGS at *** in 2015, *** percent in 2016, and *** percent in 2017. Raw fruit from imported sources declined as a share of overall COGS from *** in 2015, to *** percent in 2016, and to *** percent in 2017.[5] [6] Other raw materials costs ranged from *** to *** percent as a share of overall COGS. The total cost of raw materials decreased by *** percent from 2015 to 2017. Other raw material costs include curing agents, packaging costs for preservation (such as metal cans, plastic pouches, and plastic cups), and packaging costs for shipping.[7]

Other factory costs were the second largest component of COGS, ranging from *** to *** percent from 2015 to 2017. In 2017, the largest contributor of other factory costs was indirect labor costs (such as supervisor salaries and unassigned labor costs), ***. Equipment rental, repairs, and depreciation/taxes/insurance were the second largest contributor to other factory costs, followed by utilities in 2017. *** firm paid fines for violations of California State or local environmental requirements in 2017; however, both firms incurred costs related to California's wastewater management requirements.[8] ***. Lastly, direct labor accounted for the smallest share of COGS, ranging from *** to *** percent from 2015 to 2017.

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[4] ***'s U.S. producer questionnaire, III-18.

[5] ***. ***'s U.S. producer questionnaire, II-10, III-7, III-9a, and III-18 and staff verification report, ***.

[6] ***. ***'s U.S. producer questionnaire, II-3e, II-10, and III-9a.

[7] In 2017, packaging materials for preservation accounted for the *** share of other raw material costs. *** to package ripe olives.

[8] ***. ***. Staff verification reports, *** and ***.

On a per-unit basis, ***. ***.[9]

Producers' aggregate gross profit increased from $*** in 2015 to $*** in 2016 before decreasing to $*** in 2017, for an overall increase of *** percent from 2015 to 2017. On a per short ton basis, COGS increased *** by $*** and net sales increased by $*** from 2015 to 2017.

SG&A expenses and operating income or (loss)

SG&A expenses increased by *** percent from 2015 to 2016 and then declined *** by *** percent from 2016 to 2017. As a ratio to net sales, SG&A expenses were *** percent in 2015, *** percent in 2016, and *** percent in 2017. In 2017, ***. ***. General and administrative ("G&A") expenses were approximately *** expenses for 2015 to 2017, primarily due to ***.[10] In 2017, both producers reported salaries and benefits as the largest share of such expenses *** from 2015 to 2017. Specifically, ***.[11]

Unlike the industry's gross profitability, the industry's aggregate operating income declined each year, from $*** in 2015 to $*** in 2016 then to $*** in 2017. From 2015 to 2017, operating income *** by *** percent.

Other expenses and net income or (loss)

Other expenses, including interest expenses and all other expenses, increased every year from 2015 to 2017. *** and ***. ***. ***.[12]

Following a similar trend as operating income, net income decreased from $*** in 2015 to $*** in 2016, then decreased further to *** in 2017. From 2015 to 2017, net income decreased by *** percent.

CAPITAL EXPENDITURES AND RESEARCH AND DEVELOPMENT EXPENSES

Table VI-4 presents capital expenditures and research and development ("R&D") expenses by firm. ***.[13] ***.[14] ***.[15]

Table VI-4
Ripe olives: Capital expenditures and R&D expenses for U.S. producers, by firm, 2015-17

* * * * * * *

[9] ***.

[10] ***. ***. ***, email message to USITC auditor, June 14, 2018.

[11] U.S. producer questionnaires, III-9d, III-9e, and III-9f. ***.

[12] ***. U.S. producer questionnaires, III-16 and III-18.

[13] ***'s U.S. producer questionnaires, III-13.

[14] ***'s U.S. producer questionnaires, III-13.

[15] Staff verification reports, ***.

ASSETS AND RETURN ON ASSETS

Table VI-5 presents data on the U.S. producers' assets for ripe olives, raw fruit, total assets, and their return on assets ("ROA"). The average ROA decreased each year from 2015 to 2017, ***. *** producers reported *** in assets for 2017 from *** in 2017 and ***.[16] Ripe olives' assets increased *** and raw fruit assets increased *** from 2015 to 2017. ***'s total assets ***.

Table VI-5

Ripe olives: Value of assets used in production, warehousing, and sales, and ROA for U.S. producers, by firm, 2015-17

* * * * * * *

CAPITAL AND INVESTMENT

The Commission requested U.S. producers of ripe olives to describe any actual or potential negative effects of imports of ripe olives from Spain on their firms' growth, investment, ability to raise capital, development and production efforts, or the scale of capital investments. Table VI-6 tabulates the responses of the two responding U.S. producers and table VI-7 presents the detailed narrative responses of U.S. producers regarding actual and anticipated negative effects of subject imports.

Table VI-6

Ripe olives: U.S. producers' actual and anticipated negative effects of imports on investment and growth and development

* * * * * * *

Table VI-7

Ripe olives: U.S. producers' narratives relating to actual and anticipated negative effects of imports on investment and growth and development, since January 1, 2015

* * * * * * *

[16] ***. Staff verification reports, ***, *** email message to USITC auditor, June 14, 2018, and *** email message to USITC auditor, June 15, 2018.

PART VII: THREAT CONSIDERATIONS AND INFORMATION ON NONSUBJECT COUNTRIES

Section 771(7)(F)(i) of the Act (19 U.S.C. § 1677(7)(F)(i)) provides that—

> *In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of the subject merchandise, the Commission shall consider, among other relevant economic factors*[1]*--*
>
> *(I) if a countervailable subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the countervailable subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement), and whether imports of the subject merchandise are likely to increase,*
>
> *(II) any existing unused production capacity or imminent, substantial increase in production capacity in the exporting country indicating the likelihood of substantially increased imports of the subject merchandise into the United States, taking into account the availability of other export markets to absorb any additional exports,*
>
> *(III) a significant rate of increase of the volume or market penetration of imports of the subject merchandise indicating the likelihood of substantially increased imports,*
>
> *(IV) whether imports of the subject merchandise are entering at prices that are likely to have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports,*
>
> *(V) inventories of the subject merchandise,*

---

[1] Section 771(7)(F)(ii) of the Act (19 U.S.C. § 1677(7)(F)(ii)) provides that "The Commission shall consider {these factors} . . . as a whole in making a determination of whether further dumped or subsidized imports are imminent and whether material injury by reason of imports would occur unless an order is issued or a suspension agreement is accepted under this title. The presence or absence of any factor which the Commission is required to consider . . . shall not necessarily give decisive guidance with respect to the determination. Such a determination may not be made on the basis of mere conjecture or supposition."

(VI) 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,

(VII) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both),

(VIII) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the domestic like product, and

(IX) any other demonstrable adverse trends that indicate the probability that there is likely to be material injury by reason of imports (or sale for importation) of the subject merchandise (whether or not it is actually being imported at the time).[2]

Information on the nature of the alleged subsidies was presented earlier in this report; information on the volume and pricing of imports of the subject merchandise is presented in *Parts IV* and *V*; and information on the effects of imports of the subject merchandise on U.S. producers' existing development and production efforts is presented in *Part VI*. Information on inventories of the subject merchandise; foreign producers' operations, including the potential for "product-shifting;" any other threat indicators, if applicable; and any dumping in third-country markets, follows. Also presented in this section of the report is information obtained for consideration by the Commission on nonsubject countries.

[2] Section 771(7)(F)(iii) of the Act (19 U.S.C. § 1677(7)(F)(iii)) further provides that, in antidumping investigations, ". . . the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other WTO member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry."

THE INDUSTRY IN SPAIN

Table olives in Spain

Spain is the world's top producer and exporter of table olives. Spain accounts for about half of the EU's total olive area.[3] Olives are Spain's second largest crop in terms of acreage, grown in more than half of the country's provinces, with the greatest concentration in the southern half of Spain. About 60 percent of total olive acreage is in Andalusia.[4]

In 2017, there were roughly 2.65 million hectares of olive orchards in Spain, of which about 155,000 hectares (5.8 percent) were devoted to table olive production.[5] In crop year 2014-15 Spain's total table olive production was around 556,000 metric tons ("MT"). Production grew to 601,000 MT in 2015-16, and is expected to fall to around 522,000 MT in 2017-18.[6]

Several olive varieties predominate in Spain. The Manzanilla and Gordal varieties are cultivated primarily in the province of Sevilla (for table processing), while the Hojiblanca is the predominant variety grown in Malaga and Cordoba (and can be used for both table and oil processing). The Caceres and Carrasquena are sub-varieties of the Manzanilla grown in Caceres and Badajoz.[7] Hojiblanca olives account for 40 percent of Spain's table olive production, followed by Manzanillla (35 percent) and a mix of others.[8]

Spain has 412 table olive processing plants.[9] Andalusia, particularly the province of Seville, has the greatest number of processing facilities (55 percent and 35 percent of the total, respectively) and level of production (79 percent and 58 percent respectively).[10]

While Spain is the second largest per capita consumer of table olives, much of its table olive production is destined for the export market. Of the 601,000 MT of table olives produced

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[3] International Olive Council, Spain Country Profile, 2012, p. 5. http://www.internationaloliveoil.org/estaticos/view/136-country-profiles

[4] International Olive Council, Spain Country Profile, 2012, p. 1. http://www.internationaloliveoil.org/estaticos/view/136-country-profiles. Respondents argue that the size of the Andalusian region mitigates the potential effects of weather on the Spanish raw olive crop. Respondent ASEMESA's posthearing brief, exh. 1, p. 25.

[5] Asociasion Espanola de Exportadores e Industriales de Aceituna de Mesa website, accessed July 17, 2017. http://www.asemesa.es/content/datos_generales_del_sector

[6] International Olive Council ("IOC"), EU Table Olive Production Data, accessed July 17, 2017. http://www.internationaloliveoil.org/estaticos/view/132-world-table-olive-figures. The IOC counts crop years as October 1 through September 30 of the following year.

[7] International Olive Council, Spain Country Profile, 2012, p. 11. http://www.internationaloliveoil.org/estaticos/view/136-country-profiles

[8] Based on an average of Spanish olive production in 2008-2011. ASEMESA, "Table Olives Consumers Profiles in Spain," 2011.

[9] International Olive Council, Spain Country Profile, 2012, p. 11. http://www.internationaloliveoil.org/estaticos/view/136-country-profiles

[10] Ibid.

in CY 2015-16, Spain exported 177,000 MT.[11] In comparing green and black table olives, industry sources report that almost all black olives are sold on the export market, with limited domestic consumption of black olives.[12]

Most domestic sales of table olives in Spain occur in the retail sector (more than 75 percent) with the remainder in food service and are used most in salads and snacks.[13] According to market reports, only a small minority of Spanish consumers used olives as an ingredient.[14]

Responses from the industry in Spain

The Commission issued foreign producers' or exporters' questionnaires to 38 firms believed to produce and/or export ripe olives from Spain.[15] Usable responses to the Commission's questionnaire were received from ten firms: Aceitunas Guadalquivir; Agro Sevilla; Aceitunas Sevillanas S.A.;[16] Angel Camacho; DCOOP; F.J. Sanchez Sucesores, S.A.U.; GOYA en Espana, S.A.U. ("Goya Spain"); Industria Aceitunera Marciense ("Marciense"); S.A Internacional Olivarera S.A. ("InterOliva"); and Plasoliva, S.L.[17] These firms' exports to the United States accounted for approximately 87.9 percent of U.S. imports of ripe olives from Spain in 2017. According to estimates requested of the responding Spanish producers, the production of ripe olives in Spain reported in the responses to the Commission's questionnaires accounts for approximately 44.5 percent of overall production of ripe olives in Spain in 2017. Table VII-1 presents information on the ripe olives operations of the responding producers in Spain in 2017.

[11] International Olive Council, Table Olive Export Data, November 2016. Accessed July 17, 2017. http://www.internationaloliveoil.org/estaticos/view/132-world-table-olive-figures

[12] ASEMESA, "Table Olives Consumers Profiles in Spain," 2011.

[13] ASEMESA, "Table Olives Consumers Profiles in Spain," 2011.

[14] ASEMESA, "Table Olives Consumers Profiles in Spain," 2011.

[15] These firms were identified through a review of information submitted in the petition and contained in proprietary Customs records.

[16] Aceitunas Sevillans S.A. is a division of Spanish firm Medina Garvey S.A., and so appears as "Medina Garvey" in this report. ***.

[17] The Commission received a response from *** certifying that it had not produced or exported ripe olives from Spain since January 1, 2015.

Table VII-1
Ripe olives: Summary data on firms in Spain, 2017

Firm	Production (short tons dry weight)	Share of reported production (percent)	Exports to the United States (short tons dry weight)	Share of reported exports to the United States (percent)	Total shipments (short tons dry weight)	Share of firm's total shipments exported to the United States (percent)
Agro Sevilla	***	***	***	***	***	***
Angel Camacho	***	***	***	***	***	***
Dcoop	***	***	***	***	***	***
FJ Sanchez	***	***	***	***	***	***
Goya Spain	***	***	***	***	***	***
Guadalquivir	***	***	***	***	***	***
IniterOliva	***	***	***	***	***	***
Marciense	***	***	***	***	***	***
Medina Garvey	***	***	***	***	***	***
Plasoliva	***	***	***	***	***	***
Total	103,623	100.0	28,804	100.0	103,467	27.8

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

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

Changes in operations

As presented in table VII-2 producers in Spain reported several operational and organizational changes since January 1, 2015.

Table VII-2
Ripe olives: Reported changes in operations by producers in Spain, since January 1, 2015

* * * * * * *

Operations on ripe olives

Table VII-3 presents information on the ripe olives operations of the responding producers and exporters in Spain. Responding Spanish firms' capacity increased by 5.0 percent from 2015 to 2017, while production increased by 3.4 percent over the same period. As capacity increased more than production increased, capacity utilization decreased by 1.3 percentage points from 2015 to 2017. End-of-period inventories decreased by 2.0 percent from 2015 to 2017, and is projected to remain at comparable levels between 2017 and 2019.[18]

[18] ASEMESA notes that such inventory levels are consistent with historical performance, as the Spanish industry procceses ripe olives to order and does not tend to hold inventory of processed product. Respondent ASEMESA's posthearing brief, exh. 1, p. 47.

Total home market shipments decreased by 12.1 percent from 2015 to 2017, while export shipments to the United States decreased by 5.2 percent over the same time period after peaking in 2016. Export shipments to all other countries besides the United States increased by 8.3 percent from 2015 to 2017. Exports to the United States accounted for 27.8 percent of total shipments in 2017, a 2.3 percentage point decrease from 2015. Exports to markets other than the United States accounted for 65.3 percent of total shipments in 2017, a 3.4 percentage point increase from 2015.

Table VII-4 presents foreign producers' ripe olive production by olive size. In 2017, the majority of ripe olives produced by foreign producers were small olives, followed by medium and large sizes.[19]

Table VII-3
Ripe olives: Data on industry in Spain, 2015-17 and projection calendar years 2018 and 2019

Item	Actual experience			Projections	
	Calendar year				
	2015	2016	2017	2018	2019
	Quantity (short tons dry weight)				
Capacity	116,154	117,896	121,949	123,054	123,489
Production	100,244	101,061	103,623	96,886	96,696
End-of-period inventories	3,952	3,720	3,874	3,986	3,819
Shipments:					
Home market shipments:					
Internal consumption/ transfers	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***
Total home market shipments	8,120	7,268	7,138	7,553	7,621
Export shipments to:					
United States	30,389	32,508	28,804	22,057	20,937
All other markets	62,358	61,517	67,525	67,031	68,310
Total exports	92,747	94,025	96,329	89,088	89,247
Total shipments	100,867	101,293	103,467	96,641	96,868

Table continued on next page.

[19] Respondents testified at the Commission's hearing that the size of the Spanish crop and its dual-use varietals give it increased flexibility and ability to source different olive sizes for ripe olives. Hearing transcript, pp. 192-193 (Kaddoura, McCullough).

Table VII-3--Continued
Ripe olives: Data on industry in Spain, 2015-17 and projection calendar years 2018 and 2019

Item	Actual experience			Projections	
	Calendar year				
	2015	2016	2017	2018	2019
	Ratios and shares (percent)				
Capacity utilization	86.3	85.7	85.0	78.7	78.3
Inventories/production	3.9	3.7	3.7	4.1	3.9
Inventories/total shipments	3.9	3.7	3.7	4.1	3.9
Share of shipments:					
Home market shipments:					
Internal consumption/ transfers	***	***	***	***	***
Commercial home market shipments	***	***	***	***	***
Total home market shipments	8.1	7.2	6.9	7.8	7.9
Export shipments to:					
United States	30.1	32.1	27.8	22.8	21.6
All other markets	61.8	60.7	65.3	69.4	70.5
Total exports	91.9	92.8	93.1	92.2	92.1
Total shipments	100.0	100.0	100.0	100.0	100.0

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

Table VII-4
Ripe olives: Production of ripe olives by size in Spain, 2017

Item	Calendar year 2017	
	Quantity (short tons dry weight)	Share (percent)
Small	***	***
Medium	***	***
Large	***	***
Extra Large	***	***
Jumbo	***	***
Colossal	***	***
Super Colossal	***	***
Production	103,623	100.0

Note.--Shares and ratios shown as "0.0" represent values greater than zero, but less than "0.05" percent.

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

Alternative products

As shown in table VII-5, responding Spanish firms produced other products on the same equipment and machinery used to produce ripe olives. Responding firms reported devoting most of their production to ripe olives from 2015 to 2017. This share was 1.1 percentage point higher in 2017 than in 2015 (from 60.2 percent to 61.2 percent). Most of the other production reported by Spanish firms was devoted to Spanish-style or similar style olives, and the share

devoted to those products was *** percentage points lower in 2017 than in 2015 (from *** percent to *** percent). One firm, ***, reported production of other products[20] on the same equipment as in-scope production.

Table VII-5
Ripe olives: Overall capacity and production on the same equipment as in-scope production by producers in Spain, 2015-17

Item	Calendar year		
	2015	2016	2017
	Quantity (short tons dry weight)		
Overall capacity	206,364	209,033	215,015
Production:			
Ripe olives	100,244	101,061	103,623
Sicilian and Spanish style	***	***	***
Other products	***	***	***
Out-of-scope production	66,375	59,570	65,572
Total production on same machinery	166,619	160,631	169,195
	Ratios and shares (percent)		
Overall capacity utilization	80.7	76.8	78.7
Share of production:			
Ripe olives	60.2	62.9	61.2
Sicilian and Spanish style	***	***	***
Other products	***	***	***
Out-of-scope production	39.8	37.1	38.8
Total production on same machinery	100.0	100.0	100.0

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

Exports

According to Global Trade Atlas ("GTA") and as shown in table VII-6, the leading export markets for ripe olives from Spain are the United States, Italy, France, Russia, and Saudi Arabia. During 2017, the United States was the top export market for olives from Spain, accounting for 25.8 percent, followed by Italy, accounting for 10.4 percent.[21]

[20] These products include "***".

[21] GTA data used in this report are based on HS code 2005.70, "Olives, Prepared Or Preserved Otherwise Than By Vinegar Or Acetic Acid, Not Frozen".

Table VII-6
Olives: Exports from Spain by destination market, 2015-17

Destination market	Calendar year		
	2015	2016	2017
	Quantity (short tons net drained)		
Exports from Spain to the United States	81,768	82,966	79,018
Exports from Spain to other major destination markets.--			
Italy	32,813	29,966	31,692
France	21,063	19,828	20,750
Russia	18,474	19,299	19,654
Saudi Arabia	20,316	19,889	19,073
Germany	23,908	23,228	18,065
United Kingdom	14,818	15,974	12,022
Canada	9,849	9,772	10,372
Poland	6,884	6,703	6,406
All other destination markets	96,752	87,537	88,670
Total exports from Spain	326,646	315,164	305,722
	Value (1,000 dollars)		
Exports from Spain to the United States	199,255	215,743	202,870
Exports from Spain to other major destination markets.--			
Italy	63,631	66,544	75,084
France	50,225	50,879	47,722
Russia	41,166	42,454	40,677
Saudi Arabia	44,716	46,070	50,305
Germany	51,080	57,452	62,666
United Kingdom	33,407	40,451	32,244
Canada	16,917	20,673	23,340
Poland	17,628	18,633	18,482
All other destination markets	202,371	206,213	220,535
Total exports from Spain	720,396	765,111	773,926

Table continued on next page.

Table VII-6—Continued
Ripe olives: Exports from Spain by destination market, 2015-17

Destination market	Calendar year		
	2015	2016	2017
	Unit value (dollars per short ton dry weight)		
Exports from Spain to the United States	2,437	2,600	2,567
Exports from Spain to other major destination markets.--			
Italy	1,939	2,221	2,369
France	2,385	2,566	2,300
Russia	2,228	2,200	2,070
Saudi Arabia	2,201	2,316	2,637
Germany	2,137	2,473	3,469
United Kingdom	2,255	2,532	2,682
Canada	1,718	2,115	2,250
Poland	2,561	2,780	2,885
All other destination markets	2,092	2,356	2,487
Total exports from Spain	2,205	2,428	2,531
	Share of quantity (percent)		
Exports from Spain to the United States	25.0	26.3	25.8
Exports from Spain to other major destination markets.--			
Italy	10.0	9.5	10.4
France	6.4	6.3	6.8
Russia	5.7	6.1	6.4
Saudi Arabia	6.2	6.3	6.2
Germany	7.3	7.4	5.9
United Kingdom	4.5	5.1	3.9
Canada	3.0	3.1	3.4
Poland	2.1	2.1	2.1
All other destination markets	29.6	27.8	29.0
Total exports from Spain	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 2005.70 as reported by Spanish Customs in the IHS/GTA database, accessed May 2, 2018.

U.S. INVENTORIES OF IMPORTED MERCHANDISE

Table VII-7 presents data on U.S. importers' reported inventories of ripe olives. Importers' inventories ripe olives from Spain decreased 7.2 percent from 2015 to 2017, while inventories of ripe olives from Morocco decreased by *** percent from 2015 to 2017. Inventories of ripe olives from all other sources increased by *** percent from 2015 to 2017.

Table VII-7
Ripe olives: U.S. importers' inventories, 2015-17

Item	Calendar year		
	2015	2016	2017
	Inventories (short tons dry weight); Ratios (percent)		
Imports from Spain			
Inventories	7,518	7,565	6,980
Ratio to U.S. imports	23.5	22.8	22.0
Ratio to U.S. shipments of imports	23.9	22.9	21.8
Ratio to total shipments of imports	23.8	22.8	21.6
Imports from Morocco			
Inventories	***	***	***
Ratio to U.S. imports	***	***	***
Ratio to U.S. shipments of imports	***	***	***
Ratio to total shipments of imports	***	***	***
Imports from All other sources			
Inventories	***	***	***
Ratio to U.S. imports	***	***	***
Ratio to U.S. shipments of imports	***	***	***
Ratio to total shipments of imports	***	***	***
Imports from nonsubject sources:			
Inventories	4,844	5,005	4,389
Ratio to U.S. imports	37.2	35.5	29.2
Ratio to U.S. shipments of imports	36.2	35.9	28.0
Ratio to total shipments of imports	36.1	35.9	28.0
Imports from all import sources:			
Inventories	12,362	12,570	11,369
Ratio to U.S. imports	27.5	26.6	24.3
Ratio to U.S. shipments of imports	27.6	26.8	23.8
Ratio to total shipments of imports	27.5	26.7	23.7

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

U.S. IMPORTERS' OUTSTANDING ORDERS

The Commission requested importers to indicate whether they imported or arranged for the importation of ripe olives from Spain after December 31, 2017 (table VII-8).

Table VII-8
Ripe olives: Arranged imports, January 2018 through December 2018

Item	Period				
	Jan-Mar 2018	Apr-Jun 2018	Jul-Sept 2018	Oct-Dec 2018	Total
	Quantity (short tons)				
Arranged U.S. imports from.--					
Spain	***	***	***	***	***
Morocco	***	***	***	***	***
All other sources	***	***	***	***	***
Nonsubject sources	***	***	***	***	***
All import sources	9,254	6,056	3,610	3,467	22,387

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

ANTIDUMPING OR COUNTERVAILING DUTY ORDERS IN THIRD-COUNTRY MARKETS

There are no known trade remedy actions on ripe olives in third-country markets.

INFORMATION ON NONSUBJECT COUNTRIES

The industry in Morocco

Morocco is a leading source of nonsubject ripe olive imports. Approximately 75 percent of olives grown in Morocco are pressed for oil, while the rest are processed into table olives.[22] Based on the most recent data available, Morocco produced 1.4 million metric tons of olives in 2016[23] and had 1 million hectares of olives.[24] By 2020, the target for planted olive acreage is 1.2 million hectares[25] with expected olive production of 2.5 million metric tons.[26] By 2020,

[22] USITC Publication 4419, "Olive Oil," August 2013, p. 7-15.
[23] FAOSTAT Crop Database (accessed May 2, 2018).
[24] FAOSTAT Crop Database (accessed May 2, 2018).
[25] Bourinat, Benjamin. "Morocco Becomes a Major Olive Producer," Sopexa, June 24, 2015. Website accessed July 31, 2017. https://globenewswire.com/news-release/2015/06/24/747251/10139620/en/Morocco-Becomes-A-Major-Olive-Oil-Producer.html
[26] Kingdom of Morocco, Ministry of Agriculture (accessed July 13, 2017). http://www.agriculture.gov.ma/pages/acces-fillieres/filiere-oleicole

Morocco forecasts table olive production of 320,000 metric tons, almost half of which (150,000 metric tons) will be designated for the export market. [27]

Overall, the olive-growing industry in Morocco consists of many small-scale growers using traditional plantings and hand harvesting, which occurs between November and February.[28] Almost all of Morocco's olives (more than 96 percent) are the Picholine Marocaine variety.[29] This cultivar is a dual use variety which can be used to produce both table olives and olive oil.[30] Most of Morocco's olive harvest is consumed domestically as olive oil or as table olives.

Table VII-9 presents data on exports from Morocco. The majority of Moroccan table olives are produced for export and only modern intensive growers have the ability to sell into this segment.[31] The United States is a leading export market for Moroccan ripe olives after the EU, and the second largest single country market after France. Almost all Moroccan ripe olives have had duty-free access to the U.S. market since 2006 under the U.S.-Morocco Free Trade Agreement (FTA).[32] In 2016, the last duties were eliminated on imports of pitted, canned (not green) olives in saline solution.[33] [34]

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[27] Kingdom of Morocco, Ministry of Agriculture (accessed July 13, 2017). http://www.agriculture.gov.ma/pages/acces-fillieres/filiere-oleicole

[28] USITC Publication 4419, "Olive Oil," August 2013, p. 7-16. Nearly 60 percent of olive plots are under five hectares.

[29] According to Morocco's Ministry of Agriculture, the main olive varieties include Picholine de Languedoc, Manzanille, Picual, Hojiblanca, Arbequine, Ascolana Dura, Frontoio, and Gordal. Kingdom of Morocco, Ministry of Agriculture (accessed July 13, 2017). http://www.agriculture.gov.ma/pages/acces-fillieres/filiere-oleicole. Musco also identifies the Zitoun olive cultivar. Musco website (accessed July 13, 2017). http://www.olives.com/musco/world.html

[30] Musco website (accessed July 13, 2017). http://www.olives.com/musco/world.html

[31] USITC Publication 4419, "Olive Oil," August 2013, p. 7-17.

[32] The U.S. and Morocco signed an FTA on June 15, 2004 and the agreement entered into force on January 1, 2006. U.S. tariffs on all but one product were eliminated entirely upon the date of entry. However, tariffs on Moroccan imports of 2005.70.60 "Olives (not green) in saline solution, canned, pitted" were removed incrementally over a ten year period and became duty-free in 2016. USTR website (accessed July 31, 2017). https://ustr.gov/sites/default/files/uploads/agreements/fta/morocco/asset_upload_file933_3872.pdf.

[33] USTR and respondent ASEMSEA's postconference brief at page 5.

[34] Regarding Morocco as a source of ripe olives, petitioners have indicated that the country's lack of sales infrastructure in the United States and quality issues have prevented it from being a more "viable" competitor to the domestic ripe olive production. Petitioners' posthearing brief, exh. 1, p. 5. Respondent ASEMESA contends however that Morocco has an "important presence" in the ripe olive market, and that reductions in imported volumes from Spain would be filled by Morocco, not the domestic industry. ASEMESA's posthearing brief, exh. 1, pp. 14-17.

Table VII-9

Ripe olives: Exports from Morocco by destination market, 2015-17

Destination market	Calendar year		
	2015	2016	2017
	Quantity (short tons)		
Exports from Morocco to the United States	8,922	14,024	15,328
Exports from Morocco to other major destination markets.--			
France	34,240	38,694	37,285
Belgium	11,605	13,060	13,194
Italy	5,793	6,282	6,699
Spain	4,916	5,460	5,504
Germany	1,501	2,902	2,643
United Kingdom	2,547	2,926	2,456
Canada	2,253	1,854	1,834
Saudi Arabia	1,873	1,832	1,549
All other destination markets	8,269	12,442	7,862
Total exports from Morocco	81,919	99,477	94,355
	Value (1,000 dollars)		
Exports from Morocco to the United States	14,700	23,088	26,063
Exports from Morocco to other major destination markets.--			
France	47,591	51,787	53,598
Belgium	13,245	14,614	15,960
Italy	6,643	7,500	8,508
Spain	5,150	5,483	5,870
Germany	2,341	3,776	3,222
United Kingdom	5,485	5,918	5,267
Canada	4,003	3,061	3,117
Saudi Arabia	3,247	3,296	2,657
All other destination markets	12,246	15,097	12,109
Total exports from Morocco	114,652	133,621	136,371

Table continued on next page.

Table VII-9—Continued

Ripe olives: Exports from Morocco by destination market, 2015-17

Destination market	Calendar year		
	2015	2016	2017
	Unit value ($ per short ton)		
Exports from Morocco to the United States	1,648	1,646	1,700
Exports from Morocco to other major destination markets.--			
France	1,390	1,338	1,438
Belgium	1,141	1,119	1,210
Italy	1,147	1,194	1,270
Spain	1,048	1,004	1,067
Germany	1,560	1,301	1,219
United Kingdom	2,153	2,023	2,144
Canada	1,777	1,651	1,700
Saudi Arabia	1,733	1,799	1,715
All other destination markets	1,481	1,213	1,540
Total exports from Morocco	1,400	1,343	1,445
	Share of quantity (percent)		
Exports from Morocco to the United States	10.9	14.1	16.2
Exports from Morocco to other major destination markets.--			
France	41.8	38.9	39.5
Belgium	14.2	13.1	14.0
Italy	7.1	6.3	7.1
Spain	6.0	5.5	5.8
Germany	1.8	2.9	2.8
United Kingdom	3.1	2.9	2.6
Canada	2.7	1.9	1.9
Saudi Arabia	2.3	1.8	1.6
All other destination markets	10.1	12.5	8.3
Total exports from Morocco	100.0	100.0	100.0

Source: Official exports statistics under HS subheading 2005.70 as reported by Moroccan Office des Changes in the IHS/GTA database, accessed May 2, 2018.

Global exports

Table VII-10 presents data on global exports by exporter. Exports from Spain accounted for the largest share of global exports of olives by value reported under HS subheading 2005.70 in 2017 (40.9 percent) followed by exports from Greece, Morocco, Turkey, Argentina, and Egypt. Exports from the United States was responsible for roughly 0.9 percent of global exports of olives in 2017.

Table VII-10

Olives: Global exports by exporter, 2015-17

Exporter	Calendar year		
	2015	2016	2017
	Value (1,000 dollars)		
United States	16,748	17,884	17,485
Spain	720,396	765,111	773,926
All other major reporting exporters.--			
Greece	385,663	404,502	450,716
Morocco	114,652	133,621	136,371
Turkey	107,362	100,737	95,552
Argentina	62,008	87,027	75,748
Egypt	60,436	85,789	74,997
Italy	56,036	64,977	61,457
Belgium	41,887	49,860	50,044
Portugal	24,036	30,612	34,667
Peru	25,011	24,390	19,622
Jordan	8,271	9,252	10,254
All other exporters	94,751	95,994	90,120
Total global exports	1,717,258	1,869,757	1,890,958
	Share of value (percent)		
United States	1.0	1.0	0.9
Spain	42.0	40.9	40.9
All other major reporting exporters.--			
Greece	22.5	21.6	23.8
Morocco	6.7	7.1	7.2
Turkey	6.3	5.4	5.1
Argentina	3.6	4.7	4.0
Egypt	3.5	4.6	4.0
Italy	3.3	3.5	3.3
Belgium	2.4	2.7	2.6
Portugal	1.4	1.6	1.8
Peru	1.5	1.3	1.0
Jordan	0.5	0.5	0.5
All other exporters	5.5	5.1	4.8
Total global exports	100.0	100.0	100.0

Note:--Quantities are reported in various units for global exports, so only value is shown.

Source: Official exports statistics under HS subheading 2005.70 as reported by various national statistical authorities in the IHS/GTA database, accessed May 2, 2018.

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
82 FR 29327, June 28, 2017	*Ripe Olives From Spain; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations*	https://www.gpo.gov/fdsys/pkg/FR-2017-06-28/pdf/2017-13510.pdf
82 FR 33050, July 19, 2017	*Ripe Olives From Spain: Initiation of Countervailing Duty Investigation*	https://www.gpo.gov/fdsys/pkg/FR-2017-07-19/pdf/2017-15143.pdf
82 FR 33054, July 19, 2017	*Ripe Olives From Spain: Initiation of Less-Than-Fair-Value Investigation*	https://www.gpo.gov/fdsys/pkg/FR-2017-07-19/pdf/2017-15142.pdf
82 FR 37610, August 11, 2017	*Ripe Olives From Spain*	https://www.gpo.gov/fdsys/pkg/FR-2017-08-11/pdf/2017-16911.pdf
82 FR 41210, August 30, 2017	*Ripe Olives From Spain: Postponement of Preliminary Determination in the Countervailing Duty Investigation*	https://www.gpo.gov/fdsys/pkg/FR-2017-08-30/pdf/2017-18430.pdf
82 FR 53479, November 16, 2017	*Ripe Olives From Spain: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*	https://www.gpo.gov/fdsys/pkg/FR-2017-11-16/pdf/2017-24848.pdf
82 FR 56218, November 28, 2017	*Ripe Olives From Spain: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*	https://www.gpo.gov/fdsys/pkg/FR-2017-11-28/pdf/2017-25660.pdf
83 FR 3677 January 26, 2018	*Ripe Olives From Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*	https://www.gpo.gov/fdsys/pkg/FR-2018-01-26/pdf/2018-01447.pdf

Citation	Title	Link
83 FR 7774 February 22,2018	*Ripe Olives From Spain; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations*	https://www.gpo.gov/fdsys/pkg/FR-2018-02-22/pdf/2018-03591.pdf
83 FR 28186 June 16, 2018	*Ripe Olives From Spain: Final Affirmative Countervailing Duty Determination*	https://www.gpo.gov/fdsys/pkg/FR-2018-06-18/pdf/2018-12990.pdf
83 FR 28193 June 16, 2018	*Ripe Olives From Spain: Final Affirmative Determination of Sales at Less Than Fair Value*	https://www.gpo.gov/fdsys/pkg/FR-2018-06-18/pdf/2018-12991.pdf

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:	Ripe Olives from Spain
Inv. Nos.:	701-TA-582 and 731-TA-1377 (Final)
Date and Time:	May 24, 2018 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (Room 101), 500 E Street, SW., Washington, DC.

CONGRESSIONAL WITNESS:

The Honorable Doug LaMalfa, U.S. Representative, 1st District, California

EMBASSY WITNESSES:

The Embassy of Spain
Washington, DC

Elisa Garcia Grande, Economic and Commercial Counselor (Head of the Office)

Delegation of the European Commission
Washington, DC

Sibylle Zitko, Senior Legal Advisor, Delegation of the European Union to the United States of America

Sergio Pavon, Director General of Agriculture, European Commission, Brussels, Belgium

OPENING REMARKS:

Petitioners (**Carolyn B. Gleason,** McDermott Will & Emery LLP)
Respondents (**Matthew P. McCullough,** Curtis, Mallet-Prevost, Colt & Mosle LLP)

In Support of the Imposition of
Antidumping and Countervailing Duty Orders:

McDermott Will & Emery LLP
Washington, DC
on behalf of

Coalition for Fair Trade in Ripe Olives

Tim Carter, Chief Executive Officer, Bell-Carter Foods, Inc.

Felix Musco, President and Chief Executive Officer, Musco Family Olive Company

Scott Hamilton, Chief Financial Officer and Vice President of Supply Chain, Musco Family Olive Company

Dennis Burreson, Vice President of Field Operations, Musco Family Olive Company

Jennifer Lutz, Vice President, Economic Consulting Services, LLC

Carolyn B. Gleason)
David Levine)
) – OF COUNSEL
Raymond Paretzky)
Benjamin O. Kostrzewa)

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders:

Sandler, Travis & Rosenberg, P.A.
Washington, DC
on behalf of

Association of Food Industries, Inc.; Acme Food Sales Inc.;
Mario Camacho Foods; Atalanta Corporation; Acorsa USA Inc.;
Schreiber Foods International, Inc.; Rema Foods, Inc.;
and Mitsui Foods, Inc.; (collectively, "AFI")

Helen Avella, Business Development Manager, Atalanta Corporation

Shawn Kaddoura, President and CEO, Mario Camacho Foods, LLC

Steve Devine, Senior Purchasing Manager, Mitsui Foods, Inc.

In Opposition to the Imposition of
Antidumping and Countervailing Duty Orders (continued):

David Rockwood, Chief Operation Officer, Rema Foods, Inc.

Kristen Smith)
David Craven) – OF COUNSEL
Emi Ito Ortiz)

Curtis, Mallet-Prevost, Colt & Mosle LLP
Washington, DC
on behalf of

ASEMESA and the Spanish Producers

Mike Seidel, Director of Category Management, Performance Food Group

Joseph Somers, Vice President, Informa Economic IEG

Dr. Thomas J. Prusa, Professor and Chair of the Department of Economics, Rutgers University

Matthew P. McCullough)
Daniel L. Porter) – OF COUNSEL
Christopher A. Dunn)

REBUTTAL/CLOSING REMARKS:

Petitioners (**David Levine** and **Raymond Paretzky,** McDermott Will & Emery LLP)
Respondents (**Christopher A. Dunn**, Curtis, Mallet-Prevost, Colt & Mosle LLP)

-END-

APPENDIX C

SUMMARY DATA

Table C-1
Ripe olives: Summary data concerning the U.S. market, 2015-17
(Quantity=short tons dry weight; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton dry weight; Period changes=percent--exceptions noted)

	Reported data			Period changes		
	Calendar year				Calendar year	
	2015	2016	2017	2015-17	2015-16	2016-17
U.S. consumption quantity:						
Amount	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***
Importers' share (fn1):						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
U.S. consumption value:						
Amount	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***
Importers' share (fn1):						
Spain	***	***	***	***	***	***
Morocco	***	***	***	***	***	***
All other sources	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***
All import sources	***	***	***	***	***	***
U.S. imports[3] from:						
Spain:						
Quantity	35,037	35,139	32,782	(6.4)	0.3	(6.7)
Value	71,535	80,174	76,263	6.6	12.1	(4.9)
Unit value	$2,042	$2,282	$2,326	13.9	11.8	2.0
Ending inventory quantity	7,518	7,565	6,980	(7.2)	0.6	(7.7)
Morocco:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
All other sources:						
Quantity	6,169	6,320	7,030	14.0	2.4	11.2
Value	13,036	13,936	16,099	23.5	6.9	15.5
Unit value	$2,113	$2,205	$2,290	8.4	4.4	3.8
Ending inventory quantity	***	***	***	***	***	***
Nonsubject sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	4,844	5,005	4,389	(9.4)	3.3	(12.3)
All import sources:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	12,362	12,570	11,369	(8.0)	1.7	(9.6)

Table continued.

Table C-1--Continued

Ripe olives: Summary data concerning the U.S. market, 2015-17

(Quantity=short tons dry weight; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton dry weight; Period changes=percent--exceptions noted)

	Reported data			Period changes		
	Calendar year			Calendar year		
	2015	2016	2017	2015-17	2015-16	2016-17
U.S. producers':						
Average capacity quantity	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***
Capacity utilization (fn1)	***	***	***	***	***	***
U.S. shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Export shipments:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***
Inventories/total shipments (fn1)	***	***	***	***	***	***
Production workers	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***
Wages paid ($1,000)	***	***	***	***	***	***
Hourly wages (dollars per hour)	***	***	***	***	***	***
Productivity (short tons dry weight per 1,000 hours)	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***
Net sales:						
Quantity	***	***	***	***	***	***
Value	***	***	***	***	***	***
Unit value	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***
Net income or (loss)	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***
Unit net income or (loss)	***	***	***	***	***	***
COGS/sales (fn1)	***	***	***	***	***	***
Operating income or (loss)/sales (fn1)	***	***	***	***	***	***
Net income or (loss)/sales (fn1)	***	***	***	***	***	***

Notes:

fn1.--Reported data are in percent and period changes are in percentage points.

fn2.--Undefined.

fn3.--Data for Morocco are for U.S. shipments as reported in response to Commission questionnaires.

Source: Compiled from data submitted in response to Commission questionnaires and from official U.S. import statistics using HTS numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, and 2005.70.6070.

APPENDIX D

USDA DATA ON U.S. RAW OLIVES

Though upstream raw table olives are outside of the scope of these investigations, they are a key material in the production of ripe olives. Table D-1 provides USDA data on total raw olive fruit acreage and production from 2014 to 2016, the most recent year for which USDA data is available.[1] While bearing acreage has remained relatively consistent over the past three years, total production has varied considerably from 2014 to 2016.

Table D-1
Raw olives: Olive bearing acreage, yield, production, price, and value – States and United States: 2014-16

	Bearing acreage (acres)			Yield per acre (tons)		
State	2014	2015	2016	2014	2015	2016
California	37,000	36,000	35,000	2.57	4.97	4.56
United States	37,000	36,000	35,000	2.57	4.97	4.56
	Total production (tons)			Utilized production (tons)		
State	2014	2015	2016	2014	2015	2016
California	95,000	179,000	159,600	95,000	179,000	159,600
United States	95,000	179,000	159,600	95,000	179,000	159,600
	Price per ton (dollars)			Value of utilized production (1,000 dollars)		
State	2014	2015	2016	2014	2015	2016
California	774.00	894.00	865.00	73,559	160,043	138,090
United States	774.00	894.00	865.00	73,559	160,043	138,090

Source: Noncitrus Fruits and Nuts 2016 Summary, USDA, June 2017.

[1] Data on raw olives includes all raw olives grown in the United States, whether ultimately processed into in-scope ripe olives or used for other purposes, e.g. olive oil. Data are presented in short tons (2,000 pounds).

Table D-2 provides USDA summary data on total U.S. raw olive production, value, and average price per ton for each marketing year[2] from 2007 to 2016. Olive production levels over the time period range from a low of 46,300 tons in 2009 to a high of 206,000 tons in 2010. The data also show that while the amount of olives being processed into 'canned' olives has been variable over the period, the amount of olives being crushed for oil has risen steadily over the 10-year period.[3] In 2007, 72.5 percent of produced olives were canned, while 9.1 percent were crushed for oil. In 2016, however, 33.8 percent of olives were canned, while 58.0 percent were crushed for oil.

Table D-2
Olives: Total production, marketing year average price, value, and processed utilization, California, 2006-15

Year	Total production (Tons)	Marketing year average price per ton (dollars)	Value (1,000 dollars)	Processed utilization (tons)			
				Crushed for Oil	Canned	Limited	Undersized
2007	132,500	654	86,694	12,000	96,000	20,000	4,000
2008	66,800	697	46,587	14,000	45,500	6,000	1,300
2009	46,300	696	32,209	20,000	24,500	1,500	300
2010	206,000	664	136,796	36,000	125,000	37,000	8,000
2011	71,200	733	52,168	42,000	26,500	2,200	500
2012	160,000	813	130,038	74,000	78,500	6,400	1,100
2013	166,000	813	134,881	75,000	78,800	10,500	1,700
2014	95,000	774	73,559	57,700	30,500	5,900	900
2015	179,000	894	160,043	101,000	60,000	14,600	3,400
2016	159,600	865	138,090	92,500	54,000	11,100	2,000

Source: *Agricultural Statistics 2017*, USDA National Agricultural Statistics Service ("NASS"), 2017.

[2] The marketing year is synonymous with the crop year—August through July.
[3] According to petitioners, ***. See petitioners' posthearing brief, exhibit I, p. 1.

Table D-3 shows olive production by utilization (i.e. how the harvested olives were processed), as well as price per ton for each utilization. Table D-4 presents olive production by variety and shows the popularity of Manzanillo olives overall, accounting for 37.8 of total olive production in 2016.

Table D-3
Olives: Processed utilization and price by use, California: 2014-16

Utilization and state	Quantity (tons)			Price per ton (dollars)		
	2014	2015	2016	2014	2015	2016
Canned (California)	30,500	60,000	54,000	1,170.00	1,300.00	1,213.00
Crushed for oil (California)	57,700	101,000	92,500	614.00	723.00	706.00
Limited (California)	5,900	14,600	11,100	415.00	619.00	657.00
Undersized (California)	900	3,400	2,000	-3.00	-5.00	-5.00

Source: Noncitrus Fruits and Nuts 2016 Summary, USDA, June 2017.

Table D-4
Olives: Production by selected variety, California: 2014-16

Variety	Quantity (tons)		
	2014	2015	2016
Manzanillo	33,000	71,000	60,300
Sevillano	4,000	9,000	7,700
All other[1]	58,000	99,000	91,600
Total	95,000	179,000	159,600

[1] Includes production for varieties that were or will be used for canned, oil, and other specialty products.

Source: Noncitrus Fruits and Nuts 2016 Summary, USDA, June 2017.

APPENDIX E

NONSUBJECT COUNTRY PRICE DATA

Five importers reported price data for Morocco for products 3 and 4. Price data reported by these firms accounted for 99.2 percent of U.S. commercial shipments from Morocco in 2017. These price items and accompanying data are comparable to those presented in tables V-5 to V-8. Price and quantity data for Morocco are shown in tables E-1 to E-2 and in figures E-1 to E-2 (with domestic and subject sources).

In comparing nonsubject country pricing data with U.S. producer pricing data, prices for product imported from Morocco were lower than prices for U.S.-produced product in 24 instances and higher in 0 instances. In comparing nonsubject country pricing data with subject country pricing data, prices for product imported from Morocco were lower than prices for product imported from Spain in 17 instances and higher in 7 instances. A summary of price differentials is presented in table E-3.

Table E-1
Ripe olives: Weighted-average f.o.b. prices and quantities of imported product 3[1], by quarters, January 2015-December 2017

* * * * * * *

Table E-2
Ripe olives: Weighted-average f.o.b. prices and quantities of imported product 4[1], by quarters, January 2015-December 2017

* * * * * * *

Figure E-1
Ripe olives: Weighted-average f.o.b. prices and quantities of domestic and imported product 3[1], by quarters, January 2015-December 2017

* * * * * * *

Figure E-2
Ripe olives: Weighted-average f.o.b. prices and quantities of domestic and imported product 4[1], by quarters, January 2015-December 2017

* * * * * * *

Table E-3
Ripe olives: Summary of price differentials, by country, January 2015-December 2017

Comparison	Total number of comparisons	Morocco lower than the comparison source		Morocco higher than the comparison source	
		Number of quarters	Quantity (cases)	Number of quarters	Quantity (cases)
Nonsubject vs United States:					
Morocco vs. United States	24	24	***	0	***
Nonsubject vs subject countries:					
Morocco vs. Spain	24	17	***	7	***

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

APPENDIX F

SUMMARY DATA FROM THE PRELIMINARY PHASE INVESTIGATIONS

Table C-1
Ripe olives: Summary data concerning the U.S. market, 2013-16
(Quantity=short tons drained weight; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per short ton drained weight; Period changes=percent--exceptions noted)

	Reported data				Period changes			
	Calendar year				Calendar year			
	2013	2014	2015	2016	2013-16	2013-14	2014-15	2015-16
U.S. consumption quantity:								
Amount	***	***	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***	***	***
Importers' share (fn1):								
Spain	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***
All import sources	***	***	***	***	***	***	***	***
U.S. consumption value:								
Amount	***	***	***	***	***	***	***	***
Producers' share (fn1)	***	***	***	***	***	***	***	***
Importers' share (fn1):								
Spain	***	***	***	***	***	***	***	***
Nonsubject sources	***	***	***	***	***	***	***	***
All import sources	***	***	***	***	***	***	***	***
U.S. imports from:								
Spain:								
Quantity	26,549	29,735	35,037	35,139	32.4	12.0	17.8	0.3
Value	57,068	64,044	71,535	80,174	40.5	12.2	11.7	12.1
Unit value	$2,150	$2,154	$2,042	$2,282	6.1	0.2	(5.2)	11.8
Ending inventory quantity	***	***	***	***	***	***	***	***
Nonsubject sources:								
Quantity	19,556	18,176	11,754	11,944	(38.9)	(7.1)	(35.3)	1.6
Value	46,070	43,046	25,610	25,906	(43.8)	(6.6)	(40.5)	1.2
Unit value	$2,356	$2,368	$2,179	$2,169	(7.9)	0.5	(8.0)	(0.5)
Ending inventory quantity	***	***	***	***	***	***	***	***
All import sources:								
Quantity	46,105	47,911	46,791	47,083	2.1	3.9	(2.3)	0.6
Value	103,138	107,090	97,146	106,080	2.9	3.8	(9.3)	9.2
Unit value	$2,237	$2,235	$2,076	$2,253	0.7	(0.1)	(7.1)	8.5
Ending inventory quantity	***	***	***	***	***	***	***	***
U.S. producers':								
Average capacity quantity	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***
Capacity utilization (fn1)	***	***	***	***	***	***	***	***
U.S. shipments:								
Quantity	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***
Export shipments:								
Quantity	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***
Inventories/total shipments (fn1)	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***
Wages paid ($1,000)	***	***	***	***	***	***	***	***
Hourly wages (dollars)	***	***	***	***	***	***	***	***
Productivity (short tons drained weight per 1,000 hours)	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***
Net sales:								
Quantity	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***
Net income or (loss)	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***
Unit net income or (loss)	***	***	***	***	***	***	***	***
COGS/sales (fn1)	***	***	***	***	***	***	***	***
Operating income or (loss)/sales (fn1)	***	***	***	***	***	***	***	***
Net income or (loss)/sales (fn1)	***	***	***	***	***	***	***	***

Notes:

fn1.--Reported data are in percent and period changes are in percentage points.
fn2.--Undefined.

Source: Compiled from data submitted in response to Commission questionnaries and official U.S. import statistics for HTS statistical reporting numbers 2005.70.5030, 2005.70.5060, 2005.70.6020, 2005.70.6030, 2005.70.6050, 2005.70.6060, and 2005.70.6070, accessed July 5, 2017.