



NORTH AMERICAN OLIVE OIL ASSOCIATION

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December 6, 2013

The Honorable Irving A. Williamson
Chairman
U.S. International Trade Commission
500 E Street, SW
Washington, DC 20436

Dear Chairman Williamson:

I am writing on behalf of the North American Olive Oil Association (NAOOA) in response to the Commission's recently published report, *Olive Oil: Conditions of Competition between U.S. and Major Foreign Supplier Industries*. The NAOOA represents producers, importers and distributors accounting for an overwhelming majority of the olive oil consumed in the United States.

The NAOOA appreciates the substantial time and effort that the Commission invested in the preparation of the report. As you know, the NAOOA and its members participated actively in the Commission's investigation, providing considerable factual information and testimony and we are grateful for the Commission's consideration of our input.

Because of the controversy surrounding certain standards, testing, and enforcement issues for olive oil, it was particularly important for the Commission to distinguish science from conjecture and spin from fact when presenting its findings. We are concerned, however, that in several significant respects the report fell short of the objective analysis that Congress requested and instead often portrayed arguments of certain market participants as factual findings, or omitted key facts required for the presentation of a balanced perspective. Ultimately, these shortcomings tend to favor the narrow perspective of the domestic industry.

First, the NAOOA is troubled by the report's widespread reliance on the terms "low quality" and "high quality" in conveying the range of characteristics within the International Olive Council's (IOC) longstanding definition of extra virgin olive oil (EVOO). The report neither defines the terms "low quality" and "high quality," nor identifies the benchmarks or preferences against which they are assessed. The unfortunate and erroneous implication of the report's pervasive use of these terms, however, is that certain oils correctly labeled as EVOO under the international standard are more worthy of that label than other oils that meet the EVOO definition. The NAOOA is concerned that the report's approach in this respect adds to, rather than diminishes, consumer confusion about the definition of EVOO.

The NAOOA submits that a more effective approach would have been for the Commission to emphasize that oils made from a wide range of olive varieties (or blends) and with a wide range of taste profiles are legitimately labeled as long as they meet the criteria of the global industry standard. One need only look to the wine category to appreciate that a given red wine may be based on a single exotic variety of grape, or on a blend of common varieties. The



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taste may be very different and may hold a range of perceived value to different consumer segments, but neither is more or less deserving of the label “red wine.” The report did touch on the fact that the standard for EVOO must maintain a balance in order to be narrow enough to detect fraud but also be accommodating of legitimate oils produced from varieties and regions all around the world. Yet in stressing the difference between supposed “low quality” and “high quality” oils within the EVOO definition, the Commission’s report has implied a preference for a narrowing of the longstanding EVOO definition without providing supporting evidence as to the necessity or benefits of such a change.

Second, the report attaches considerable credibility to recent studies of the UC Davis Olive Center, citing them repeatedly in support of findings about the supposed prevalence of fraud and mislabeling among olive oils in the U.S. Yet the report nowhere mentions facts that call into question the integrity and reliability of the Olive Center’s findings: the Olive Center is a marketing agent for California olive oil with a vested interest in promoting domestically produced oils over imports; plaintiffs’ lawyers attempting to replicate the Olive Center’s findings for use in possible fraudulent advertising lawsuits were unable to do so; the findings presented are based on unproven test methods; and the Olive Center relied on its own staff rather than neutral third parties to conduct the tests. Equally troubling is the report’s reference to findings published in *Consumer Reports*, with no accompanying clarification that these findings are based solely on the opinion of two anonymous tasters (likely with a vested interest in the “recommended” oils) rather than a taste panel qualified under the international standards. Additionally, not a single laboratory analysis for either quality or authenticity was performed in relation to this article. This article was absolutely nothing more than two individuals’ opinions about taste.

Third, in comparing different jurisdictions’ standards and testing regimes, the report categorizes California and Texas standards as more strict than the standards promulgated globally by the IOC. However, nowhere does the report explain that the supposedly more stringent state association programs do not include a single chemical test for adulteration, while the international standards include dozens. Thus, in a critical respect, the California and Texas standards are far *less strict* than the IOC standard, which is the basis for all testing done by the NAOOA. This vital omission is merely one example of the report’s lack of objectivity when comparing the rigors of various systems.

Fourth, the report describes two non-standard and little-used tests, known as PPP and DAGs, being promoted by certain industry groups as logical enhancements to current testing regimes without mentioning numerous open questions and serious flaws related to the use of these methods as part of a fixed standard. For one, scientific research conducted by global olive oil experts in conjunction with the IOC shows that these tests lack the requisite reliability to be included in an objective testing regime. Further, the tests would favor oils made from certain olive varieties, including those most prevalent in domestic production. Finally, even the promoters of the tests are unable to confidently interpret these measures when the tests are performed after the point of bottling.



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Fifth, in addressing opportunities to improve the market, the report ignores the option of a research and promotion order as suggested and petitioned for in the past by the NAOOA, but discusses at length the option of a marketing order as suggested by domestic producers. Compounding the omission of an R&P order, the report dismisses some of the most glaring problems associated with a USDA marketing order as proposed by domestic producers, including lack of any controls beyond the point of importation, as well as the overwhelming time and resource burdens that would be required by USDA to undertake the necessary volume of testing.

A marketing order would create substantial supply bottlenecks and drive up prices for the vast majority of olive oil consumed in the United States while doing little to detect adulteration. Indeed, these are the reasons why the House of Representatives overwhelmingly defeated a provision to the Farm Bill that would have authorized the imposition of a marketing order on imports. For the same reasons, EU authorities are concerned that a marketing order would impose a discriminatory restraint on European olive oils, just as the United States and the EU are embarking on negotiations to increase trans-Atlantic trade and investment. By contrast, as explained in the NAOOA's submissions to the Commission, a research and promotion order would help advance the consumer education goals that the domestic industry and the Commission appear to agree are important, without imposing delays and high costs on either the imports that supply 98% of U.S. demand or on the rapidly-growing domestic production.

I wish to emphasize once again that as it has already done for 25 years, the NAOOA continues to fight fraud and to promote clear, objective, and enforceable standards for olive oils in the U.S. market. The NAOOA welcomes any opportunity for further dialogue on this question with the Commission or other relevant U.S. government entities.

We appreciate your consideration of these comments.

Sincerely,

Eryn A. Balch
Executive Vice President