



Statement of Alexander Ott
Executive Director of the American Olive Oil Producers Association

Before the Trade Policy Staff Committee
U.S. Trade Representative
Concerning the Proposed U.S.-EU Transatlantic Trade and Investment Agreement
[Docket No. USTR-2013-0019]

May 30, 2013

On behalf of the growers, processors and affiliate members of the American Olive Oil Producers Association (AOOPA), we appreciate the opportunity to submit comments on the proposed Transatlantic Trade and Investment Partnership.

AOOPA is an organization comprised of growers, processors and state olive oil associations that develops sound governmental policies to promote a fair and honest market in order to protect the U.S. olive oil consumers from fraudulent olive oil.

Olive Oil consumption has increased dramatically in recent years. Currently, the United States is the second largest importer of olive oil in the world, importing approximately 300,000 metric tons annually, which equates to just under a billion dollars. The U.S. receives approximately 75% of its olive oil from the EU.

The domestic industry in the United States is still in its early stages of development, but has great potential for growth. Even with the recent increase in the popularity of olive oil, the U.S. has one of the lowest consumption rates among the large importers of olive oil, 0.88 kg per capita. Greece has one of the largest, at 20.17 kg per capita, while Italy has a consumption rate of 10.86 kg per capita, and Spain has a consumption rate of 12.54 kg per capita. As these numbers show, there is a great potential for growth in the U.S. olive oil industry for both importers and domestic producers.

Due to the importance of the olive oil industry, the EC has placed several support programs on its olive oil industry that make it hard for the U.S. olive oil industry to compete. It may appear strange for the U.S. industry to mention competing against Europe, which some would consider a David and Goliath challenge, but this is not as farfetched as it seems. Twenty to thirty years ago, the U.S. was only importing almonds and pistachios. Today we are exporting both agriculture products, and Europe is an important U.S. export market. U.S. fruit and vegetable exports to the EU amount to approximately \$2 billion; tree nuts comprise \$1.7 billion. Because olive oil trees grow where almonds, pecans, pistachios and walnuts grow, the only reason for the U.S. not having a strong olive oil industry is the EC olive oil programs. The EC programs include exorbitant import duties, discriminatory grade standards, and a large amount of government support. The collection of these issues impedes the natural growth of the domestic

industry. The U.S. should use the Transatlantic Trade and Investment Partnership negotiations with the EC to address these unfair trade issues.

The U.S. International Trade Commission (ITC) is in the process of completing a 332 fact finding investigation in which it is examining the competitiveness of the domestic olive oil industry. On December 5, 2012, ITC held a hearing where several domestic growers testified that current EC policies are retarding the growth of the domestic industry. ITC is expected to release a report of its findings in August 2013. The U.S. Trade Representative, upon finalization of the report, should review and consider that analysis of ITC as it begins its negotiations with the EC.

Tariff and Non-tariff Barriers to Trade

Economic costs and benefits to U.S. producers and consumers of removing tariffs and removing or reducing non-tariff barriers on articles traded with the EU

EC import tariffs for olive oil are significantly higher than U.S. olive oil tariffs. EC olive oil tariffs range between \$1.41/kg and \$2.05/kg net wt for HTS 1509.10 and 1509.90, while U.S. tariffs range between \$0.034/kg and \$0.05/kg (Attachment 1). U.S. olive oil producers compete with a high volume of imported olive oil that comes into the U.S. practically duty free. The high EC tariff rates make it virtually impossible for U.S. olive oil producers to market their product in the EU. In 2012, the U.S. treasury received approximately \$11 million¹ in duty revenue from olive oil; if we had shipped the same amount of olive oil, 305,000 metric tons², to Europe, their treasury income would have been approximately \$500 million. This gives EU olive oil producers an unfair advantage in their domestic market. U.S. and E.C. negotiators for the Transatlantic Trade and Investment Partnership should seek tariff parity in the olive oil sector. The most immediate method to achieve tariff parity is through the elimination of tariffs. The domestic industry is fully supportive of immediately eliminating olive oil tariffs. The savings from import tariffs would help offset grade inspections for U.S. exporters to the EU and, in the future, the potential grade inspections for EU exporters to the U.S. (see Grade Standards below). If, however, this is not possible due to European concerns, the domestic industry would support a gradual reduction of the U.S. tariff, but only in smaller increments than our European partners are willing to commit to implementing.

Grade Standards

Relevant competition-related matters that should be addressed in the negotiations

Currently, there exist conflicting olive oil grade standards between the U.S. and the EU that limit the growth of the U.S. industry. The U.S. and the EC olive oil grade standards only differ slightly, but these differences create a lot of confusion and misunderstanding in the U.S. olive oil market since so much of the oil is imported from the EU. One aspect of a free trade agreement is to harmonize grade standards. AOOPA seeks to harmonize olive oil grade standards with the EC.

¹ U.S. International Trade Commission, [Dataweb](http://dataweb.usitc.gov/scripts/user_set.asp), accessed May 28, 2013, available at http://dataweb.usitc.gov/scripts/user_set.asp.

² Ibid

In 2010, the USDA implemented voluntary grade standards to help standardize the labeling of olive oil and emphasize the differences between each grade of olive oil (i.e. extra virgin, virgin and refined).³ The USDA voluntary grade standards are a good benchmark for grading olive oil. The problem, however, is that they are voluntary and there is no enforceable standard currently in the U.S. to guarantee authenticity in either domestic or imported products. The EC, however, has developed compulsory grade standards for both domestic and foreign produced olive oil. Council Regulation (EC) No 1234/2007 under article 118 states that descriptions and definitions of olive oil “shall be compulsory as regards the marketing of the products” within the EU, as well as in trade with third countries.

There are many different quality and purity standards of olive oil throughout the world. These standards are established by governments, such as the European Union and the United States, by independent national bodies, such as Standards Australia, or by international organizations such as the Codex Alimentarius Commission, which may be conducted by its Codex Committee on Fats and Oils (CCFO). Methods for testing and tasting olive oil products are also offered by several bodies, including the American Oil Chemist Society, the German Society for Fat Science, the Association of Official Agricultural Chemists (AOAC), the European Committee for Standardization, and the International Organization for Standardization.

The most influential international standard setting organization is the International Olive Council (IOC), which was established by the United Nations in 1959 to help unify the olive oil and olive industry, and to balance production and consumption of olive products. The IOC, which was originally called the International Olive Oil Council, has a broad mission that includes setting international product standards, as well as research and development and promoting international olive oil trade.⁴ The most recent update to the IOC olive oil standard was released in November of 2011. The IOC does not have an enforcement body, so it is up to its members to apply the standards in their international trade and encourage the same standards in their internal trade.⁵ This aspect of IOC membership has allowed members to have different internal standards, which is important amongst countries of the EU.

The majority of EU member countries are also members of the IOC and thus there are many similarities in the IOC and EC standards. Some key differences, however, are that the EC standard eliminates an entire olive oil grade, ordinary virgin, and bans the use of words like “pure” or “extra light” for refined olive oil blends, both of which are found in the U.S. market and continue to confuse consumers. In addition, the IOC and the EU have changed the median of defect allowed in the virgin olive oil category from 2.5 to 3.5. Both the U.S. and Codex standards remain at 2.5. This change is of great significance because it permits oil to be added to Extra Virgin or refined olive oil that is not fit for consumption in the U.S. without further processing. These are significant differences in the context of olive oil marketing.

³ United States Department of Agriculture, United States Standards for Grades of Olive Oil and Olive-Pomace Oil, (Effective October 25, 2010) at Intro, *available at* <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELDEV3011889>.

⁴ International Olive Council, Mission Statement, (November 2012), *available at* <http://www.internationaloliveoil.org/estaticos/view/100-mission-statement>.

⁵ *Ibid.* at Art. 35.

In June of 2012, the EC released its action plan for the olive oil sector. This action plan addressed a number of different areas, including quality and control. In the action plan, the EC recognized the growing concerns of current testing methods and quality standards, but it did not make any substantive changes on these issues and stated that any changes should only be done following intensive scientific research.⁶ The action plan set goals for areas requiring improvement, such as quality controls, consumer protection, and improved labeling.⁷

The Codex Alimentarius Commission (Codex) was formed in 1963 as a means to establish international food standards, guidelines, and codes of practice in order to promote safety, quality, and fairness in the international food trade.⁸ Codex's current olive oil standards were established in 1981 and were last modified in 2009.⁹ Codex decisions are reached by consensus.

Tables 1 and 2 below outline the names and basic requirements for olive oil standards set forth by the aforementioned standard setting entities. In Table 2, it should be noted that generally all olive oil quality standards are minimum standards and do not cover different grades, labeling requirements, etc. The standards listed are for all types of olive oil except when indicated for extra virgin (EVOO) and virgin (VOO) olive oil. These standards are below the natural quality of freshly produced olive oil. In addition, like many other products, olive oil has a shelf-life, a period of progressive loss of quality which will eventually result in the failure to meet such quality standards. While there are many similarities between all of the olive oil standards, the following are some of the significant differences and items of note, including:

- The Codex standards generally apply in consideration of WTO matters.
- The EC standard prohibits confusing terms such as “pure” and “light” as front label descriptors for refined olive oil blends, whereas the IOC standard and others are silent on this matter. While not allowed in the EU, such confusing terms are common on olive oils in the United States.
- The standards for purity differ in their consideration of the minor chemical components of olive oil. Both the U.S. and Australian standards attempt to address this by acknowledging the natural variation in these components brought about by variety and climate interactions. The deficiencies of the Codex standard, and others, such as IOC and EC, have led to technical barriers to trade.
- All of the standards for purity attempt to deal with the widespread problem of fraud in the olive oil trade by characterizing olive oil and offering tests to spot blends with lower grades of olive oil or other vegetable oils, with varying degrees of effectiveness.
- EU member states can (and often do) apply their own laws prohibiting the production of blends of olive oil with other oils, but cannot prohibit the import of such blends.

⁶ European Union, Action Plan, at p. 3.

⁷ Ibid, at p. 2.

⁸ Codex Alimentarius, International Food Standards, (November 2012), available at <http://www.codexalimentarius.org>.

⁹ Codex Alimentarius, Standard for Olive Oils and Olive Pomace Oils, (2009), available at http://www.codexalimentarius.org/standards/list-of-standards/en/?no_cache=1.

- There are differences in how grades of olive oil are defined not only chemically but also by name. In Table 1, the various names of different olive oil grades are provided. These names add to the confusion caused by the varying standards. No two standards are identical in their classification of olive oil, which can lead to trade issues between the varying standards.

Table 1: Olive Oil Grades

United States	IOC	EC	Codex
- U.S. Extra Virgin Olive Oil	- Extra Virgin Olive Oil	- Extra Virgin Olive Oil	- Extra Virgin Olive Oil
- U.S. Virgin Olive Oil	- Virgin Olive Oil	- Virgin Olive Oil	- Virgin Olive Oil
- U.S. Virgin Olive Oil Not Fit for Human Consumption without Further Processing	- Ordinary Virgin Olive Oil - Lampante Virgin Olive Oil	- Lampante Virgin Olive Oil - Refined Olive Oil	- Ordinary Virgin Olive Oil - Refined Olive Oil
- U.S. Olive Oil	- Refined Olive Oil - Olive Oil	- Olive Oil-composed of refined olive oils and virgin olive oils	- Olive Oil - Olive Pomace-Oil
- U.S. Refined Olive Oil	- Olive Pomace-Oil	- Olive Pomace-Oil	- Refined Olive-Pomace Oil
- U.S. Olive- Pomace Oil	- Refined Olive-Pomace Oil	- Refined Olive-Pomace Oil	
- U.S. Refined Olive-Pomace Oil	- Crude Olive-Pomace Oil	- Crude Olive-Pomace Oil	
- U.S. Crude Olive - Pomace Oil			

Table 2: Extra Virgin and Virgin Olive Oil Grade Standards Comparison

Ingredients	United States	IOC	EU	Australia	Codex
Total Sterol Content (mg/kg)	≥ 1000	≥ 1000	≥ 1000	≥ 1000	≥ 1000
Wax Content (mg/kg)	≤ 250	≤ 250	≤ 250	≤ 250	≤ 250
Stigmastadienes Content (mg/kg)	≤ 0.15	≤ 0.10	≤ 0.10	≤ 0.10	≤ 0.10
Trans Fatty Acid Content	≤ 0.05	≤ 0.05	≤ 0.05	≤ 0.05	≤ 0.05
Content of 2-glyceryl monopalmitate (%)	C16:0 ≤ 14%; 2P ≤ 0.9% C16:0 >14%; 2P ≤ 1.0%	C16:0 ≤ 14%; 2P ≤ 0.9% C16:0 >14%; 2P ≤ 1.0%	C16:0 ≤ 14%; 2P ≤ 0.9% C16:0 >14%; 2P ≤ 1.0%	≤ 1.5 %	C16:0 ≤ 14%; 2P ≤ 0.9% C16:0 >14%; 2P ≤ 1.0%
Fatty Acid Composition					
Arachidic Acid (%)	≤ 0.6	≤ 0.6	≤ 0.6	≤ 0.6	≤ 0.6
Behenic Acid	≤ 0.2	≤ 0.2	≤ 0.2	≤ 0.2	≤ 0.2
Gadoleic Acid (Eicosenoic)	≤ 0.4	≤ 0.4	≤ 0.4	≤ 0.5	≤ 0.4
Heptadecanoic Acid	≤ 0.3	≤ 0.3	≤ 0.3	≤ 0.3	≤ 0.3
Heptadecenoic Acid	≤ 0.3	≤ 0.3	≤ 0.3	≤ 0.4	≤ 0.3
Lignoceric Acid	≤ 0.2	≤ 0.2	≤ 0.2	≤ 0.2	≤ 0.2
Linoleic Acid (C18:2)	3.5-21.0	3.5-21.0	3.5-21.0	2.5-22.0	3.5-21.0
Linolenic Acid (C18:3)	≤ 1.5	≤ 1.0	≤ 1.0	≤ 1.5	N/A
Myristic Acid	≤ 0.05	≤ 0.05	≤ 0.05	≤ 0.05	≤ 0.05
Oleic Acid	55.0-83.0	55.0-83.0	55.0-83.0	53.0-85.0	55.0-83.0
Palmitoleic Acid	0.3-3.5	0.3-3.5	0.3-3.5	0.3-3.5	0.3-3.5
Palmitic Acid	7.5-20.0	7.5-20.0	7.5-20.0	7.0-20.0	7.5-20.0
Stearic Acid	0.5-5.0	0.5-5.0	0.5-5.0	0.5-5.0	0.5-5.0
Sterol Composition (% of total sterols)					
Brassicasterol	≤ 0.1	≤ 0.1	≤ 0.1	≤ 0.1	≤ 0.1
Campesterol	≤ 4.5	≤ 4.0	≤ 4.0	≤ 4.8	≤ 4.0
Cholesterol	≤ 0.5	≤ 0.5	≤ 0.5	≤ 0.5	≤ 0.5
Delta – 7 Stigmastenol	≤ 0.5	≤ 0.5	≤ 0.5	≤ 0.5	≤ 0.5
Apparent beta-sitosterol	> 93.0	> 93.0	> 93.0	> 92.5	> 93.0
Sigmasterol	< Campesterol	< Campesterol	< Campesterol	≤ 1.9	< Campesterol
Trace Metals					
Iron (mg/kg)	≤ 3.0	≤ 3.0	N/A	≤ 3.0	≤ 3.0
Copper (mg/kg)	≤ 0.1	≤ 0.1	N/A	≤ 0.1	≤ 0.1
Quality Criteria					
Free fatty Acid Content (% m/m)	≤ 0.8 (EVOO) ≤ 2.0 (VO)	≤ 0.8 (EVOO) ≤ 2.0 (VO)	≤ 0.8 (EVOO) ≤ 2.0 (VO)	≤ 0.8 (EVOO) ≤ 2.0 (VO)	≤ 0.8 (EVOO) ≤ 2.0 (VO)
Peroxide Value (mo/kg)	≤ 20 (EV/VO)	≤ 20 (EV/VO)	≤ 20 (EV/VO)	≤ 20 (EV/VO)	≤ 20 (EV/VO)

Table 2: Extra Virgin and Virgin Olive Oil Grade Standards Comparison Continued

Ingredients	United States	IOC	EU	Australia	Codex
Ultraviolet (UV) Absorbance					
232 nm	≤ 2.5 (EVOO) ≤ 2.6 (VO)	≤ 2.5 (EVOO) ≤ 2.6 (VO)	≤ 2.5 (EVOO) ≤ 2.6 (VO)	≤ 2.5 (EVOO) ≤ 2.6 (VO)	≤ 2.5 (EVOO) ≤ 2.6 (VO)
270 nm	≤ 0.22 (EVOO) ≤ 0.25 (VO)	≤ 0.22 (EVOO) ≤ 0.25 (VO)	≤ 0.22 (EVOO) ≤ 0.25 (VO)	≤ 0.22 (EVOO) ≤ 0.25 (VO)	≤ 0.22 (EVOO) ≤ 0.25 (VO)
Delta K	≤ 0.01	≤ 0.01	≤ 0.01	≤ 0.01	≤ 0.01
Moisture and volatile matter (% m/m)	≤ 0.2	≤ 0.2	N/A	≤ 0.2	≤ 0.2
Insoluble Impurities	≤ 0.1	≤ 0.1	N/A	≤ 0.1	≤ 0.1
Organoleptic Analysis					
Median of Defect	=0 (EVOO) 0≤Md≤2.5 (VO)	=0 (EVOO) 0≤Md≤3.5 (VO)	=0 (EVOO) 0≤Md≤3.5 (VO)	=0 (EVOO) 0≤Md≤2.5 (VO)	=0 (EVOO) 0≤Md≤2.5 (VO)
Median of Fruitness	>0	>0	>0	>0	>0
Color	Yellow to Green	N/A	N/A	N/A	Yellow to Green
PPP (%)	N/A	N/A	N/A	≤ 17 (EVOO)	N/A
DAG	N/A	N/A	N/A	≥ 35 (EVOO)	N/A
Max difference between actual and theoretical ECN 42 triacylglycerol content	≤ .2 (EVOO/VO)	≤ .2 (EVOO/VO)	≤ .2 (EVOO/VO)	≤ .2 (EVOO) ≤ .3 (VO)	≤ .2 (EVOO/VO)
Erythrodiol and uvaol content (% total sterols)	≤ 4.5	≤ 4.5	≤ 4.5	≤ 4.5	≤ 4.5
Halogenated Solvents	Maximum content 0.1 mg/kg of each solvent Maximum content of ALL solvents 0.2mg/kg	Maximum content 0.1 mg/kg of each solvent Maximum content of ALL solvents 0.2mg/kg	Maximum content 0.1 mg/kg of each solvent Maximum content of ALL solvents 0.2mg/kg	N/A	Maximum content 0.1 mg/kg of each solvent Maximum content of ALL solvents 0.2mg/kg
Heavy Metals (Lead, Arsenic)	0.1 mg/kg	0.1 mg/kg	N/A	Comply with Australia New Zealand Foods Standards Code	0.1 mg/kg
Pesticide Residues	Comply with U.S. Environmental Protection Agency	Comply with Codex	N/A	Comply with Australian New Zealand Food Standards Code	Comply with Codex
Unsaponifiable matter (g/kg)	≤ 15	≤ 15	N/A	N/A	≤ 15

Note: Highlighted areas signifies there is a difference between the standard

The Campesterol level is currently one of the largest hurdles in harmonizing grade standards between the U.S and the EC. Campesterol is a phytosterol whose chemical structure is similar to that of cholesterol. Many vegetables, fruits, nuts and seeds contain campesterol, but in low concentrations. Campesterol levels are used to test the authenticity of olive oil; however, the current EC, IOC and Codex standards create an unfair discrimination against olive oils produced outside the Mediterranean. The current campesterol level for the EC, IOC and Codex is 4%, while the USDA standard allows 4.5%. The current campesterol level discriminates against several growing regions, including the U.S., Australia, New Zealand and Argentina. Authentic olive oils in different parts of the world cannot meet the limit due to geographic variations and plant varieties that must be used in some countries because of climate conditions. Also of importance is the level of linolenic acid allowed, the effect of which is the same as the difference in Campesterol.

The Codex Committee of Fats and Oils recently held its annual meeting to discuss several issues, including the campesterol level requirement for olive oil. The delegation of Australia introduced its revised discussion paper to increase the level for campesterol from 4% to 4.8%. Several countries, including the U.S., supported this proposal. In the discussion paper, over 800 samples from Australia, 60 samples from the United States, 400 samples from Argentina, and almost 400 samples from Canada all had campesterol levels greater than 4%. The discussion paper also showed that some olive oils from Europe had campesterol levels above 4%.¹⁰

The U.S. supported the proposal based on analyses of U.S. olive oils, in which a significant percentage exceeded 4.0% but fell within the 4.0-4.8% range. Critics of the proposal, mainly IOC, claimed that the 4% limit for campesterol is needed to detect adulteration of olive oils from other edible oils and protect consumers from fraud. The proposal to increase the campesterol limit addressed this issue by changing the stigmasterol limit from less than the campesterol level to less than 1.9%. The U.S. olive oil sampled by the U.S. delegation also fell within the proposed stigmasterol limit. Argentina has also addressed concerns of the discriminatory standard of the campesterol levels. Argentina recently joined the IOC and has been addressing the issue from within the organization to no avail. The Codex Committee of Fats and Oils, however, did not agree to start new work on the issue at the present, and the current standard on campesterol levels remains, effectively blocking a good majority of U.S. authentic olive oil from ever entering the EU.

The U.S. should harmonize olive oil grade standards with the EC by increasing the campesterol limit to 4.8% and standardizing the different grades of olive oil.

¹⁰ Australia, "Discussion Paper on the Revision of the Limit for Campesterol in the Codex Standard for Olive Oils and Olive Pomace Oils," November 2012, *available at* http://ftp.fao.org/codex/meetings/ccfo/ccfo23/fo23_09e.pdf.

EC Support Programs

Relevant competition-related matters that should be addressed in the negotiations

AOOPA believes that the level of subsidization that the EU olive oil industry receives impedes the U.S. olive oil industry's ability to enlarge and causes price suppression in the U.S. The olive oil industry is very important to the EU and, as such, there are many government support programs that have been developed to aid the olive oil sector in the EU, giving them an unfair advantage. Olive oil producers receive direct support through the Common Agricultural Policy (CAP) including several programs such as the single payment scheme, storage aid, and export programs.

The EU olive oil industry receives direct payment under CAP's single payment scheme. Since direct support has become "decoupled" from actual crop production, it is difficult to determine what portion of these single payments is actually going towards olive oil production. A study performed by the University of Jaén, however, showed that Spain receives on average \$182 per acre from the single payment scheme for all its crops; the average for the EU 15 is \$195 per acre. In one region in Spain, where olives are the principle crop, the average per hectare rate for aid is as high as \$363 per acre.¹¹ A report from the Directorate-General for Agriculture and Rural Development of the European Commission stated that from 2006 to 2009, the average annual direct payment supports represented a large percentage of the income for the European olive oil industry (growers & processors): 22% in Spain; 28% in Greece; and a range of 22% to 50% of table olive and olive oil producers in Italy.¹²

The level of subsidization has encouraged an increase in production and a decrease in olive oil prices. The unit value of U.S. imports of olive oil has been decreasing from 2008 to 2012. In 2008, the average unit value of imports for all virgin olive oil entering the United States was \$4.53 per liter (Table 3). In 2012, the average price per liter was \$3.36, a 25.9% decrease over the five year period. By contrast, the number of imports continues to increase. In 2008, the total number of imports of virgin olive oil was 243,538 metric tons, while the total number of imports in 2012 was 304,550 metric tons, an increase of 25.1% (Table 4).

¹¹ Mar Velasco Gámez, Juan Vilar Hernández, and Raquel Puentes Poyatos, "Implications of the PAC 2014-2020 for the Olive Oil Sector", *The University of Jaén* (June 1, 2012) available at <http://xivrem.ujaen.es/wp-content/uploads/2012/05/100-R-152M114.pdf>

¹² Directorate-General for Agriculture and Rural Development, "Economic Analysis of the Olive Sector," *European Commission*, July 2012, at 10, available at http://ec.europa.eu/agriculture/olive-oil/economic-analysis_en.pdf.

Table 3: Unit Value Change

Country	Unit Value					Percent Change
	2008	2009	2010	2011	2012	2008-2012
	Price per liter					Percent
Italy	4.68	3.95	3.84	3.96	3.67	-21.6
Spain	4.34	3.58	3.41	3.41	2.97	-31.6
Greece	5.11	4.42	4.51	4.62	4.22	-17.4
Total	4.53	3.74	3.64	3.67	3.36	-25.9

Source: U.S. Department of Commerce and the U.S. International Trade Commission

Table 4: Olive Oil Imports

Country	Imports					Percent Change
	2008	2009	2010	2011	2012	2008-2012
	Metric Tons					Percent
Italy	145,175	143,550	136,538	139,796	153,820	6.0
Spain	48,623	50,318	65,969	61,468	81,565	67.7
Greece	4,154	4,709	4,260	4,190	4,806	15.7
Other	45,586	59,335	53,567	69,477	64,359	36.7
Total	243,538	257,912	260,334	274,931	304,550	25.1

Source: U.S. Department of Commerce and the U.S. International Trade Commission

Several domestic growers testified during the ITC hearing on December 5, 2012, that market retardation through price suppression was a very real factor in terms of their business practices. Mr. Gregg Kelley of California Olive Ranch stated that, “The average retail price for California Olive Ranch, the largest brand of domestic olive oil in the United States, was more than \$7 during the same period [2010]. California Olive Ranch is not profitable at a level that would substantiate further investment at these pricing levels”.¹³ Mr. Kelley also stated that, “We are probably the largest company to sell into food service of the domestic producers. We have a fairly sizeable food service business. It is incredibly cost competitive. Our products, because of their price point and the cost incurred to produce them, require us to focus solely on what we call white tablecloth restaurants. We cannot compete with oils that are being consumed at, you know, large, mainstream restaurant chains, or hotel chains for that matter.”¹⁴

Others appearing before USITC stated similar price suppression problems including Ms. Karen Lee, President of Cowgirl Brands LLC., who stated that, “Grocery buyers quoting the *Value Price Customer* have told me that in order to hit the sweet spot where they will move the product, we must sell to them for less than \$4 a bottle... That means I can't buy it from the grower for more than \$15 a gallon if I'm going to sell it into these retail grocery stores. And please note that this is to break even, not to make a profit.”¹⁵ Ms. Lee later in her testimony made the observation that, “...at prices that are

¹³ USITC Hearing on the Competitiveness of the Domestic Olive Oil Industry Transcript, (December 5, 2012) page 20, lines 18-23.

¹⁴ USITC Hearing Transcript, page 102, lines 22 to page 103, line 6.

¹⁵ USITC Hearing Transcript, page 248, lines 16 to page 249, line 1.

heavily subsidized, the field will continue to be inherently skewed and the importers will continue to hold an unfair advantage over domestic production.”¹⁶

If there were no EC olive oil support programs, the U.S. olive oil industry would have developed as did all of the other tree crops discussed above— almonds, pecans and pistachio—s— which have increased greatly in acreage and reached production levels unmatched by any other country. Dr. Kent Wolfe, Director of the Center for Agribusiness and Economic Development at the University of Georgia, performed a cost comparison analysis between the average costs of production in Spain and Georgia and presented his findings at the ITC hearing. In his comparison, he showed that the cost of production is competitive between the two areas, with Georgia actually having a small advantage over Spain through its lower production costs. That slight advantage, however, is eliminated by the level of subsidization that the Spanish olive growers receive. Dr. Wolfe states in his analysis that the EC subsidies give Spanish growers the advantage and “will retard the growth of [the Georgia olive oil industry] as it moves from a niche to a more mature agricultural industry.”¹⁷

As demonstrated by U.S. olive oil importers and U.S. olive oil growers and processors in their pre-hearing briefs and hearing testimony, U.S. consumers are purchasing nearly 300,000 metric tons of olive oil annually. One can hardly agree that moving from 1% to 1.7% of market share over ten years is growth “in leaps and bounds.”¹⁸

AOOPA has recently learned that in December 2012, California based Golden Olive Ranch removed some 500 acres of olive trees that were only planted in 2009, a \$5 million investment. According to Golden Olive Ranch’s submission to USITC as part of this investigation, their reason for the seemingly drastic move was due to a projected low or negative olive oil return on investment. In a two year time period, returns for their production of olive oil dropped from \$18 per gallon to \$10 per gallon, a 44% reduction. The company has decided to replace the acreage with almond trees which they believe has “safer returns for the foreseeable future.”

Mexico has enacted countervailing duties against the importation of EU olive oil, claiming that the European Commission’s subsidies on olive oil create an unfair trade advantage. In 2005, Mexico investigated and demonstrated that the European Commission’s subsidies on olive oil were creating an unfair advantage for EU olive oil competing against Mexico’s domestically produced olive oil.¹⁹ Mexico placed countervailing duties to help level the playing field and give its domestic product a chance. In 2006, the EC filed a trade dispute with the WTO on the countervailing duties

¹⁶ USITC Hearing Transcript, page 250, lines 18-22.

¹⁷ Testimony of Dr. Kent Wolfe, USITC Hearing on the Competiveness of the Domestic Olive Oil Industry, (December 5, 2012).

¹⁸ Akin Gump Post Hearing Submission, page 28, line 8.

¹⁹ Diario Oficial de la Federación, Final Resolution of the Investigation for Subsidized Prices for Imported Olive Oil (Resolución final de la investigación por subvención de precios sobre las importaciones de aceite de oliva virgín) (August 1, 2005), available at http://dof.gob.mx/nota_detalle.php?codigo=2088419&fecha=01/08/2005.

imposed by Mexico. The WTO dispute panel, which included China, Japan, Norway, and the United States, concluded that Mexico was in fact in violation of three provisions of the WTO Subsidies and Countervailing Measures Agreement (SCM). Those provisions were that the Mexican investigation exceeded the set time limit of 18 months, that Mexico failed to disclose sufficient non-confidential summaries, and finally, that Mexico was wrong to use trade data gathered over nine-month intervals, rather than full year statistics, when determining the level of injury it had suffered because of EU subsidies. Mexico lost the case solely on procedural issues. Mexico's findings on the unfair trade advantage of the EC's subsidies were never officially disputed.²⁰

South Africa has also claimed injury from the subsidized imports from the EU. The chairman of the South Africa Olive Industry Association (SA Olive) claims that the cost of olive oil imports from the EU is lower than their production costs.²¹ SA Olive has petitioned the International Trade Commission of South Africa (ITCSA) to place a countervailing duty (or anti-subsidy duty) on the imports from the EU. SA Olive is confident that they will succeed in introducing countervailing duties; however, their initial application has expired due to outside circumstances. SA Olive has reapplied to ITCSA and hopes to see some work done on the petition shortly.²²

Conclusion

AOOPA would like to advise the U.S. negotiators to address these issues with the EC in the Transatlantic Trade and Investment Partnership negotiations. The notion that the U.S. consumer, who consumes olive oil that is 98 percent supplied by imports, should be governed by EC olive oil programs is outdated. These issues impede the domestic industry's development here in the U.S. AOOPA urges USTR to use this rare opportunity to help level the playing field in the olive oil industry.

²⁰ WTO Rules against Mexico in Olive Oil Dispute with EU, International Centre for Trade and Sustainable Development (September 10, 2008), available at <http://ictsd.org/i/news/bridgesweekly/29043/>.

²¹ Shannon Sherry, "Olive oil - Call for anti-subsidy duty," *Financial Mail*, August 29, 2013 available at <http://www.fm.co.za/fm/2012/08/29/olive-oil--call-for-anti-subsidy-duty>.

²² Newsletter, SA Olive Industry Association (January 2013), available at <http://www.saolive.co.za/wp-content/uploads/2013/02/SA-Olive-Newsletter-Jan2013.pdf>.

Olive Oil Tariff Description and Rates for the U.S. and the EU

General Tariff Description	United States		European Union	
Olive oil and its fractions, whether or not 1509.10 - refined, but not chemically modified: Virgin	1509.10.20 - weighing with the immediate container under 18 kg	\$0.05/kg on contents and container	1509.10.10 - Virgin lampante olive oil	\$1.57/kg net wt
	1509.10.40 - weighing over 18 kg	\$0.034/kg	1509.10.90 - Other than virgin lampante olive oil	\$1.59/kg net wt
Olive oil and its fractions, whether or not 1509.90 - refined, but not chemically modified: other than virgin	1509.90.20 - weighing with the immediate container under 18 kg	\$0.05/kg on contents and container	1509.90 - See General Description	\$1.72/kg net wt
	1509.90.40 - weighing over 18 kg	\$0.034/kg		
Other oils and their fractions, obtained solely from olives, whether or 1510.00 - not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509:	1510.00.20 - rendered unfit for use as food	Free	1510.00.10 - Crude oils	\$1.41/kg net wt
	1510.00.40 - fit for use as food, weighing with the immediate container under 18 kg	\$0.05/kg on contents and container	1510.00.90 - Other than crude oils	\$2.05/kg net wt
	1510.00.60 - fit for use as food, weighing over 18 kg	\$0.034/kg		

NOTE: European Tariff rate has been converted into dollars using the exchange rate of \$1 to €0.783.

Prepared by Schramm, Williams & Associates, Inc. using data from the U.S. International Trade Commission and the Official Journal of the European Communities, Commission Regulation (EC) No 1832/2002.