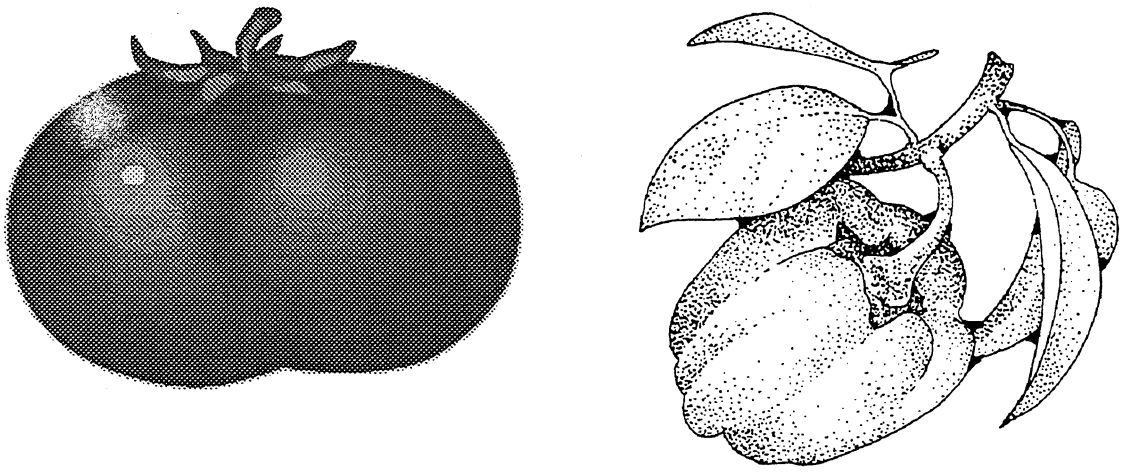
Fresh Tomatoes and Bell Peppers

Investigation No. TA-201-66

Publication 2985 **August 1996**

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

David B. Rohr, Chairman
Don E. Newquist
Carol T. Crawford
Janet A. Nuzum
Peter S. Watson
Lynn M. Bragg

Robert A. Rogowsky
Director of Operations

Staff assigned

Jonathan Seiger, Investigator
Timothy McCarty, Industry Analyst
Catherine DeFilippo, Economist
James Stewart, Accountant
Marshall Wade, Accountant
William Gearhart, Attorney

Vera Libeau, Supervisory Investigator

Address all communication to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436

Fresh Tomatoes and Bell Peppers

Publication 2985

August 1996

CONTENTS

CONTENTS

CONTENTS

Appendixes

Figures

CONTENTS

Page

Tables

CONTENTS

Page

Tables --Continued

Glossary of Abbreviations

CAADES	Confederacion de Asociaciones Agricolas del Estado de Sinaloa
CBT	Central Bureau for Fruit & Vegetable Auctions
Census	Bureau of the Census, U.S. Department of Commerce
C.I.F.	Cost, insurance, and freight
CNIF	Customs Net Import File
CNPH	Confederacion Nacional de Productores de Hortalizas
Commerce	U.S. Department of Commerce
Commission	U.S. International Trade Commission
ERS	Economic Research Service, U.S. Department of Agriculture
ESL	Extended-shelf-life
FAS	Foreign Agricultural Service, U.S. Department of Agriculture
F.O.B.	Free on board
FR	Federal Register
HTS	Harmonized Tariff Schedule of the United States
IMF	International Monetary Fund
LTFV	Less than fair value
NAFTA	North American Free Trade Agreement
PRWs	Production and related workers
Preliminary transcript	Transcript of the conference in Inv. No. 731-TA-747 (Preliminary)
Transcript	Transcript of the hearing on injury in Inv. No. TA-201-66
USDA	U.S. Department of Agriculture

Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report. Such deletions are indicated by asterisks.

PART I

DETERMINATION AND VIEWS OF THE COMMISSION

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. TA-201-66

FRESH TOMATOES AND BELL PEPPERS

Determination

On the basis of the information developed in the subject investigation, the Commission determines[1] [2] that fresh tomatoes and bell peppers, provided for in subheadings 0702.00.20, 0702.00.40, 0702.00.60, and 0709.60.40 of the Harmonized Tariff Schedule of the United States,[3] are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles.

Background

Following receipt of a petition filed on March 11, 1996, by the Florida Fruit & Vegetable Association, Orlando, FL, the Florida Bell Pepper Growers Exchange, Inc., Orlando, FL, the Florida Commissioner of Agriculture, Tallahassee, FL, the Ad Hoc Group of Florida Tomato Growers and Packers, and individual Florida bell pepper growers, the Commission, effective March 11, 1996, instituted investigation No. TA-201-66 under section 202 of the Trade Act of 1974 to determine whether fresh tomatoes and bell peppers are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles.

Notice of the institution of the Commission's investigation and of public hearings 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* of March 28, 1996 (61 F.R. 13875). The hearing in connection with the injury phase of the investigation was held in Washington, DC, on June 3, 1996, and all persons who requested the opportunity were permitted to appear in person or by counsel. The hearing on the remedy phase scheduled for August 1, 1996, was not held because the Commission made a negative injury determination and accordingly did not reach the question of remedy.

---

[1] Commissioner Bragg dissenting with regard to imports of fresh tomatoes and bell peppers other than (1) greenhouse tomatoes and bell peppers and (2) imports from Canada.

[2] Commissioner Nuzum not participating.

[3] The imported articles covered by this investigation are fresh or chilled tomatoes, including but not limited to the varieties known scientifically as *Lycopersicon esculentum, Lycopersicon cerasiforme,* and *Lycopersicon pyriforme*, but excluding tomatoes grown for processing. "Bell peppers," also called sweet peppers, are defined as fresh or chilled peppers belonging to the species *Capsicum annuum var. annuum,* but excluding chili and cayenne peppers and peppers grown for processing.

VIEWS OF CHAIRMAN DAVID B. ROHR AND COMMISSIONERS DON E. NEWQUIST, CAROL T. CRAWFORD, AND PETER S. WATSON

Introduction

On the basis of the information before us in this investigation, we have determined[1] that fresh tomatoes and bell peppers are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic industries producing fresh tomatoes and bell peppers. More specifically, we have determined that, even though imports of fresh tomatoes and bell peppers have increased, the domestic fresh tomato and bell pepper industries are not seriously injured or threatened with serious injury. Accordingly, we have made a negative determination.

In an investigation under section 202 of the Trade Act of 1974, the Commission must find that three criteria are satisfied: (1) imports of the subject article are in *increased quantities*; (2) the domestic industry is *seriously injured or threatened with serious injury*; and (3) such increased imports are a *substantial cause* of the serious injury or threat of serious injury.

Our negative determination in this investigation should not be read to suggest what our determination will be in a final antidumping investigation, should Commerce find that imports of tomatoes from Mexico are being sold at less than fair value under Title VII of the Tariff Act of 1930.[2] Our determination in any final antidumping investigation will depend on the evidence in the record of that investigation at the time that we make our determination.

Domestic industry

A. Introduction

Before considering whether the statutory criteria are satisfied, we must first define what constitutes the domestic industry. The parties appear to agree that there are separate national domestic industries producing fresh tomatoes and fresh bell peppers.[3] They sharply disagree, however, on several issues, including whether domestic mature green tomatoes are like or directly competitive with imported vine ripe tomatoes, and whether domestic field grown tomatoes and bell peppers are like or directly competitive with

---

[1] Commissioner Nuzum recused herself from participating in this determination in order to dispel any potential for controversy arising out of a prior employment relationship.

[2] The Commission made an affirmative determination in May 1996 in a preliminary antidumping investigation (investigation No. 731-TA-747 (Preliminary), *Fresh Tomatoes from Mexico).*

[3] The petition covers in the alternative (1) all imports and (2) imports during the October-May period. Petitioner asked that the Commission examine injury to fresh tomatoes and bell peppers during the winter season if the Commission does not make an affirmative determination with respect to the national fresh tomato and bell pepper industries. *See* petitioner's prehearing brief at 15-16. In Exhibit M to its prehearing brief, petitioner notes that a majority of the Commission rejected the seasonal industry arguments presented during the provisional relief phase of investigation No. TA-201-64, *Fresh Winter Tomatoes*, in April 1995. Other than to assert, however, that the seasonal industry issue was not adequately addressed in that investigation and state that there are "ample reasons" for the Commission to reconsider its decision, petitioner does not attempt to explain why the Commission may have been in error in its interpretation of the statute in that determination or how the Commission might read the statute to allow it to find a seasonal industry. Because the petition here covers all imports, we decline to find a seasonal industry in this investigation.

imported greenhouse tomatoes and bell peppers. A second industry-related issue is whether packers are part of the industry.[4]

The Commission is required to determine whether increased imports of an article are a substantial cause of serious injury or the threat thereof "to the domestic industry producing an article that is like or directly competitive with the imported article."[5] Section 202(c)(6)(A)(i) defines the term domestic industry to mean:

> with respect to an article, the producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article.[6]

The term "like or directly competitive" is defined in the legislative history of the original 1974 Act. "Like" articles are those which are "substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.)," and "directly competitive" articles are those which, "although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor."[7]

In past cases, most recently in the provisional relief phase of investigation No. TA-201-64, *Fresh Winter Tomatoes*, the Commission has stated that the domestic industry or industries is not necessarily coterminous in scope with the imported articles--there may be more than one industry, and/or the industry or industries may encompass a broader or narrower array of products than that identified in the notice of investigation.[8] In determining whether there are one or more domestic industries corresponding to producers of a like or directly competitive product, the Commission traditionally has followed a "product-line" approach, taking into account such factors as the physical properties of the article, customs treatment, where

---

[4] A possible third industry-related issue concerns whether growers of tomatoes for processing and/or tomato processors should be considered as part of the industry. None of the interested parties argued that growers for processing or processors should be included in the industry. Moreover, in the Commission's 1995 investigation, which included tomatoes for processing as well tomatoes for fresh market use, the evidence before the Commission indicated that tomatoes grown for processing were distinguishable from tomatoes grown for the fresh market in several respects--they had certain physical properties that made them more suitable for processing, they were generally grown under contract to processors, and they were harvested mechanically and thus were not suitable for sale in the fresh market. In addition, virtually no tomatoes grown for the fresh market were shipped to processors. *See* Views of Chairman Watson and Commissioners Crawford and Bragg, and Separate Views of Commissioners Rohr and Newquist, in *Fresh Winter Tomatoes*, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at I-13-14, 25. Thus, we do not find tomatoes grown for processing or tomato processors to be part of the domestic industry.

[5] Section 202(b)(1)(A) of the Trade Act of 1974.

[6] Section 202(c)(6)(A)(i). The language "or those producers whose collective production of the like or directly competitive article constitutes *a major proportion* of the total. . ." (emphasis added) codifies the expectation that the Commission, as a practical matter, will not always obtain 100 percent participation in its fact gathering process.

[7] H.R. Rep. No. 571, 93d Cong., 1st Sess. 45 (1973); S. Rep. No. 1298, 93d Cong., 2d Sess., at 121-122 (1974).

[8] Views of Chairman Watson and Commissioners Crawford and Bragg in *Fresh Winter Tomatoes*, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at I-7.

and how it is made (e.g., in a separate facility), uses, and marketing channels.[9] The Commission traditionally has looked for clear dividing lines among possible products, and has disregarded minor variations.[10]

The Commission's analysis in the 1995 *Tomatoes* case is the most instructive of prior Commission cases, because it involved similar subject matter and issues.[11] In the 1995 *Tomatoes* case, the Commission found two industries producing articles like or directly competitive with the imported articles, an industry producing tomatoes for the fresh market, and an industry producing tomatoes grown for processing. The Commission found that the available information shows that there are no significant differences between the imports and the corresponding domestic products, i.e., that a mature green round tomato imported from Mexico is substantially identical in physical characteristics with a mature green round tomato produced in the United States, and that the same was true with regard to vine-ripe tomatoes imported from Mexico and vine-ripe tomatoes produced in the United States.[12] Even though imports of cherry tomatoes were not part of the scope of investigation, the Commission concluded that domestically produced cherry tomatoes were part of the same industry producing round tomatoes for fresh-market use--the Commission found that such tomatoes are grown by the same group of producers under similar production methods and that there is substitutability between cherry and round tomatoes.[13] The Commission also included greenhouse tomatoes in the industry, even though they are produced by different firms than those that produce field-grown tomatoes, because greenhouse tomatoes are otherwise physically identical to field-ground round tomatoes.[14] The Commission, however, found processing tomatoes to be distinguishable from those grown for the fresh market, noting fundamental differences between the two in the genetic properties of the tomato itself and differences in harvesting techniques, marketing, and uses.[15]

Of more limited instruction, because the determination was made under a different statutory provision, is the Commission's May 1996 determination in investigation No. 731-TA-747 (Preliminary), *Fresh Tomatoes from Mexico*. The parties involved and the information in the record of that investigation are largely the same as in the present investigation. In that investigation the Commission found a single domestic like product consisting of all fresh market tomatoes, including mature green and vine ripe tomatoes. The Commission concluded that the record does not demonstrate a clear dividing line between mature green and vine ripe tomatoes. The Commission noted that vine ripe and mature green tomatoes are interchangeable in many applications, are sold in the same channels of distribution, show no consistent price differential at the first sale level, and are produced through very similar processes, sometimes on the same plants. The Commission concluded that these similarities outweigh any real or perceived differences in taste, to the extent

---

[9] *See* Views of Chairman Watson and Commissioners Crawford and Bragg in *Fresh Winter Tomatoes*, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at I-7. *See also* Views of Vice Chairman Nuzum and Commissioners Rohr, Newquist, and Bragg in *Broom Corn Brooms*, Inv. No. NAFTA-302-1 (Provisional Relief Phase), USITC Pub. 2963 (May 1996) at I-14.

[10] *See, e.g., Stainless Steel Table Flatware*, Inv. No. TA-201-49, USITC Pub. 1536 (June 1984) at 3-4.

[11] The scope of the investigation and the arguments of the parties, however, were different in several respects. For example, the scope of the investigation included both fresh-market tomatoes and tomatoes grown for processing, but it did not include cherry tomatoes or bell peppers. Also, the petitioner in that case sought to limit the industry to facilities growing tomatoes during the period January-April.

[12] Views of Chairman Watson and Commissioners Crawford and Bragg in *Fresh Winter Tomatoes*, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at I-9.

[13] Id. at I-13.

[14] Id.

[15] Id. at I-14.

any such differences may exist.[16] Based on the differences in appearance and end uses, channels of distribution, production, methodology, and price and on very limited interchangeability, and in the absence of any party arguments to the contrary, the Commission also concluded that the domestic like product does not include processing tomatoes.[17]

B. Fresh tomato industry

For reasons set forth below, we find that domestic fresh tomatoes, including round, Roma, and cherry tomatoes, whether mature greens or vine ripened, or whether field or greenhouse grown, are like or directly competitive with the imported tomatoes.

All tomatoes, whether imported or domestically produced, are members of the Nightshade family.[18] Domestic growers produce all of the types of tomatoes consumed in the United States.

Vine-ripe tomatoes vs. mature green tomatoes. The principal differences between vine-ripe and mature green tomatoes are alleged differences in taste, appearance, firmness, and shelf-life. The evidence with respect to differences in taste was conflicting, with domestic and Mexican growers each arguing that their tomatoes are superior in taste.[19] Handling and storage temperature, however, appear to be the most important factors affecting the taste of a tomato once it reaches the retail consumer. At the hearing it was asserted that supermarkets traditionally chill their fresh vegetables to 40 degrees, which diminishes the taste quality of a tomato.[20] Research indicates that when tomatoes are chilled to 50 degrees or less, compounds that contribute to tomato flavor are destroyed.[21] This is true whether the tomato was vine-ripe or a mature-green at the time of harvest.

Another difference between vine-ripe tomatoes and mature green tomatoes is the color of the tomato at the time of harvest. Domestic growers are more likely to pick their tomatoes a few days earlier than Mexican growers[22] when they are fully mature but still green, and utilize a degreening process that speeds up the ripening process.[23] The evidence indicates, however, that a mature green tomato is the same color as a vine-ripened tomato when it reaches the retail market.[24]

The mature green tomatoes produced by domestic growers appear to have a better reputation for firmness, which facilitates slicing, and to be preferred by food service customers over Mexican vine-ripe tomatoes.[25] The new ESL vine-ripe varieties now widely grown in Mexico, however, are claimed to be similarly firm.[26] It is unclear whether the continuing preference in the food sector for mature greens is due to perceived qualitative differences, availability, a continuation of long-term buying practices, price, or other factors. Finally, although there is evidence that Mexican producers grow different varieties of tomatoes than

---

[16] Views of the Commission in *Fresh Tomatoes from Mexico*, Inv. No. 731-TA-747 (Preliminary), USITC Pub. 2967 (May 1996) at 11.

[17] Id. at 13.

[18] Report at II-5.

[19] Transcript at 46 (Esformes), 51 (DiMare), 186 (Serra).

[20] Transcript at 57 (DiMare).

[21] Transcript at 56 (DiMare).

[22] Petitioner's prehearing brief at 9.

[23] Report at II-6; petitioner's prehearing brief at 9-10.

[24] Transcript at 38 (Esformes).

[25] Transcript at 44 (Esformes).

[26] Transcript at 166 (Gatzionis).

domestic growers,[27] all are members of the Nightshade family, and there is no clear evidence that these varieties are significantly different from domestic varieties in a commercial sense, including taste, appearance, firmness, or shelf-life.

In summary, the evidence of differences between domestic mature green and imported vine-ripe tomatoes does not provide a sufficient basis for concluding that domestic mature greens are not like or directly competitive with imported vine-ripe tomatoes.

Greenhouse tomatoes. We also conclude that domestic fresh tomatoes are like or directly competitive with imported greenhouse tomatoes. While the growing techniques for greenhouse tomatoes differ from those used for field-grown tomatoes, the varieties grown in greenhouses are similar to those grown in fields.[28] Because of the carefully controlled greenhouse environment, special packing, and expedited handling (Dutch tomatoes, for example, are airfreighted to the U.S. market), greenhouse tomatoes are likely to be superior in freshness, taste, and appearance to most other tomatoes sold in the market,[29] and this is reflected in their price. Greenhouse tomatoes, however, are generally displayed side-by-side with field-grown mature green, cherry, or Roma tomatoes.[30] Thus, greenhouse tomatoes are, in essence, no more than a higher priced version of field-grown tomatoes.

Packers. The relationship of domestic packers of tomatoes to growers varies. Some packers pack and sell for unrelated growers and charge a packing fee, and some pack for related growers and retain an interest in the price received by growers. Several packers are petitioners in this investigation. In its prehearing brief, petitioner stated that the answer to the question of whether to include them in the industry "is not clear cut, because the relationship between growers and packers varies."[31] CAADES in its prehearing brief did not contest the inclusion of packers.[32]

In previous section 201 investigations, the Commission has employed an approach similar to that followed in Title VII investigations with respect to whether growers should be included as part of the industry producing a processed product. In Title VII investigations the Commission has employed a two-part test: (1) whether there is a continuous line of production from the raw to processed product, and (2) whether there is a substantial coincidence of economic interest between the growers and the processors.[33] [34]

---

[27] *See, e.g.*, CAADES prehearing brief at 11.

[28] For example, Dutch growers of greenhouse tomatoes grow the round, beefsteak, and cherry tomatoes that U.S. producers also grow. Prehearing brief of Central Bureau for Fruit and Vegetable Auctions in the Netherlands, at 4.

[29] *See, e.g.*, posthearing brief of the Canadian Horticultural Council et al., at 4-5; prehearing brief of the Central Bureau for Fruit and Vegetable Auctions in the Netherlands, at 6; and posthearing brief of Eco-Cultivos, at 2.

[30] Posthearing brief of the Canadian Horticultural Council et al. at 6-7. *See also* posthearing brief of Eco-Cultivos at 11.

[31] Petitioner's prehearing brief at 12.

[32] A statement at p. 9 of the CAADES prehearing brief, "The U.S. bell pepper industry is *also* a national industry of growers and packers . . . ." (emphasis added) suggests that CAADES viewed packers of fresh tomatoes as part of the U.S. fresh tomato industry.

[33] *See, e.g., Tart Cherry Juice*, USITC Pub. 2378 at 12-15; and *Pork*, USITC Pub. 2218 at 4-10.

[34] For example, in *Certain Canned Tuna Fish,* Inv. No. TA-201-53, the Commission found that the appropriate industry included the boats and the fisherman involved in the catching of tuna and the processing facilities and workers employed in the canning of tuna, noting that U.S.-based boats sell virtually all of their catch to domestic processors, and that domestic processors own or have a financial interest in about 70 of the 125 boats in the domestic tuna fleet. Views of Commissioners Eckes, Lodwick, and Rohr in *Certain Canned Tuna Fish*, Inv. No. TA-201-53, USITC Pub. 1558 (August 1984) at 7.

In this case the facts and reasons for including packers are the same as in the recent antidumping case on fresh tomatoes from Mexico referenced in footnote 2, above. There is a single line of continuous production involving both growers and packers. Virtually all commercially grown fresh market tomatoes are washed, sorted, graded, and packed prior to the first sale. Mexican fresh market tomatoes are imported packed, and thus competition in the marketplace is among packed tomatoes. There is some coincidence of economic interest between growers and packers--some growers own their own packing operations, and some packers also grow or finance or engage in crop sharing programs with growers.[35] Other packers pack at a set charge per carton.[36] It is the practice within the industry, however, for packers to forego any portion of their packing charges that exceeds the price they are able to obtain for a grower's tomatoes.[37] Packers are also affected when tomato prices fall below the cost of picking and packing the tomatoes and tomatoes are left unharvested in the field. Thus, when prices fall below a given level, even packers without grower interests suffer.

In view of the above, we have included tomato packers as part of the domestic industry producing fresh tomatoes.

C. Bell Peppers

Petitioner asserts that there is no practical difference between the imported and domestic fresh bell peppers, and that they compete directly with each other. Accordingly, petitioner argues that there is a single domestic like product, which includes all fresh bell peppers, other than chili peppers and cayenne.[38] Unlike in the case of fresh tomatoes, CAADES did not attempt to draw a distinction between U.S. and Mexican fresh bell peppers or assert that U.S. and Mexican fresh bell peppers were not like or directly competitive with each other.[39] Dutch and Canadian growers of greenhouse fresh bell peppers, however, as in the case of greenhouse fresh tomatoes, sought to distinguish their products and argued that domestic fresh bell peppers are not like or directly competitive with the fresh bell peppers that they export to the United States.[40] Canadian growers claim that greenhouse peppers have thicker walls and stems, a better appearance, and a longer shelf life than field grown products.[41]

As in the case of fresh tomatoes, we see no basis for concluding that domestic fresh bell peppers are not like or directly competitive with imported greenhouse bell peppers. While the growing techniques for greenhouse bell peppers differ from those used for field-grown bell peppers, the varieties grown in greenhouses are similar to those grown in fields and they are used for the same purpose. Because of the carefully controlled greenhouse environment, special packing, and expedited handling, greenhouse bell peppers are likely to be superior in freshness, taste, and appearance to most other bell peppers sold in the

---

[35] Report at II-9. *See also* transcript at 50 (DiMare).

[36] Report at II-9.

[37] Petitioner's Request for Leave, Grant affidavit, para. 5, in the record of *Fresh Tomatoes from Mexico*, Inv. No. 731-TA-747 (Preliminary).

[38] Prehearing brief of petitioner at 12.

[39] *See* prehearing brief of CAADES at 9.

[40] *See* prehearing brief of the Central Bureau for Fruit and Vegetable Auctions of the Netherlands at 4-9, and posthearing brief of the Canadian Horticultural Council et al., at 4-9.

[41] Posthearing brief of the Canadian Horticultural Council, et al., at 4-5.

market, and this is reflected in their price. Greenhouse bell peppers are, however, in essence, no more than a high priced version of field-grown bell peppers.[42]

As in the case of tomato packers, petitioner stated that the answer to the question of whether to include packers of bell peppers in the industry is not clear cut. Some packers have a direct economic interest in the sale of the bell peppers that they pack, but others sell the product of unrelated growers and charge them a packing and selling fee.[43] CAADES in its prehearing brief referred to the U.S. fresh bell pepper industry as a "national industry of growers and packers."[44] In Florida, fresh peppers are sometimes packed in the growers' own sheds or field packed, using mobile packing sheds, and then moved to a storage facility for precooling and storage prior to shipment.[45] Following the analysis set forth above with regard to packers of fresh tomatoes, we include packers in the domestic industry producing fresh bell peppers.

Increased imports

Under section 202 of the Trade Act, imports have increased when the increase is "either actual or relative to domestic production."[46] In investigations under section 202, the Commission traditionally has considered import trends over the most recent 5-year period, but has considered longer and shorter periods when it found it appropriate to do so. There is no minimal amount that imports must have increased.

Imports of fresh tomatoes increased during the period 1991-95, from 795 million pounds in 1991 to 1.4 million pounds in 1995.[47] The increase, however, has been irregular, with imports falling to 432 million pounds in 1992, then rising to 922 million pounds in 1993, and then falling to 873 million pounds in 1994 before rising to the record 1995 level.[48] The ratio of imports of fresh tomatoes to U.S. production of fresh tomatoes (in quantity) followed a similar trend, rising irregularly from 23.5 percent in 1991 to 41.7 percent in 1995.[49]

Imports of fresh bell peppers also increased during the period 1991-95, from 217 million pounds in 1991 to 315 million pounds in 1995.[50] As in the case of fresh tomatoes, the increase has been irregular, with imports falling to 195 million pounds in 1992, rising to 269 million pounds in 1993, falling to 261 million

---

[42] Commission data do not differentiate between bell peppers sold in the fresh market and to processors. Based on telephone interviews with processors of bell peppers, however, Commission staff estimates that the percent sold to processors is small, probably 10 percent or less. Processors said that they buy what they believe are the same bell peppers as are sold in the fresh market, but said that they prefer bell peppers harvested later in time, when the peppers have turned from green to pink or red. Processors also said that they generally contract ahead with growers, but will buy in the fresh market through brokers when prices are low enough to make such purchases profitable. No party in the course of the investigation addressed the issue of whether growers who sell to processors are part of the industry or constitute a separate industry. In view of the above, we conclude that domestic bell peppers grown for the processing market are like or directly competitive with imported fresh bell peppers and that farms that grow bell peppers for processing are part of the relevant domestic industry.

[43] Prehearing brief of petitioner at 12.

[44] Prehearing brief of CAADES at 9.

[45] Report at II-9.

[46] Section 202(c)(1)(C).

[47] Report, table 3, at II-15.

[48] Id.

[49] Report, table 5, at II-17.

[50] Report, table 4, at II-16.

pounds in 1994, and then rising to a record level of 315 million pounds in 1995.[51] The ratio of imports of fresh bell peppers to U.S. production of fresh bell peppers (in quantity) followed a similar trend, rising irregularly from 20.6 percent in 1991 to 28.1 percent in 1995.[52]

Thus, imports of fresh tomatoes and fresh bell peppers are being imported in increased quantities both in actual terms and relative to domestic production.

No serious injury or threat of serious injury

A. Introduction

The terms "serious injury" and "threat" of serious injury are defined in section 202(c)(6) of the Trade Act. "Serious injury" is defined as "a significant overall impairment in the position of a domestic industry".[53] Threat of serious injury is defined as "serious injury that is clearly imminent".[54]

The statute also sets forth economic factors that the Commission is to consider in determining whether serious injury or threat exists. Section 202(c)(1) provides that the Commission is to consider "all economic factors which it considers relevant, including (but not limited to)" the following--

> (A) with respect to serious injury--
>
> (i) the significant idling of productive facilities in the domestic industry,
>
> (ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and
>
> (iii) significant unemployment or underemployment within the domestic industry;
>
> (B) with respect to threat of serious injury--
>
> (i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry,
>
> (ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,
>
> (iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.

The statute further provides that the term "significant idling of productive facilities" includes the closing of plants or the underutilization of production capacity.[55] Also, the Commission is not to regard the presence or absence of any of the factors that it is required to evaluate as being "necessarily dispositive".[56]

---

[51] Id.

[52] Report, table 6, at II-17.

[53] Section 202(c)(6)(C).

[54] Section 202(c)(6)(D).

[55] Section 202(c)(6)(B).

[56] Section 202(c)(3).

For the reasons set forth below, we find that neither the fresh tomato industry nor the fresh bell pepper industry is seriously injured or threatened with serious injury.

B. Fresh tomato industry

The Commission sent questionnaires to 666 growers of tomatoes and/or bell peppers, and sent an additional 94 questionnaires to packers of tomatoes and bell peppers. The questionnaires requested financial, shipment, employment, pricing, and other data. The Commission received usable data from 163 growers and 33 packers representing an estimated 57 percent of 1995 U.S. harvested production of fresh tomatoes and an estimated 36 percent of packed production of 1995 U.S.-grown fresh tomatoes.[57] The Commission also utilized USDA data when such data were available.

We do not find that data relating to utilization of production facilities (in the case of an agricultural industry, acreage planted and harvested, production and shipments) provide a basis for concluding that there is a significant idling of production facilities in the domestic industry. U.S. acreage planted and harvested in tomatoes remained relatively constant during the period 1991-95. According to official statistics of the USDA, acreage planted in 1995, at 135,910 acres, was slightly higher than the acreage planted in 1991, at 135,440 acres, although the 1995 levels represented a slight decline from 1992-94 levels.[58] The percentage of acreage harvested during the period similarly remained virtually unchanged, ranging from a low of 96.4 percent in 1992 to a high of 97.3 percent in 1993.[59] In 1995, 96.9 percent of acreage planted was harvested.[60] Production has also remained relatively stable, rising in some years and falling in others, but showing no discernible trend. According to USDA statistics, production totaled 3.4 billion pounds in 1991, rose to 3.9 billion pounds in 1992, then fell to 3.6 billion pounds in 1993, rose to 3.7 billion pounds in 1994, and then fell again to 3.3 billion pounds in 1995.[61] Shipment data furnished by domestic growers in response to Commission questionnaires, which are less comprehensive than USDA official production statistics, show a significant increase in U.S. grower shipments during the period 1991-95, from 1.2 billion pounds to 1.6 billion pounds, or 30 percent.[62] The value of shipments also increased during the period, although the unit value of shipments declined.[63]

Similarly, data relating to employment show no evidence of significant unemployment or underemployment in the industry. Employment, hours worked, total compensation, and hourly wages either trended upward or were virtually unchanged during the period 1991-95, both for growers and for packers. Employment levels for both growers and packers were at their highest levels of the period in 1995. The average number of contract workers employed in grower establishments rose from 14,394 persons in 1991 to 18,867 in 1995.[64] Similarly, the average number of salaried workers employed in grower establishments rose

---

[57] Report at II-4. The Commission requested and received full fiscal-year (crop-year) data for 1991-95 and part-year data through February 1996. While the part-year pricing data were useful, we did not give much weight to part-year financial and other information because such data for some growers and packers reflected off-season activity and for others may have disproportionately reflected early season planting and other costs.

[58] Report, table 7, at II-18. The data in table 7 are compiled from official statistics of USDA.

[59] Id.

[60] Id.

[61] Id.

[62] Report, table 9, at II-20.

[63] Id.

[64] Report, table 11, at II-22.

from 8,685 in 1991 to 11,423 in 1995, also the highest level for the period.[65] The total number of hours worked by salaried workers in grower establishments rose from 4.2 million hours in 1991 to 5.0 million hours in 1995, the second highest level during the period (the 1995 level was 4 percent below the 1994 level; comparable data were not available for contract workers).[66] The average number of workers employed in packer establishments rose from 4,545 in 1991 to 4,763 in 1995, the highest level for the period.[67] Hours worked in packer establishments showed virtually no change between 1991 and 1995, at 3,422,000 hours in 1991 and 3,414,000 hours in 1995, although the 1995 level represented a small decline from 1992-94 levels.[68]

The Commission received usable financial data from 149 growers and 19 packers representing an estimated 51.1 percent and 31.3 percent, respectively, of 1995 U.S. fresh tomato production.[69] Although the Commission received the greatest number of usable responses from California growers and packers, the data totals are relatively more reflective of Florida conditions because the responses received from Florida included a much higher percentage of large growers and packers.[70]

Financial data received by the Commission from domestic growers for the period 1991-95 are, on the whole, inconclusive. While the data show that a significant number of growers operated at a loss throughout the period, they also show that domestic sales (in quantity) rose and that the dollar volume of sales was relatively stable during the period. The data show that the industry was least profitable in the 2 years (1994 and 1995) when domestic sales were at their highest (in quantity). Also, changes in the number of growers reporting losses do not correlate with overall grower financial performance. The percentage of firms reporting losses was highest in 1992, when overall industry profits were highest. Data reported by packers, on the other hand, show that packers, on an overall basis, operated at a profit in all 5 years.

Total sales reported by growers who responded to the Commission's questionnaire rose irregularly from 878 million pounds in 1991 to 1.3 billion pounds in 1995.[71] Total fresh tomato sales reported by growers rose from $210 million in 1991 to $237 million in 1995, but were higher in 1992-1994 and peaked at $279 million in 1993.[72] Reporting growers operated at a profit that averaged 13.8 percent in 1991-1993, but reported losses of 3.0 percent and 9.6 percent in 1994 and 1995.[73] Fifty of 112 reporting firms (45 percent) claimed to have operated at a loss in 1995, as compared with 49 of 104 reporting firms (47 percent) for 1994.[74] Fifty-one of 88 firms (58 percent), however, that reported financial data for 1992 claimed to have operated at a loss that year, when the reporting firms showed an overall net income of 16.4 percent.[75] Thus, a significant number of growers reported losses in good years as well as bad years.

---

[65] Id.

[66] Id.

[67] Report, table 12, at II-23.

[68] Id.

[69] Report at II-24.

[70] Of the 149 growers, 86 were located in California, 54 in Florida, 2 each in Tennessee and Virginia, and 1 each in Georgia, Maryland, North Carolina, Pennsylvania, and South Carolina. Of the 19 packers, 14 are located in Florida, 4 in California, and 1 in Maryland. Report at II-24.

[71] Report, table 13, at II-25.

[72] Id.

[73] Id.

[74] Id.

[75] Id.

Packers as a whole operated at a profit each year on their tomato packing operations. Net income for the reporting period was highest in 1994 at $18,257,000,[76] one of the 2 years in which reporting growers operated at an overall loss. The ratio of net income to sales also peaked in 1994 at 16.7 percent.[77] In 1995, net income for packers on tomato packing operations fell to $9,724,000 and a ratio to sales of 9.8 percent.[78] Net income and the ratio of net income to sales were both higher in 1995 than in 1991.[79] Between two and four of the 19 reporting firms showed net losses in the years 1991-95, with three showing a loss in 1995.[80]

Pricing data also show no discernible trend. As in the case of most perishable agricultural products, prices move depending on supply and demand. Prices are higher in the winter months when supply is relatively low, and lower in the summer months when supplies are plentiful. Prices can change significantly from week to week, particularly in the winter months, because of the weather. Cool, rainy weather or a frost in a major growing area reduces supply and drives up prices, and a hot, sunny week accelerates development of the crop and leads to an increase in supply that may depress prices.

The Commission requested monthly pricing data from U.S. growers and packers of fresh tomatoes for selected tomato products. The data showed sharp changes in prices for specific products from month to month and between years for a given month. For example, for mature green tomatoes, 85 percent U.S. #1 or better, large size, questionnaire respondents reported net f.o.b. selling prices of $0.35 per pound in January 1993, $0.47 per pound in January 1994, $0.40 per pound in January 1995, and $0.19 per pound in January 1996.[81] The quantity of tomatoes sold by the reporting firms in January 1996, when prices were the lowest of the four January months, was significantly higher than in any of the three previous January months.[82] The reverse was true for the same product for February of each of the same four years. Questionnaire respondents reported per pound selling prices of $0.21, $0.20, $0.29, and $0.30 for February 1993, 1994, 1995, and 1996; February 1996 sales were the lowest of the four February months.[83]

Data relating to the other economic factors that we consider in determining whether an industry is seriously injured or threatened with serious injury show no discernible trend. Capital expenditures reported by domestic growers, while down in 1995 from the 1994 level, were higher in 1995 than in 1991, 1992, or 1993.[84] Capital expenditures by packers trended upward during 1991-1994, but also declined in 1995.[85] Employee productivity levels reported by packers were higher in 1995 than in 1991 but lower than in 1992-1994.[86] Meaningful inventory data do not exist because of the perishability of fresh tomatoes.

We also looked at production trends in Mexico, which in 1995 accounted for over 95 percent by volume of U.S. imports of fresh tomatoes.[87] According to USDA data, Mexican acreage planted and harvested has been relatively stable during the last several years. Acreage planted and harvested in 1995 was

---

[76] Report, table 15, at II-28.

[77] Id.

[78] Id.

[79] Id.

[80] Id.

[81] Report, table 25, at II-44-45.

[82] Id.

[83] Id.

[84] Report, table 13, at II-25.

[85] Report, table 15, at II-28.

[86] Report, table 12, at II-23. Comparable data for persons employed in grower establishments were not available.

[87] Report, table 3, at II-15.

below 1992 and 1994 levels and only marginally above 1993 levels.[88] Mexican production also has not shown a discernible trend. Production in 1995 was about 7 percent below the 1994 level and above the 1991, 1992, and 1993 levels, but not by significant amounts.[89] Fresh tomato production in Mexico in crop year 1995/96 was forecast to be ***, with exports to the United States also expected to be ***.[90] There were no allegations made that imports are being diverted to the U.S. market because of import restrictions imposed by third countries.

In summary, there is evidence that a significant number of growers face economic difficulties. Acreage planted and harvested, however, are steady; production is steady or rising; industry employment has risen; prices, while varying with the weather and supply and demand, show no discernible trend; and there is no evidence that Mexico, the chief supplier of imported tomatoes, is about to expand tomato acreage, production, or exports to the U.S. market. We conclude that this evidence, in the aggregate, does not provide a basis for us to find that growers and packers of fresh tomatoes are seriously injured or threatened with serious injury.

C. Bell pepper industry

As in the case of tomatoes, the Commission sent questionnaires to growers and packers of bell peppers. It received usable responses from growers and packers accounting for an estimated 27 percent and 10 percent of U.S. production, respectively,[91] and most of the responding growers and packers are located in Florida.[92] Neither the data compiled from these responses nor the information obtained from other credible sources, however, supports a finding that bell pepper growers and packers are seriously injured or threatened with serious injury.

According to official statistics of USDA, acreage planted in bell peppers, acreage harvested, and production all held steady in recent years. Acreage planted, harvested, and production were all higher in 1995 than in 1991, although 1995 levels were marginally lower than 1992-94 levels.[93] Shipment data furnished by growers in questionnaire responses show an increase in shipments, in quantity, of more than 50 percent during the period 1991-95, and an increase in shipments, in value, of more than 60 percent during the period.[94] Shipments reported by packers in their questionnaire responses increased irregularly during the period and were at their highest level, in terms of both quantity and value, in 1995.[95] Thus, the available evidence does not provide a basis for concluding that there is a significant idling of production facilities in the industry.

Employment reported by grower establishments in questionnaire responses increased each year during 1991-94, but declined in 1995.[96] Total employment reported by grower respondents for 1995, however, still exceeded the 1993 level.[97] Total hours worked by salaried employees in grower establishments

---

[88] Report, table 17, at II-31.

[89] Id.

[90] Report at II-30.

[91] Report at II-4.

[92] Report at II-24.

[93] Report, table 8, at II-19.

[94] Report, table 9, at II-20.

[95] Report, table 10, at II-21.

[96] Report, table 11, at II-22.

[97] Id.

(similar data were not available for contract workers) were at their highest level in 1995.[98] Total compensation paid and hourly wages paid by responding grower establishments all rose during the period.[99] Employment in packing establishments and total compensation paid by packers rose during the period and were at their highest levels in 1995.[100] Total hours worked in packer establishments and hourly compensation paid by those establishments also trended upward during the period.[101] Thus, the limited data available on employment do not show evidence of significant unemployment or underemployment in the industry.

The Commission received usable financial data from only 25 grower establishments accounting for an estimated 18.5 percent of domestic production.[102] On an overall basis, the responding grower establishments operated at a loss on their bell pepper operations during 3 of the last 5 years, including during 1993-95.[103] The overall loss was highest in 1994, which was also the year in which domestic fresh bell pepper sales (in quantity) was the highest for the period.[104] Sales as measured in quantity of bell peppers sold were lower in 1995 than in 1994, but sales as measured in dollars increased.[105] Accordingly, the overall loss reported in 1995 was less than a third of the loss reported in 1994.[106] A significant number of responding firms operated at a loss in each of the years surveyed, including 1991 and 1992, the 2 years in which reporting firms operated at a profit on an overall basis.[107] The number of firms reporting losses was highest in 1994, when 16 of 23 responding firms reported losses. The number dropped to 7 out of 23 in 1995, which was the same number as in 1993.[108]

The Commission received usable financial data from five packers for 3 of the survey years, and six packers for 2 of the survey years (1992-93).[109] Responding packer establishments operated at a profit on their pepper packing operations in all of the surveyed years, except 1995, when they showed an aggregate net loss of $186,000.[110] Three of the five reporting packers reported net losses in 1995, as compared to one in each of 1992, 1993, and 1994.[111]

We also examined monthly price data for domestic bell peppers for the most recent 3 years, including early 1996. As in the case of tomatoes, prices tend to be high in the winter months and lower in the summer months when supply is more plentiful and weather conditions are better. As with tomatoes, prices for bell peppers fluctuated widely during the period, but showed no discernible trend. For example, in the case of green bell peppers, extra large size, the January price for such peppers was $0.28 per pound in 1993, $0.34

---

[98] Id.

[99] Id.

[100] Report, table 12, at II-23.

[101] Id.

[102] Report at II-24.

[103] Report, table 14, at II-27.

[104] Id.

[105] Id.

[106] Id.

[107] Id.

[108] Id.

[109] Report, table 16, at II-29.

[110] Id.

[111] Id.

per pound in 1994, $0.50 per pound in 1995, and $0.28 per pound in 1996.[112] The February price for such peppers was $0.39 per pound in 1993, $0.27 per pound in 1994, $0.68 per pound in 1995, and $0.43 per pound in 1996.[113] Prices tended to change inversely with sales: prices tended to be higher in years when sales volume was low, and lower when sales volume was high,[114] thus reflecting supply and demand in the overall marketplace.

Data relating to other economic factors also show no discernible trend. Capital expenditures reported by domestic grower and packer establishments trended upward through 1994, but declined in 1995.[115] Productivity levels have fluctuated from year to year, but show no discernible trend.[116] Meaningful inventory data do not exist because of the perishability of bell peppers.

We also looked at production trends in Mexico, which in 1995 accounted for over 81 percent of the volume of U.S. imports of fresh bell peppers.[117] According to data furnished by the Mexican grower association CAADES, Mexican acreage planted has declined since 1991.[118] Like U.S. production, Mexican production has fluctuated from year to year. Mexican production increased irregularly during 1991-1995, but ***.[119] Mexican exports to the United States, which have also fluctuated from year to year but trended upward during 1991-1995, were ***.[120] There were no allegations made that imports are being diverted to the U.S. market because of import restrictions imposed by third countries.

In summary, as in the case of the tomato industry, there is evidence that a significant number of growers face economic difficulties. Acreage planted and harvested, however, are steady; production is steady or rising; industry employment has risen; prices, while varying with the weather and supply and demand, show no discernible trend; and there is no evidence that Mexico, the chief supplier of imported fresh bell peppers, is about to expand bell pepper acreage, production, or exports to the U.S. market. We conclude that this evidence, in the aggregate, does not provide a basis for us to find that growers and packers of fresh bell peppers are seriously injured or threatened with serious injury.

Causation

Having found that the domestic fresh tomato and bell pepper industries are not seriously injured or threatened with serious injury, we do not reach the issue of whether increased imports are a substantial cause of serious injury or the threat of serious injury.

---

[112] Report, table 30, at II-54-55.

[113] Id.

[114] *See* price and sales data in table 30 of the report at II-54-55.

[115] Report, tables 14 and 16, at II-27 and II-29.

[116] Report, table 12, at II-23. Data were available only for packer establishments.

[117] Report, table 4, at II-16.

[118] Report, table 19, at II-33.

[119] Id.

[120] Id.

DISSENTING VIEWS OF COMMISSIONER LYNN M. BRAGG

I. Introduction

In this investigation, I find four separate categories of imports, each corresponding to a distinct domestic industry producing articles that are like or directly competitive with those imports. I find one category of imports consisting of imports of fresh tomatoes, other than greenhouse tomatoes (hereinafter referred to as "fresh field tomatoes"), and a corresponding domestic industry comprised of producers of fresh field tomatoes; and a separate category of imports consisting of imports of greenhouse tomatoes, and a corresponding domestic industry consisting of producers of greenhouse tomatoes. Similarly, I find one category of imports consisting of imports of fresh bell peppers, other than greenhouse peppers (hereinafter referred to as "fresh field peppers"), and a corresponding domestic industry comprised of producers of fresh field peppers; and a separate category of imports of greenhouse peppers, and a corresponding domestic industry consisting of producers of greenhouse peppers.

I find that fresh field tomatoes and peppers are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industries producing articles like or directly competitive with these imports. I find that greenhouse tomatoes and peppers are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industries producing articles like or directly competitive with these imports.

As required by Section 311 of the North American Free Trade Agreement (NAFTA), I further find that imports of fresh field tomatoes and peppers from Mexico account for a substantial share of total imports and contribute importantly to the serious injury caused by imports. I find that imports of fresh field tomatoes and peppers from Canada do not account for a substantial share of total imports and/or do not contribute importantly to the serious injury caused by imports. The reasons for my findings are set out below.

As an initial matter, I would like to comment on my view of the statutory standards that the Commission must consider in investigations brought under Section 201 of the Trade Act of 1974. In my view, by making a negative determination in these investigations the Commission majority has set a standard for obtaining relief under Section 201 that is virtually impossible to satisfy. The statutory language and legislative history clearly provide that the standard for an affirmative finding in a Section 201 case, which involves allegations of injury from fairly traded imports, is higher than that for relief in other types of investigations conducted by the Commission, such as investigations of unfairly traded imports under Title VII of the Tariff Act of 1930.[1] Nonetheless, I do not believe that Congress intended this standard to impose a bar to relief in cases such as these, where imports are increasing dramatically and domestic producers are suffering badly as a result. Indeed, it is precisely this type of situation that the statute was intended to remedy.[2]

---

[1] In investigations brought under Title VII, the Commission must find that an industry in the United States is materially injured, or threatened with material injury (or that the establishment of an industry is materially retarded), by reason of dumped or subsidized imports, before relief can be imposed. 19 U.S.C. §§ 1671, 1673. In investigations of whether imports from Communist countries are causing market disruption, the Commission must determine whether the subject imports are increasing rapidly, so as to be a significant cause of material injury, or threat thereof, to a competing domestic industry. 19 U.S.C. § 2436(a), (e)(2)(A). The legislative history of this provision indicates that the term "material injury" is "intended to represent a lesser degree of injury than the term 'serious injury' standard [sic] employed in section 201." S. Rep. No. 1298, 93d Cong., 2d Sess. 212 (1974).

[2] Congress has expressed the rationale for the "escape clause" provided by Section 201 to be "that as barriers to international trade are lowered, some industries and workers inevitably face serious injury, dislocation and perhaps

(continued...)

Section 201 is a safeguard mechanism, sanctioned by the GATT and enacted by Congress as a means of allowing domestic industries time to adjust to increased import competition -- particularly when such increased competition results from trade liberalization measures, such as the phasing out of duties on Mexican and Canadian imports under the NAFTA, or from other significant shocks to the market, such as the substantial devaluation of the Mexican peso in late 1994.[3] While the ultimate decision on whether to impose a remedy, and the extent thereof, is up to the President, the Commission is the initial arbiter of whether an industry is entitled to seek the relief permitted by the statute, and what form such relief should take. For the Commission to set a threshold that a domestic industry can meet only in the most extreme circumstances is, in my view, a misguided interpretation of the statute.

The majority's negative determination in these investigations conveys the unfortunate message to injured industries and workers that assistance offered by our trade remedy laws may, in fact, be an empty promise. I view Section 201 as a safeguard law in more than one respect: it and other trade remedy laws are an important safeguard of the open trading system under which the United States has prospered for many decades. For example, the antidumping and countervailing duty laws provide a means for domestic industries injured by unfair trade practices to seek to level the playing field, and thereby help to assure the American public that trade liberalization will not be a losing proposition for U.S. workers and industries that must compete with imports from countries whose economic structures and rules of competition differ significantly from ours. Similarly, by providing a mechanism by which domestic industries seriously injured by increased imports can seek temporary relief to allow them to adjust to a more competitive marketplace, Section 201 helps to maintain public support for an open trading system. If our institutions operate in such a way as to effectively foreclose access to these legitimate, internationally accepted trade remedies in all but the most extreme cases, the end result will be to undermine popular support in the United States for an open trading system. In short, I fear that the majority's negative determinations in these investigations will only serve to further erode public confidence in the laws that we are tasked with administering.

II. Determinations Required by the Statute

In an investigation brought under Section 201, the Commission must determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. In addition, if the Commission makes an affirmative determination in a case involving imports from NAFTA countries (i.e., Mexico and Canada), the Commission must find with respect to each NAFTA country whether (1) imports from that country account for a substantial share of total imports, and (2) imports from the NAFTA country contribute importantly to any serious injury or threat thereof caused by imports.

---

[2] (...continued)
economic extinction. The 'escape clause' is aimed at providing temporary relief for an industry suffering from serious injury, or the threat thereof, so that the industry will have sufficient time to adjust to the freer international competition." Id. at 119.

[3] Industry witnesses described the peso devaluation as "a bomb" that "[n]one of us expected". Tr. at 89 (DiMare). Petitioners' counsel stated that "[w]e believe that . . . the peso devaluation is the primary cause of the increase . . . in imports. We believe it is -- the reason that there has been such a surge." Tr. at 88 (Stewart).

A. Domestic Industry

In a Section 201 investigation, the Commission must first identify the domestic industry producing an article that is "like or directly competitive with the imported article."[4] The imports at issue in these investigations are fresh tomatoes and bell peppers, respectively.[5] [6] As described below, I find it appropriate to treat imports of greenhouse tomatoes and bell peppers as distinct from imports of fresh field tomatoes and peppers. Accordingly, I find four domestic industries producing products "like or directly competitive with" each category of imports: I find one industry producing greenhouse tomatoes, another producing fresh field tomatoes, a third industry producing greenhouse peppers, and a fourth producing fresh field peppers.

In these investigations, the petitioners have argued that the domestic industries should be defined to include producers of all types of fresh tomatoes and bell peppers. Several respondents have argued, however, that fresh greenhouse tomatoes and peppers should be distinguished from fresh tomatoes and peppers grown in fields. Greenhouse tomatoes and peppers account for all imports from the Netherlands and a substantial portion of imports from Canada.[7] The record indicates that greenhouse tomatoes and peppers are substantially different from fresh field tomatoes and peppers: they are produced by different firms from those that produce field tomatoes and peppers;[8] are cultivated using very different, and much more costly, means of production, packaging, and handling, than field tomatoes and peppers;[9] are priced much higher, and are of

---

[4] 19 U.S.C. §§ 2252(b)(1)(A), 2252(c)(6)(A)(i).

[5] The petition covers in the alternative (1) all imports and (2) imports during the October-May period. The petitioners asked that the Commission examine injury to domestic producers of fresh tomatoes and bell peppers during the winter season if it does not make an affirmative determination with respect to the national fresh tomato and bell pepper industries. I decline to find a seasonal industry, for the same reasons expressed in the Commission's determination in the provisional relief phase of Fresh Winter Tomatoes from Mexico, Inv. No. TA-201-64 (Provisional Relief Phase), USITC Pub. 2881 (April 1995) at I-10-I-13.

[6] Imports of tomatoes and peppers grown for processing are not included within the scope of these investigations. I concur with the majority's determination that tomatoes grown for processing are distinguishable from tomatoes grown for fresh market use, and thus do not deem it appropriate to include processing tomatoes in the domestic industries producing fresh tomatoes for purposes of these investigations. I also concur with the majority that similar distinctions are not present in the case of peppers. Because the Commission's data do not distinguish between bell peppers sold in the fresh market and to processors, I include both in the relevant domestic industry. I have assumed, for this purpose, that processors will choose to buy fresh field peppers, rather than the higher-priced greenhouse peppers, for processing uses, and thus have included processing peppers in the industry producing fresh field peppers. See Staff phone note of July 2, 1996 (McCarty).

[7] All tomatoes and peppers grown in the Netherlands are grown in greenhouses. Staff Report ("Report") at II-35. Most imports from sources other than Mexico are greenhouse tomatoes and peppers. EC-T-031 at 17, n.13. Specifically, data submitted by Canadian respondents indicate that greenhouse tomatoes accounted for 68.9%-74.9% annually of total Canadian tomato imports during the investigation period, while greenhouse peppers accounted for 25.5%-52.1% annually of total Canadian bell pepper imports during that period. See Posthearing Brief of the Canadian Horticultural Council et al, Tables 1-4. See also Report at II-33, n.96 (indicating that 71% of Canadian exports of fresh tomatoes and 37% of Canadian exports of bell peppers in 1994 were greenhouse products).

[8] See generally Grower Questionnaire Responses.

[9] See, e.g., Posthearing Brief of Eco-Cultivos at 8-10, 12-13; Prehearing Brief of the Central Bureau for Fruit and Vegetable Auctions in the Netherlands at 16-17, and Posthearing Brief at 3-4; Prehearing Brief of the Canadian Horticultural Council et al at 9, Posthearing Brief at 5-6, and Responses to Commission Questions at 1; Posthearing Brief of CAADES and CNPH at Tab 5; Tr. at 106-07 (DiMare), 244-45 (Beukelman), 246 (Honigberg), and 258 (Lightbody).

higher quality, than field tomatoes and peppers;[10] and are sold through different channels of distribution, primarily to premium market segments.[11] Consequently, I determine that there are distinct domestic industries producing articles "like or directly competitive with" imports of, respectively, greenhouse tomatoes and peppers, and other types of fresh tomatoes and peppers. I do not find any comparable distinctions to exist among other types of fresh tomatoes (i.e., between so-called vine-ripe and mature green tomatoes), for the same reasons set forth in the majority's opinion.

As to the producers included within each domestic industry, I find it appropriate to include both growers and packers of the respective product. In this regard, I also concur with the findings of the Commission majority. As I did in the preliminary antidumping investigation of fresh tomatoes from Mexico, however, I find it appropriate to accord more weight in my analysis in these investigations to the condition of growers, who appear to be more immediately adversely affected by imports than packers due to the way in which sales transactions are structured.[12] Packers receive a standard fee in most cases, even when sales prices decline, and thus can make a profit on transactions even when the price received represents a loss to the grower. [13] Consequently, it appears that growers bear the lion's share of the risk of price volatility, including any price pressure caused by imports.

B. Increased Imports

The first of the statutory criteria that must be satisfied for an affirmative determination is that the article is being imported into the United States in "increased quantities."[14] The increase may be "either actual or relative to domestic production."[15] In addition to considering whether imports have increased in absolute terms or relative to domestic production, I have also examined, where possible, whether imports have increased relative to U.S. apparent consumption, as trends in the market share held by imports are relevant to my examination of whether increased imports are a substantial cause of serious injury or threat thereof.

As described below, I find that the increased import criterion is satisfied for all imports of fresh tomatoes and bell peppers under consideration in these investigations.

---

[10] Prices for greenhouse tomatoes and bell peppers are significantly higher than those for field grown tomatoes and bell peppers. Report at II-42, n.120. The Commission staff declined to make price comparisons between U.S.-grown tomatoes and peppers and the greenhouse products imported from Canada and the Netherlands due to differences in the products. Id. While greenhouse tomatoes and peppers are offered in sizes and grades similar to field tomatoes, there are differences that distinguish them from field tomatoes, including thicker walls and stems, longer shelf life, and better appearance. EC-T-031 at 17 n.13. Witnesses testified at the hearing that greenhouse tomatoes are superior in taste, longevity and appearance to field grown tomatoes. Tr. at 244-45 (Beukelman), 245-47 (Honigberg), and 247-48 (Johnson).

[11] See, e.g., Posthearing Brief of Eco-Cultivos at 10-12; Tr. at 248 (Johnson).

[12] Fresh Tomatoes from Mexico, Inv. No. 731-TA-747 (Preliminary), USITC Pub. 2867 (May 1996) at 21, n.104.

[13] Report at II-40-41.

[14] 19 U.S.C. § 2252(b)(1)(A).

[15] 19 U.S.C. § 2252(c)(1)(C).

1. Greenhouse tomatoes[16]

The Commission examined data over a five-year period, from 1991 to 1995. Imports of greenhouse tomatoes more than trebled over this period, rising from 21,292,000 pounds in 1991 to 65,179,000 pounds in 1995. Imports showed the most substantial increase between 1994 and 1995, when greenhouse tomato imports rose by 42.0% from 45,917,000 pounds to 65,179,000 pounds.[17] It is not possible to calculate a U.S. market share for, or the percentage of U.S. production represented by, imports of greenhouse tomatoes, because the Commission lacks data on U.S. consumption or production of greenhouse products. Based on the absolute increase in imports described above, I find that fresh greenhouse tomatoes are being imported into the United States in increased quantities.

2. Fresh Field Tomatoes[18]

Imports of fresh field tomatoes fluctuated over the period examined (with a large dropoff in 1992 due to flooding in Mexico, and a small decline in 1994), but overall increased 68.4% from 1991 to 1995, with the

---

[16] Imports of fresh greenhouse tomatoes were derived as follows: For the Netherlands, all imports in each year of the investigation period were included, as all such imports were greenhouse tomatoes. Report at II-35. For Canada, actual imports of greenhouse tomatoes, as reported by Canadian respondents based on Agriculture Canada export statistics, were included. See Posthearing Brief of the Canadian Horticultural Council, et al, at Table 2. Imports from all "other" sources, which are assumed to be greenhouse tomatoes based on their high average unit value and the countries of origin reported in questionnaire responses (Israel, Belgium and the Dominican Republic), were also included.

For imports from Mexico, precise data regarding imports of greenhouse tomatoes are not available for each year of the investigation period. In its posthearing brief, however, respondent Eco-Cultivos reported that imports of greenhouse tomatoes accounted for 0.87 percent of Mexican imports of tomatoes into the United States in 1995. Posthearing Brief of Eco-Cultivos at 4. While the Commission has no information to indicate how this percentage may have varied from year to year, any such changes are unlikely to affect the overall trends in tomato imports given the relative insignificance of greenhouse tomato imports from Mexico. Thus, I have assumed that the percentage of total Mexican imports represented by greenhouse tomatoes has been relatively constant, and have included in total imports of greenhouse tomatoes an amount equal to 0.87 percent of Mexican tomato imports for each year of the investigation period. I note that the accuracy of this assumption does not affect my decision regarding greenhouse imports, as I have concluded that regardless of import levels there is no evidence of serious injury or threat of serious injury to the U.S. industry producing greenhouse tomatoes.

[17] Imports of greenhouse tomatoes, derived as described in the preceding footnote, are estimated to be 21,292,000 pounds in 1991, 29,066,000 pounds in 1992, 44,476,000 pounds in 1993, 45,917,000 pounds in 1994, and 65,179,000 pounds in 1995.

[18] The import data for fresh field tomatoes cited herein were derived by subtracting imports of greenhouse tomatoes from the import figures in Table 1, Report at II-11. Imports of fresh field tomatoes (i.e., fresh tomatoes, other than greenhouse tomatoes) were derived as follows: For the Netherlands, all imports in each year of the investigation period were subtracted from the total import data, because all Dutch imports are greenhouse tomatoes. Report at II-35. For Canada, imports of greenhouse tomatoes, as reported by Canadian respondents based on Agriculture Canada export statistics, were subtracted from total imports. See Posthearing Brief of the Canadian Horticultural Council, et al, at Table 2. Imports from all "other" sources, which are assumed to be greenhouse tomatoes based on their high average unit value and the countries of origin reported in questionnaire responses (Israel, Belgium, and the Dominican Republic), were also subtracted from total imports.

For imports from Mexico, precise data regarding imports of greenhouse tomatoes are not available for each year of the investigation period. In its posthearing brief, however, respondent Eco-Cultivos reported that imports of greenhouse tomatoes accounted for .87 percent of Mexican imports of tomatoes into the United States in 1995. Posthearing Brief of Eco-Cultivos at 4. As noted above, I have assumed that the percentage of total Mexican imports represented by greenhouse tomatoes has been relatively constant, and have subtracted from total Mexican imports an amount equal to .87 percent of Mexican imports for each year of the investigation period, to yield an estimate of imports of Mexican field tomatoes.

most significant increase occurring between 1994 and 1995, when imports rose 57.6% to the highest level during the period (1.3 billion pounds).[19] Imports continued to rise in the most recent interim period compared to the same period in the prior year.[20] These trends largely reflect imports from Mexico, which accounted for over 99% of total imports of fresh field tomatoes in each year of the period examined.[21]

The U.S. market share held by fresh field tomato imports followed a similar trend, with the import share rising from 19.9% to 30.3% from 1994 to 1995, while domestic producers' share fell from 80.1% to 69.7%. The share of U.S. production represented by imports also followed a similar trend, rising from 22.6% to 39.7% from 1994 to 1995.[22]

Based on the above-described increase in imports, both absolute and relative to domestic production, I find that fresh field tomatoes are being imported into the United States in increased quantities. I find the increases in imports from 1994 to 1995 and between interim periods to be particularly significant, as these data show a sustained surge following the devaluation of the peso in late 1994.

---

[19] Total imports of fresh field tomatoes, derived as described in the preceding footnote, are estimated to total 774,200,000 pounds in 1991, 403,101,000 pounds in 1992, 877,925,000 pounds in 1993, 827,057,000 pounds in 1994, and 1,303,730,000 pounds in 1995.

[20] In the most recent interim period, Jan.-April 1996, imports of fresh field tomatoes were 859,167,652 pounds, an increase of 22.0 percent from imports of 704,186,757 pounds in Jan.-April 1995. Compare Updated Table D-1, INV-T-051, with official Commerce statistics for Jan.-Apr. 1995, both as adjusted to remove imports of greenhouse tomatoes. (In adjusting the import statistics for these interim periods, Canadian greenhouse imports were assumed to be 71 percent of total imports; see Report at II-33, n.96.)

[21] Imports of fresh field tomatoes from Mexico are estimated to total 772,722,000 pounds in 1991, 400,190,000 pounds in 1992, 873,257,000 pounds in 1993, 821,796,000 pounds in 1994, and 1,296,105,000 pounds in 1995.

[22] Imports of field tomatoes as a percentage of U.S. consumption are estimated to be 20.0% in 1991, 10.2% in 1992, 21.5% in 1993, 19.9% in 1994, and 30.3% in 1995. Imports of field tomatoes as a percentage of U.S. production are estimated to be 22.8% in 1991, 10.3% in 1992, 24.7% in 1993, 22.6% in 1994, and 39.7% in 1995. These percentages were calculated by taking imports of field tomatoes, derived as described in the preceding footnotes, as a percentage of U.S. consumption, adjusted to reflect the revised import data, and of U.S. production, respectively. (The consumption and production figures used to derive these percentages are from Table 1 of the staff report.)

As the USDA data on U.S. production and consumption presented in the staff report do not permit an estimate of the percentage of U.S. production represented by greenhouse tomatoes, no adjustments have been made to the U.S. component of the above estimates. Because the U.S. greenhouse industry apparently represents only a very small percentage of total U.S. tomato production, however, the inclusion, if any, of U.S.-produced greenhouse tomatoes in these numbers should not substantially affect the data or trends overall. Compare Posthearing Brief of Eco-Cultivos, Exhibit 4, affidavit of Dr. Merle Jensen (estimating total acreage devoted to greenhouse tomato production in the United States to be approximately 200 to 300 acres) with Report, Table 7 (USDA data show total U.S. acreage planted to tomatoes in excess of 135,000 acres in each year of the investigation period).

3. Greenhouse peppers[23]

Imports of greenhouse peppers rose steadily over the period, more than doubling from 20,730,000 pounds in 1991 to 47,536,000 pounds in 1995.[24] Imports increased by 10.7% from 1994 to 1995, rising from 42,927,000 pounds in 1994 to 47,536,000 pounds in 1995. It is not possible to calculate a U.S. market share for, or the percentage of U.S. production represented by, imports of greenhouse peppers, because the Commission lacks data on U.S. consumption or production of greenhouse products. Based on the absolute increase in imports described above, I find that fresh greenhouse peppers are being imported into the United States in increased quantities.

4. Fresh field peppers[25]

Trends in imports of fresh field peppers, like field tomatoes, are driven largely by Mexican imports, which accounted for over 95% of total imports of fresh field peppers in each year between 1991 and 1995. Imports of fresh field peppers followed a trend similar to that of tomatoes, with a large decline in 1992, a slight decline in 1994, and a surge in 1995.[26] Imports continued to rise in the most recent interim period

---

[23] Imports of fresh greenhouse peppers were derived as follows: For the Netherlands, all imports in each year of the investigation period were included, as all such imports were greenhouse peppers. Report at II-35. For Canada, actual imports of greenhouse peppers, as reported by Canadian respondents based on Agriculture Canada export statistics, were included. See Posthearing Brief of the Canadian Horticultural Council, et al, at Table 4. Imports from all "other" sources, which are assumed to be greenhouse peppers based on their high average unit value and the countries of origin reported in questionnaire responses (Israel, Belgium and the Dominican Republic), were also included.

For imports from Mexico, no data are available regarding the percentage of imports represented by greenhouse peppers, if any, but there is no indication on the record that such imports are significant. I have assumed for purposes of these investigations that all imports of fresh peppers from Mexico are field peppers. I note that the accuracy of this assumption does not affect my decision regarding greenhouse imports, as I have concluded that regardless of import levels there is no evidence of serious injury or threat of serious injury to the U.S. industry producing greenhouse peppers.

[24] Imports of greenhouse bell peppers are estimated to be 20,730,000 pounds in 1991, 25,189,000 pounds in 1992, 41,182,000 pounds in 1993, 42,927,000 pounds in 1994, and 47,536,000 pounds in 1995.

[25] The import data for fresh field peppers cited herein were derived by subtracting imports of greenhouse peppers from the import figures in Table 2, Report at II-12. Imports of fresh field peppers (i.e., fresh peppers, other than greenhouse peppers) were derived as follows: For the Netherlands, all imports in each year of the investigation period were subtracted from the total import data, because all Dutch imports are greenhouse peppers. Report at II-35. For Canada, imports of greenhouse peppers, as reported by Canadian respondents based on Agriculture Canada export statistics, were subtracted from total imports. See Posthearing Brief of the Canadian Horticultural Council, et al, at Table 4. Imports from all "other" sources, which are assumed to be greenhouse peppers based on their high average unit value and the countries of origin reported in questionnaire responses (Israel, Belgium and the Dominican Republic), were subtracted from total imports.

For imports from Mexico, no data are available regarding the percentage of imports represented by greenhouse peppers, if any, but there is no indication on the record that such imports are significant. Consequently, I have assumed for purposes of these investigations that all imports of fresh peppers from Mexico are field peppers.

[26] Imports of fresh field peppers are estimated to be 195,988,000 pounds in 1991, 170,107,000 pounds in 1992, 227,668,000 pounds in 1993, 218,536,000 pounds in 1994, and 267,164,000 pounds in 1995.

compared to the prior year period.[27] The U.S. market share held by fresh field pepper imports also rose to its highest level over the period examined in 1995, to 20.9% (up from 15.4% in 1994), while domestic producers' share fell from 84.6% to 79.1%. The share of U.S. production represented by imports similarly rose from 16.6% in 1994 to 23.8% in 1995. [28]

Based on the above-described increase in imports, both absolute and relative to domestic production, I find that fresh field peppers are being imported into the United States in increased quantities. As in the case of fresh field tomatoes, I find the increases in imports from 1994 to 1995 and between interim periods to be particularly significant, as these data show a sustained surge following the devaluation of the peso in late 1994.

C. Serious Injury

The second criterion that must be satisfied for an affirmative determination is a finding of serious injury or threat thereof. The statute defines "serious injury" as "a significant overall impairment in the position of a domestic industry."[29] Threat of serious injury is defined as "serious injury that is clearly imminent."[30]

In making its determination with respect to a threat of serious injury, the statute directs the Commission to examine "all economic factors which it considers relevant, including (but not limited to) --

> (A) with respect to serious injury--
> (i) the significant idling of productive facilities in the domestic industry,
> (ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and
> (iii) significant unemployment or underemployment within the domestic industry;

---

[27] In the most recent interim period, Jan.-April 1996, imports of fresh field peppers were 230,965,348 pounds, an increase of 33.2 percent from imports of 173,392,658 pounds in Jan.-April 1995. Compare Revised and Updated Table D-2, INV-T-051, with official Commerce statistics for Jan.-Apr. 1995, both as adjusted to remove imports of greenhouse peppers. (In adjusting the import statistics for these interim periods, Canadian greenhouse imports were assumed to be 37 percent of total imports; see Report at II-33, n.96.)

[28] Imports of fresh field peppers as a percentage of U.S. consumption are estimated to be 18.1% in 1991, 14.1% in 1992, 17.0% in 1993, 15.4% in 1994, and 20.9% in 1995. Imports of fresh field peppers as a percentage of U.S. production are estimated to be 18.6% in 1991, 13.8% in 1992, 18.4% in 1993, 16.6% in 1994, and 23.8% in 1995. These percentages were calculated by taking imports of field peppers, derived as described in the preceding footnotes, as a percentage of U.S. consumption, adjusted to reflect the revised import data, and of U.S. production, respectively. (The consumption and production figures used to derive these percentages are from Table 2 of the staff report.)

As the USDA data on U.S. production and consumption presented in the staff report do not permit an estimate of the percentage of U.S. production represented by greenhouse peppers, no adjustments have been made to the U.S. component of the above estimates. Because the U.S. greenhouse industry apparently represents only a very small percentage of total U.S. bell pepper production, however, the inclusion, if any, of U.S.-produced greenhouse peppers in these numbers should not substantially affect the data or trends overall. Compare Posthearing Brief of Eco-Cultivos, Exhibit 15, affidavit of Dr. Richard Snyder (estimating total acreage devoted to greenhouse vegetable production in the United States to be 450 acres, the majority of which is tomatoes; of 321 acres in the top nine states in greenhouse vegetable production, only 22 acres, or 6.9%, were peppers) with Staff Report, Table 8 (USDA data show total U.S. acreage planted to peppers in excess of 63,000 acres in each year of the investigation period).

[29] 19 U.S.C. § 2252(c)(6)(C).

[30] 19 U.S.C. § 2252(c)(6)(D).

(B) with respect to threat of serious injury--

(i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry,

(ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development, [and]

(iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets.[31]

The statute further instructs that the Commission is not to regard the presence or absence of any of the above factors as necessarily dispositive of its injury determination.[32]

As outlined below, I have considered the above factors with respect to each of the relevant domestic industries. I find that the record does not support a finding that the industries producing greenhouse tomatoes and peppers are seriously injured, or threatened with serious injury. I further find that the industries producing fresh field tomatoes and bell peppers are seriously injured, and thus do not reach the question of whether a threat of serious injury exists.

1. Greenhouse Tomatoes and Peppers

With regard to greenhouse tomatoes and peppers, I cannot conclude, based on the available information, that the statutory criteria for an affirmative finding under Section 201 are satisfied. While there is evidence of increased imports of greenhouse tomatoes and peppers, as described above, there is virtually no indication of injury or threat of injury, serious or otherwise, to U.S. producers of these products.

The Commission received questionnaire responses from only three very small producers of greenhouse tomatoes. One of these firms, ***, has not produced greenhouse tomatoes in the past three growing seasons. Its decision to cease operations apparently had nothing to do with imports: In a letter to the Commission, it stated that ***.[33] The other two firms did not indicate that they had experienced any injury attributable to imports of greenhouse tomatoes. Moreover, the financial condition of one of these producers was generally positive, particularly in the past two growing seasons when imports were at their peak. In any event, the responses of these two firms, which represent only a tiny fraction of U.S. greenhouse production, do not provide an adequate basis to conclude that the U.S. greenhouse tomato industry as a whole is suffering serious injury or the threat thereof.[34]

---

[31] 19 U.S.C. § 2252(c)(1).

[32] 19 U.S.C. § 2252(c)(3).

[33] Letter to USITC from ***, Apr. 22, 1996.

[34] While the Commission does not have precise information regarding the size of the U.S. greenhouse industry, as previously noted, available information indicates that these two producers represent only a fraction of one percent of total U.S. greenhouse tomato production. Compare Questionnaire Responses of *** and *** (indicating that these two firms combined account for less than one acre of greenhouse production) with Posthearing Brief of Eco-Cultivos, Exh. 4 (statement of Dr. Merle H. Jensen)(estimating total U.S. acreage devoted to greenhouse tomato production in the United States to be approximately 200 to 300 acres).

With regard to greenhouse peppers, the Commission received no information from producers of these products. The limited evidence on the record regarding the greenhouse tomato and pepper industries as a whole shows that these industries apparently are healthy, and that demand and production in the United States are increasing.[35] As there has been no other information obtained in these investigations which bears on the condition of the industries producing greenhouse tomatoes and peppers, I cannot conclude from the record that either of these industries is experiencing serious injury, or the threat thereof. Thus, I do not reach the question of whether increased imports are a substantial cause of serious injury or the threat thereof to these industries.

2. Fresh Field Tomatoes

My examination of the statutory factors leads me to conclude that the domestic industry producing fresh field tomatoes clearly is experiencing serious injury. In reaching this determination, I have placed particular emphasis on data showing trends in the industry's condition over the most recent growing seasons (crop years 1994, 1995, and the interim period covering July 1995-February 1996, which includes a substantial portion of the 1996 crop year), as these periods reflect most closely the time frame in which imports have surged following the devaluation of the peso in late 1994 and, to a lesser extent, tariff liberalization under the NAFTA.

a. Significant Idling of Productive Facilities

The statute defines a "significant idling of productive facilities" to include the closing of plants or the underutilization of production capacity.[36] In this agricultural industry, I have examined data on acreage planted, production and yield for fresh tomatoes. USDA data indicate that acreage planted and harvested increased steadily from 1991 to 1993, but declined in both 1994 and 1995.[37] U.S. production fell 10.4 percent from 1994 to reach a period low in 1995. Domestic yields also fell to their lowest level during the period examined in 1995, declining 9.8 percent from the previous year. [38]

I have also examined evidence showing that particularly in the most recent growing season, there has been substantial underutilization of productive resources, in the form of tomatoes left unharvested in fields. The data submitted to the Commission by U.S. growers, although less comprehensive than USDA data, show that abandoned or partially picked acreage increased from 384 acres in crop year 1991 to 5,471 acres in crop year 1995 -- an increase of more than 14-fold. This figure more than doubled from crop year 1994 to crop

---

[35] See Posthearing Brief of Eco-Cultivos, Exhs. 4 (statement of Dr. Merle H. Jensen)(total acreage dedicated to growing greenhouse tomatoes in the United States is expanding each year, and there is currently a shortage of greenhouse-grown tomatoes in the United States), and Exh. 15 (report of Dr. Richard G. Snyder)(greenhouse vegetable acreage in U.S. has expanded from 250 acres to 450 acres in the past three years). See also Posthearing Brief of CAADES and CNPH at Tab 5, p. 3 (greenhouse produce appears to be the fastest growing segment of the retail market).

[36] 19 U.S.C. § 2252(c)(6)(B).

[37] For purposes of this discussion, I have relied on USDA data as the best available information regarding field tomato production. As previously noted, the Commission does not have data regarding U.S. production of greenhouse tomatoes that could be subtracted from the USDA data to derive an estimate of field tomato production. To the extent that greenhouse production is included in the USDA data, however, I assume that such production is relatively insignificant and does not substantially affect the overall data or trends, for the reasons discussed earlier.

[38] Table 7, Report at II-18.

year 1995.[39] Indeed, unharvested or partially harvested acreage in crop year 1995 was equal to 12 percent of the total harvested acreage reported by responding growers, more than twice the level of crop year 1994 and well above the level of any prior year during the period examined. Evidence presented at the hearing, as well as numerous contemporaneous press reports, also demonstrate that a number of U.S. tomato growers have been forced to abandon tomato crops, due to depressed prices that do not allow recovery of harvesting and packing costs.[40] As a result, the volume of tomatoes processed by U.S. packers also declined by 6.8 percent from fiscal year 1994 to fiscal year 1995.[41]

Based on the foregoing, I find that there is significant idling of productive facilities in the domestic industry producing fresh field tomatoes.

b. Inability to Operate at a Reasonable Level of Profit

The financial data collected by the Commission show an industry suffering severe financial difficulties.[42] The Commission received usable financial data from 149 tomato growers representing approximately 51.1 percent of 1995 U.S. production, and from 19 tomato packers representing approximately 31.3 percent of 1995 domestic production. These data show that overall, growers experienced declining financial performance from fiscal year (FY) 1992 (a peak year for domestic producers due to curtailment of Mexican imports as a result of flooding in Mexico) through FY 1995, with losses beginning in FY 1994 and mounting in FY 1995 and between interim periods. As a ratio to net sales, growers' losses grew from 3 percent of sales in FY 1994 to 9.6 percent in FY 1995, and reached 50.4 percent in the interim period July 1995-February 1996, compared to a positive operating income ratio of 1.7 percent in the prior year interim period. These declines in profitability were due almost entirely to substantial declines in the unit value of net sales over this period.[43]

The financial woes reflected in the Commission's overall data are certainly shared by a significant number of firms, as required by the statute. In the most recent interim period, when losses reached their highest level during the period examined, 96 of 118 responding growers, or 81.4%, reported net losses.

As previously noted, I have focused my analysis more on the condition of growers, who experience the adverse effects of import competition more directly than packers. I note, however, that packers have also experienced declining financial performance in recent years, with operating income declining by 55.8 percent

---

[39] Table D-3, Report at D-5.

[40] E.g., Tr. at 40 (Esformes), 158 (Chavez); Petition, Exh. 9.

[41] Table 15, Report at II-28. The volume of tomatoes processed by packers has fallen in each year since FY 1992, with the most significant drop occurring between fiscal years 1994 and 1995.

[42] See Table 13, Report at II-25. The financial data presented in the staff report reflect primarily the performance of producers of field tomatoes. As previously noted, the Commission received only three responses from greenhouse growers; although their financial data are included in Table 13, their inclusion does not affect the overall data or trends discussed herein.

[43] Table 13, Report at II-25. Although the quantity of net sales by U.S. growers increased from FY 1993 to FY 1995 (before declining in the most recent interim period), the unit value of these sales has declined consistently over this period, falling from $0.22/lb. in FY 1993, to $0.18/lb. in FY 1994, and then to $0.16/lb. in FY 1995, and reaching a new low of $0.13/lb. in the most recent interim period (July 1995-Feb. 1996), compared to $0.20/lb. in the prior year period.

from FY 1994 to FY 1995, and by 59.8 percent between interim periods.[44] Moreover, a substantial, and increasing, number of packers reported operating losses in recent years.[45]

The financial difficulties experienced by U.S. producers, particularly growers, have clearly placed a substantial number of U.S. firms in a precarious position. Both industry representatives and banking officials involved in the financing of tomato operations testified at the hearing that many producers will be forced to substantially curtail operations, or exit the industry altogether, if recent trends continue.[46]

Based on the foregoing, I find that a significant number of domestic producers are unable to carry out domestic production operations at a reasonable level of profit.

c. Significant Unemployment or Underemployment[47]

Levels of unemployment or underemployment in the industry are difficult to gauge, due in large part to the industry's heavy reliance on contract workers. The data submitted in response to Commission questionnaires show an increase in the total number of salaried workers throughout most of the period examined, while the number of contract workers fluctuated, and increased in both crop years 1994 and 1995. Hours worked and total compensation fell from crop year 1994 to 1995, however, indicating underemployment -- particularly for contract workers, whose compensation fell by 17.9 percent from crop year 1994 to crop year 1995.[48]

The record contains other evidence of significant unemployment or underemployment, particularly in the most recent growing season. Witnesses at the hearing testified that a substantial number of migrant farm workers have been unable to find work as tomato growers have left fields unharvested.[49] Coupled with the evidence of declining compensation, particularly to contract workers, as described above, I find that there is evidence to support a finding of significant unemployment or underemployment within the domestic industry.

Based on the evidence of significant idling of productive facilities, significant unemployment or underemployment, and the inability of a significant number of domestic producers to operate at a reasonable level of profit, I find that the domestic industry producing fresh field tomatoes is seriously injured. In making

---

[44] In the case of packers, these declines in profitability are due to declining volume, rather than declining unit values; unit values for packers (which generally reflect a standard per-unit packing fee) remained relatively constant over this period, while volumes declined. See Table 15, Report at II-28. This is consistent with the pricing structure described above, whereby growers bear the brunt of price volatility in the marketplace, but packers will eventually suffer as declining prices force growers to abandon crops and thus reduce the volumes available for packing. For a further discussion of this dynamic, see Fresh Tomatoes from Mexico, Inv. No. 731-TA-747, USITC Pub. 2967 (May 1996) at 14-15.

[45] Table 15, Report at II-28. In FY 1994, 5 of 19 responding packers reported operating losses, and 3 reported net losses. In FY 1995, the number of packers reporting operating losses had increased to 8 of 19. In the most recent interim period, 5 of 15 responding packers reported operating losses. Id.

[46] Tr. at 49-50 (DiMare); 71-76 (Price).

[47] The employment data discussed herein are based on responses to Commission questionnaires, which largely reflect employment by producers of fresh field tomatoes. (Although employment data for the few responding greenhouse producers are included in these numbers, their inclusion does not affect the trends discussed herein.)

[48] Hours worked by salaried workers employed in grower establishments fell by 4.2% from crop year 1994 to crop year 1995, while total compensation paid to salaried workers fell by 3.3%. Table 11, Report at II-22. Hours worked and total compensation in packer establishments also declined from crop year 1994 to crop year 1995. Table 12, Report at II-23.

[49] Tr. at 158-61 (Chavez).

this determination, I place particular emphasis on the financial difficulties experienced by U.S. growers, particularly in the most recent growing seasons.

2. Fresh Field Peppers

My examination of the statutory factors also leads me to conclude that the domestic industry producing fresh field tomatoes clearly is experiencing serious injury. As in the case of tomatoes, I have placed particular emphasis on data showing trends in the industry's condition over the most recent growing seasons (crop years 1994, 1995, and the interim period covering July 1995-February 1996), as these periods reflect most closely the time frame in which imports have surged following the devaluation of the peso in late 1994 and, to a lesser extent, tariff liberalization under the NAFTA.

a. Significant Idling of Productive Facilities

USDA data indicate that for fresh bell peppers, acreage planted and harvested increased from 1991 to 1992, and declined in each year thereafter.[50] U.S. production increased from 1991-94, but then dropped significantly, declining by 14.6 percent from 1994 to 1995. Domestic yields followed a similar pattern, declining by 13.2 percent between 1994 and 1995. [51]

As in the case of field tomatoes, I have also examined evidence that there has been substantial underutilization of productive resources in the form of peppers left unharvested in fields. The data submitted to the Commission by U.S. growers show that abandoned or partially picked acreage increased from 23 acres in crop year 1991 to 383 acres in crop year 1994, declined somewhat but remained relatively high at 260 acres in crop year 1995, and then increased dramatically to 981 acres in the most recent interim period (Jan.-Feb. 1996).[52] Testimony presented at the hearing indicates that many pepper growers, as well as tomato growers, have been forced to abandon crops due to depressed prices that do not allow recovery of harvesting and packing costs.[53] As a result, the volume of peppers processed by U.S. packers has also declined, falling by 26 percent from FY 1994 to FY 1995.[54]

Based on the foregoing, I find that there is significant idling of productive facilities in the domestic industry producing fresh field peppers.

b. Inability to Operate at a Reasonable Level of Profit

The financial data collected by the Commission for fresh field pepper producers show an industry suffering severe financial difficulties.[55] The Commission received usable financial data from 25 bell pepper growers representing 18.5 percent of 1995 U.S. production, and from 6 bell pepper packers representing 5.8

---

[50] For purposes of this discussion, I have relied on USDA data as the best available information regarding field pepper production. As previously noted, the Commission does not have data regarding U.S. production of greenhouse peppers that can be used to adjust the USDA data. To the extent that greenhouse production is included in these data, however, I assume that such production is relatively insignificant and does not substantially affect the overall data or trends, for the reasons discussed previously.

[51] Table 8, Report at II-19.

[52] Table D-4, Report at D-6. All data submitted by pepper growers to the Commission were for fresh field peppers.

[53] Tr. at 63 (Williams), 70 (Barfield), 158 (Chavez).

[54] Table 16, Report at II-29.

[55] All of the financial data presented in the staff report are for producers of fresh field peppers.

percent of 1995 domestic production.[56] These data show that the financial performance of U.S. growers declined steadily from FY 1991 through FY 1994, with losses beginning in FY 1993 and increasing substantially in FY 1994. Growers continued to experience losses in FY 1995, and losses mounted again in the most recent interim period. As a ratio to net sales, growers' losses grew from 2.5 percent in FY 1993 to 21.5 percent in FY 1994, fell somewhat to 6.6 percent in FY 1995, and reached 60.7 percent in the interim period July 1995-February 1996. These declines in profitability were due largely to declines in the unit value of net sales over this period.[57]

The financial woes reflected in the Commission's overall data are clearly shared by a significant number of firms. In the most recent interim period, when losses reached their highest level (as a percentage of net sales) during the period examined, 16 of 19 responding growers, or 84.2%, reported net losses.

As previously noted, I have focused my analysis more on the condition of growers, who experience the adverse effects of import competition more directly than packers. I note, however, that the packers responding to the Commission's questionnaires have also experienced declining financial performance since the peak year of FY 1992, including a loss in 1995 and mounting losses between interim periods. Packers' operating income declining by 109.7 percent from FY 1994 to FY 1995, and by 482.2 percent between interim periods.[58] Moreover, a significant number of responding packers reported operating losses in recent years.[59]

The financial difficulties experienced by U.S. producers, particularly growers, have clearly placed a substantial number of U.S. producers in a precarious position. Both industry representatives and banking officials involved in the financing of bell pepper operations testified at the hearing that many producers will be forced to substantially curtail operations, or exit the industry altogether, if recent trends continue.[60]

Based on the foregoing, I find that a significant number of domestic producers are unable to carry out domestic production operations at a reasonable level of profit.

c. Significant Unemployment or Underemployment[61]

The data submitted in response to Commission questionnaires show that the total number of both salaried and contract workers employed in bell pepper production increased from crop year 1991 to crop year

---

[56] Report at II-24. Given the very low level of coverage for bell pepper packers, I have placed very little reliance on the packer data.

[57] Table 14, Report at II-27. Unit values fell over the period examined and in each year from FY 1991 through FY 1994, then rose somewhat in FY 1995, before falling to a period low in the most recent interim period (July 1995-Feb. 1996). Growers' losses were less severe in FY 1995 than in FY 1994, due to the recovery in sales values, but the industry continued to experience losses in the face of declining sales volumes. Sales volumes continued to decline between interim periods.

[58] Table 16, Report at I-29. In contrast to tomatoes, the unit value of pepper packers' net sales fluctuated over the period. The trend in packers' average unit value since FY 1993 has been similar to that for growers. Compare Table 16, Report at II-29, with Table 14, Report at II-27. This suggests that pepper packers have been more directly affected by market price fluctuations than tomato packers, which may explain why their financial performance has been worse than that of tomato packers.

[59] Table 16, Report at II-29. In FY 1994, 1 of 5 responding packers reported an operating loss. In FY 1995, the number of packers reporting operating losses had increased to 2 of 5. In the most recent interim period, 2 of 5 responding packers again reported operating losses. Id.

[60] Tr. at 64 (Williams); 70 (Barfield); 71-76 (Price).

[61] The employment data discussed herein are based on responses to Commission questionnaires, which reflect only employment by producers of fresh field peppers.

1994, but then declined substantially in crop year 1995.[62] Total compensation paid to contract workers also fell from crop year 1994 to 1995.[63] As in the case of tomatoes, witnesses at the hearing testified that a substantial number of migrant farm workers have been unable to find work in recent growing seasons as pepper growers have left fields unharvested.[64] Coupled with the evidence of substantial recent declines in employment, and declining compensation to contract workers, as described above, I find that there is ample evidence of significant unemployment or underemployment within the domestic industry producing fresh field bell peppers.

Based on the above evidence of significant idling of productive facilities, inability of a significant number of domestic producers to operate at a reasonable level of profit, and significant unemployment or underemployment within the domestic industry, I find that the domestic industry producing fresh field peppers is experiencing serious injury.

D. Substantial Cause

If the Commission finds that the domestic industry is experiencing serious injury or the threat thereof, it must then consider whether the increased imports are a substantial cause of that injury.[65] The statute defines "substantial cause" as "a cause which is important and not less than any other cause."[66] In reaching its determination, the statute directs the Commission to evaluate "all economic factors which it considers relevant," including, "with respect to substantial cause, an increase in imports (either actual or relative to domestic production), and a decline in the proportion of the domestic market supplied by domestic producers."[67] The statute also instructs the Commission to examine factors other than imports which may be a cause of serious injury to the domestic industry, but prohibits the Commission from aggregating the causes of declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat.[68]

In assessing the impact of imports on the industries producing both fresh field tomatoes and fresh field bell peppers, I have taken into account the economic characteristics of the markets for these products. In particular, I note that consumption for both products has been relatively stable, particularly in the most recent growing seasons;[69] thus, there has been no significant expansion of demand to absorb import surges.

---

[62] The average number of salaried workers employed in grower establishments rose from 693 in crop year 1991 to 3,042 in crop year 1994, then fell to 2,705 in crop year 1995. The average number of contract workers employed in grower establishments rose from 6,997 in crop year 1991 to 11,317 in crop year 1994, then fell to 7,784 in crop year 1995. Table 11, Report at II-22. The average number of workers employed in reporting packer establishments fluctuated over the period examined, rising irregularly from 734 in crop year 1991 to 880 in crop year 1995. Table 12, Report at I-23.

[63] Compensation paid to contract workers fell by 6.9% from FY 1994 to FY 1995. Table 11, Report at II-22.

[64] r. at 158-61 (Chavez).

[65] 19 U.S.C. § 2252(b)(1)(A).

[66] 19 U.S.C. § 2252(b)(1)(B).

[67] 19 U.S.C. § 2252(c)(1)(C).

[68] 19 U.S.C. § 2252(c)(2).

[69]Report at II-10. Indeed, consumption of fresh field peppers declined by 9.5 percent from 1994 to 1995. Table 2, Report at II-12, as adjusted to remove greenhouse imports.

The imported product and the domestic product are also fairly good substitutes.[70] I further note that demand for these products is relatively inelastic, as there are no commercially viable substitutes for fresh tomatoes or fresh bell peppers.[71] Under these conditions, any increase in supply will have a more than proportional adverse effect on U.S. market prices,[72] or adversely affect the volume of U.S. production and shipments, or both.

1. Fresh Field Tomatoes

As previously noted, imports of fresh field tomatoes increased significantly over the period examined, both absolutely and as a percentage of U.S. production, with the most dramatic year-to-year increase occurring between 1994 and 1995, and increases continuing in the most recent interim period. Imports also increased their share of the U.S. market, which rose from 20.0 percent in 1991 to 30.3 percent in 1995, while domestic producers' share fell from 80.0 percent to 69.7 percent over the same period.[73]

I find that the increases in imports are a substantial cause of the serious injury experienced by the domestic industry producing fresh field tomatoes. The deterioration in the industry's financial performance, particularly in the most recent growing seasons, is directly attributable to declining unit values, which in turn are the expected result of surging imports in a market characterized by relatively inelastic demand and relatively stable consumption.[74] Moreover, the domestic industry not only has lost market share, but experienced declining sales volumes for the first time over the period of investigation in the most recent interim period, exacerbating its losses. While I have considered other possible causes of injury, including poor weather in Florida, I find that these factors do not explain the declines in unit sales values that have so

---

[70] The staff estimates the elasticity of substitution for tomatoes to be in the range of 2 to 4, and for peppers in the range of 3 to 5. EC-T-031 at 21.

[71] The staff estimates the elasticity of demand for both products to be in the range of 0.5 to 1.0. EC-T-031 at 20. It appears that demand for tomatoes may be slightly more inelastic than demand for peppers, as the effect of increased imports of field tomatoes manifested itself primarily in adverse price effects (as reflected in declines in domestic unit sales values), whereas the effect of increased imports of peppers manifested itself initially in declining domestic sales volumes (in FY 1995 compared to FY 1994), and then in declines in both unit sales values and sales volumes in the most recent interim period compared to the prior year period. See discussion infra; compare Tables 13 and 14, PR at II-25 and II-27.

[72] These price effects are manifested in increases in the frequency and amount of price reductions during periods of peak imports, see Report at II-40; significant underselling by imports, see Report at II-43; and trends in the unit value of domestic sales, which generally declined as imports surged. See discussion infra.

[73] U.S. producers' share of U.S. consumption is estimated to be 80.0% in 1991, 89.8% in 1992, 78.5% in 1993, 80.1% in 1994, and 69.7% in 1995.

[74] See Report at II-35 (prices for tomatoes and bell peppers are heavily influenced by supply and demand conditions in the industry, with prices rising in times of tight supply and falling in times of excess supply). Declines in domestic growers' unit sales values over the period examined and in most year-to-year comparisons, particularly from 1994-95 and between interim periods, track increases in imports. Compare Table 13, Report at II-25, with Table 3, Report at II-15, as adjusted to remove greenhouse imports. Imports of field tomatoes in the period corresponding to the interim periods for which financial data were reported show an increase of 53.0 percent in the most recent interim period: imports totaled 841,097,396 pounds in July 1995-Feb. 1996, compared to 549,612,140 pounds in the July 1994-Feb. 1995 period. These data were derived by adjusting official Commerce import statistics to remove greenhouse imports, using the methodology described earlier. (In adjusting the import statistics for these periods, Canadian greenhouse imports were assumed to be 71 percent of total imports; see Report at II-33, n.96.)

substantially affected the industry's ability to operate at a reasonable level of profit.[75] I also have considered the effects of the recent peso devaluation. I find this, along with the reductions in tariffs under the NAFTA, to be factors that have contributed to the increased imports, and not "causes" of injury independent of increasing imports. The record clearly demonstrates that increased imports of fresh field tomatoes are equal to or greater than any other cause of serious injury.[76]

2. Fresh Field Peppers

As previously noted, imports of fresh field peppers increased significantly over the period examined, both absolutely and as a percentage of U.S. production, with the most significant increase occurring between 1994 and 1995. Imports also increased their share of the U.S. market, which rose from 15.4 percent in 1994 to 20.9 percent in 1995, while domestic producers' share fell from 84.6 percent to 79.1 percent over the same period.[77]

I find that the increases in imports are a substantial cause of the serious injury experienced by the domestic industry producing fresh field peppers. The industry's poor financial performance, particularly in recent growing seasons, is directly attributable to a combination of declining sales volumes and declining unit values, which in turn are the expected result of surging imports in a market characterized by relatively inelastic demand and relatively stable (and recently, declining) consumption.[78] While I have considered other possible causes of injury, including poor weather in Florida, I find that these factors do not explain the declines in sales volumes and values that have so substantially affected the industry's ability to operate at a reasonable level of profit.[79] I also have considered the effects of the recent peso devaluation. I find this, along with the reductions in tariffs under the NAFTA, to be factors that have contributed to the increased

---

[75] Indeed, witnesses testified at the hearing that bad weather generally affects production volumes negatively, but has the effect of increasing prices. Tr. at 59 (DiMare). Thus, I find that bad weather does not explain the declining unit values experienced by domestic growers.

[76] This conclusion is supported by the questionnaire responses: in ranking various factors affecting the domestic industry, imports from Mexico (which accounted for the vast majority of total imports) were ranked as the most important factor causing injury by 82 firms. In contrast, nine producers listed government regulation, eight identified labor problems, and five producers each listed competition from substitute products, weather, increased input costs, and "other factors" as the most important causes of injury. Report at II-60.

[77] U.S. producers' share of U.S. consumption is estimated to be 81.9% in 1991, 85.9% in 1992, 83.0% in 1993, 84.6% in 1994, and 79.1% in 1995.

[78] See Report at II-35 (prices for tomatoes and bell peppers are heavily influenced by supply and demand conditions in the industry, with prices rising in times of tight supply and falling in times of excess supply). Domestic growers' unit sales values declined over the period examined, and in most year-to-year comparisons and between interim periods, as imports increased. Although domestic unit values for peppers increased as imports surged from 1994-95, domestic production and sales volumes fell significantly. Domestic sales volumes also continued to decline between interim periods, as imports continued to increase dramatically. Compare Table 14, Report at II-27, with Table 4, Report at II-16, as adjusted to remove greenhouse imports. Imports of field peppers in the periods corresponding to the interim periods for which financial data were reported show an increase of 41.8 percent in the most recent interim period: imports totaled 212,453,338 pounds in July 1995-Feb. 1996, compared to 149,786,367 pounds in the July 1994-Feb. 1995 period. These data were derived by adjusting official Commerce import statistics to remove greenhouse imports, using the methodology described earlier. (In adjusting the import statistics for these periods, Canadian greenhouse imports were assumed to be 37 percent of total imports; see Report at II-33, n.96.)

[79] Indeed, witnesses testified at the hearing that bad weather generally affects production volumes negatively, but has the effect of increasing prices. Tr. at 67 (Barfield). Thus, I find that bad weather does not explain the declining unit values experienced by domestic pepper growers in FY 1994 and in the most recent interim period.

imports, and not "causes" of injury independent of increasing imports. The record clearly demonstrates that increased imports of fresh field peppers are equal to or greater than any other cause of serious injury.[80]

E. Findings Regarding NAFTA Imports

Under Section 311(a) of the NAFTA Implementation Act, if the Commission makes an affirmative injury determination in a Section 201 investigation, it must also find whether--

> (1) imports of the article from a NAFTA country, considered individually, account for a substantial share of total imports; and
> (2) imports of the article from a NAFTA country, considered individually or, in exceptional circumstances, imports from NAFTA countries considered collectively, contribute importantly to the serious injury, or threat thereof, caused by imports.[81]

The statute further provides that imports from a NAFTA country "normally" will not be considered to account for a substantial share of total imports if that country is not among the top five suppliers of the article subject to the investigation, measured in terms of import share during the most recent three-year period.[82] The term "contribute importantly" is defined to mean an important cause, but not necessarily the most important cause.[83] In determining whether imports from a NAFTA country "contribute importantly" to the serious injury or threat, the Commission is directed to consider such factors as the change in the import share of the NAFTA country or countries, and the level and change in the level of imports of such country or countries. Imports normally shall not be considered to contribute importantly to serious injury or threat if the growth rate of imports from such country or countries during the period in which an injurious increase in imports occurred is appreciably lower than the growth rate of total imports from all sources over the same period.[84]

Applying these standards to the products for which I have made affirmative determinations, I find that imports of both fresh field tomatoes and fresh field peppers from Mexico account for a substantial share of total imports of such products, and contribute importantly to the serious injury caused by imports. I further find that imports of fresh field tomatoes from Canada do not account for a substantial share of total imports of such products, and do not contribute importantly to the serious injury caused by imports. I find that imports of fresh field peppers from Canada do not contribute importantly to the serious injury caused by imports of such products, and thus do not reach the question whether they account for a substantial share of total imports.

---

[80] This conclusion is supported by the questionnaire responses: in ranking various factors affecting the domestic industry, imports from Mexico (which accounted for the vast majority of total imports) were ranked as the most important factor causing injury by 82 firms. In contrast, nine producers listed government regulation, eight identified labor problems, and five producers each listed competition from substitute products, weather, increased input costs, and "other factors" as the most important causes of injury. Report at II-60.

[81] 19 U.S.C. § 3371(a).

[82] 19 U.S.C. § 3371(b)(1).

[83] 19 U.S.C. § 3371(c).

[84] 19 U.S.C. § 3371(b)(2).

1. Fresh Field Tomatoes

As previously noted, imports from Mexico accounted for over 99 percent of total imports of fresh field tomatoes in each year of the period examined. Thus, imports from Mexico clearly represent a substantial share of total imports, and because they drive the overall import trends, contribute importantly to the serious injury caused by such imports.

With respect to imports of fresh field tomatoes from Canada, I find that these imports do not account for a substantial share of total imports of fresh field tomatoes, and do not contribute importantly to the serious injury caused by imports. Although Canada is one of the three largest suppliers of imported fresh field tomatoes to the U.S. market, and its imports of these products did increase over the period examined, its shares of both total imports and U.S. consumption were very low throughout the period: imports of fresh field tomatoes from Canada accounted for less than one percent of total imports, and an even smaller share of U.S. consumption, even at their peak in 1995. [85] Moreover, an examination of monthly import statistics shows that the bulk of imports from Canada enter the U.S. market during the period April-September, while such imports are low during the winter months in which the majority of Mexican imports enter the U.S. market.[86] Because total imports are so dominated by imports from Mexico, while imports from Canada are very low in comparison, and based on the lack of seasonal overlap between Mexican and Canadian imports, I find that imports from Canada do not account for a substantial share of total imports, and do not contribute importantly to the serious injury caused by imports.

2. Fresh Field Peppers

As previously noted, imports from Mexico accounted for over 95 percent of total imports of fresh field peppers in each year of the period examined. Thus, imports from Mexico clearly represent a substantial share of total imports, and because they drive the overall import trends, contribute importantly to the serious injury caused by such imports.

With respect to imports of fresh field peppers from Canada, I find that these imports do not contribute importantly to the serious injury caused by imports. I thus do not reach the question of whether imports from Canada account for a substantial share of total imports. I note that although Canada is one of the three largest suppliers of imported fresh field peppers to the U.S. market, and its imports of these products did increase over the period examined, its shares of both total imports and U.S. consumption were quite low in comparison to those of Mexico: imports of fresh field peppers from Canada accounted for less than five percent of total imports, and less than one percent of U.S. consumption, even at their peak in 1995.[87] Although I would not necessarily view an import share of five percent as insubstantial in all cases, I further note that an examination of monthly import statistics shows that the bulk of imports from Canada enter the U.S. market during the period April-September, while such imports are low during the winter months in which the majority of Mexican imports enter the U.S. market.[88] Because total imports are so dominated by imports from Mexico, while imports from Canada are very low in comparison, and based on

---

[85] Tables 3 and 24, Report at II-15, II-37 (using import and consumption data adjusted as described in footnotes 18 and 22 above).

[86] See Commerce monthly import statistics.

[87] Tables 4 and 24, Report at II-16, II-37 (using import and consumption data adjusted as described in footnotes 25 and 28 above).

[88] See Commerce monthly import statistics.

the lack of seasonal overlap between Mexican and Canadian imports, I find that imports from Canada do not contribute importantly to the serious injury caused by imports.

PART II

INFORMATION OBTAINED IN THE INVESTIGATION

INTRODUCTION

This investigation results from a petition under section 202 of the Trade Act of 1974 filed by the Florida Fruit & Vegetable Association, Orlando, FL; the Florida Bell Pepper Growers Exchange, Inc., Orlando, FL; the Florida Commissioner of Agriculture, Tallahassee, FL; the Ad Hoc Group of Florida Tomato Growers and Packers; and individual Florida bell pepper growers,[1] on March 11, 1996, alleging that fresh tomatoes and bell peppers, provided for in subheadings 0702.00.20, 0702.00.40, 0702.00.60, and 0709.60.40 of the HTS, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.[2] Information relating to the background and schedule of the investigation is provided below.[3]

Date	*Action*
March 11, 1996	Petition filed with the Commission; institution of inv. No. TA-201-66 (61 FR 13875, Mar. 28, 1996)
June 3	Hearing on injury[4]
July 2	Vote on injury
September 9	Commission's findings and recommendations due to the President

---

[1] Subsequently, the following organizations were added as co-petitioners: Florida Tomato Exchange, Orlando, FL; Florida Tomato Growers Exchange, Orlando, FL; Gadsden County Tomato Growers Assoc. Inc., Quincy, FL; American Farm Bureau Federation, Park Ridge, IL; Florida Farm Bureau Federation, Gainesville, FL; Virginia Farm Bureau Federation, Richmond, VA; South Carolina Tomato Association, Charleston, SC; Accomack County Farm Bureau, Accomack, VA; Finger Lakes Organic Growers Cooperative, Trumansburg, NY; and Redlands Christian Migrant Association, Immokalee, FL. In addition, the following individual tomato and bell pepper growers and packers entered appearances as co-petitioners: Ace Tomato Co., Inc., Manteca, CA; Atlantic Tomato Growers, Jennings, FL; Beli Farms, Wellborn, FL; Bigbie Farms, Live Oak, FL; Shirley Bozzuto, Lake City, FL; Byrd Foods, Inc., Parksley, VA; California Tomato Packers, Inc., Tracy, CA; Canal Road Greenhouses, Palmetto, FL; Belinda Cheney, O'Brien, FL; DMB Packing Corp., Newman, CA; Lloyd Day, Madison, FL; Chip Douglas, McAlpin, FL; Esfresh Produce Corp., Tracy, CA; Harloff Farms of East Tennessee, Inc., Morristown, TN; L & E Farms, Westover, MD; Landsiedel Farms, Inc., Dalton, PA; John Moore, McAlpin, FL; North Florida Tomatoes, Inc., Quincy, FL; Paragon Produce Corp., St. Helena, SC; Pacific Tomato Growers, Ltd., Palmetto, FL and Patterson, CA; Pacific Land Co., Immokalee, FL; Patterson Farm, Inc., China Grove, NC; Peerless Manatee Farm, Palmetto, FL; Peerless Virginia Farm, Mappsville, VA; Steyer Farms, Tiffin, OH; Suwannee Growers, Lake City, FL; SWG Packing Co., Inc., Donaldsonville, GA; Taylor & Fulton, Inc., Parksley, VA and Palmetto, FL; Triple E Produce Corp., Tracy, CA; Donald E. Veenstra, Greenville, FL; and West Coast Tomato California, L.P., Stockton, CA.

[2] For purposes of this investigation, "fresh tomatoes" are defined as fresh or chilled tomatoes, including but not limited to the varieties known scientifically as *Lycopersicon esculentum, Lycopersicon cerasiforme,* and *Lycopersicon pyriforme*, but excluding tomatoes grown for processing. "Bell peppers," also called sweet peppers, are defined as fresh or chilled peppers belonging to the species *Capsicum annuum var. annuum,* but excluding chili and cayenne peppers and peppers grown for processing. The tariff treatment of fresh tomatoes and bell peppers (as of Jan. 1, 1996) is shown in app. A.

[3] The *Federal Register* notice cited in the tabulation is presented in app. B.

[4] A list of witnesses appearing at the hearing is presented in app. C.

PREVIOUS AND RELATED INVESTIGATIONS

Section 316 of the NAFTA Implementation Act requires the Commission to monitor U.S. imports of "fresh or chilled tomatoes" and "fresh or chilled peppers, other then chili peppers" until January 1, 2009, for the purpose of expediting a request for provisional relief made in a petition for bilateral relief regarding imports from Canada or Mexico under section 302 of the NAFTA Implementation Act or in a petition for relief regarding all countries filed under section 202 of the Trade Act of 1974. As a result, the Commission instituted investigation No. 332-350 (*Monitoring of U.S. Imports of Tomatoes,* 59 FR 1763, Jan. 12, 1994) and investigation No. 332-351 (*Monitoring of U.S. Imports of Peppers,* 59 FR 1762, Jan. 12, 1994) under section 332(g) of the Tariff Act of 1930. In July 1995, the Commission issued the second in a series of reports on these monitoring efforts.[5] Information collected in the monitoring investigations has been used, as appropriate, in the preparation of this report.

On March 29, 1995, the Commission instituted inv. No. TA-201-64, *Fresh Winter Tomatoes*, under section 202 of the Trade Act of 1974; the petition, filed by the Florida Tomato Exchange and its constituent members, contained a request for provisional relief under section 202(d)(1)(C) of the act. On April 19, 1995, the Commission made a negative determination on the question of provisional relief. The petition was withdrawn on May 4, 1995, and the investigation was terminated.[6]

On April 1, 1996, a petition was filed under the antidumping law by the Florida Tomato Growers Exchange, Orlando, FL; Florida Fruit and Vegetable Association, Orlando, FL; Florida Farm Bureau Federation, Gainesville, FL; South Carolina Tomato Association, Inc., Charleston, SC; Gadsden County Tomato Growers Association, Inc., Quincy, FL; Accomack County Farm Bureau, Accomack, VA; Florida Tomato Exchange, Orlando, FL; Bob Crawford, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, Tallahassee, FL; and the Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee, and Virginia Tomato Growers, with the Commission and Commerce, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of fresh tomatoes from Mexico. Accordingly, the Commission instituted a preliminary antidumping investigation effective April 1, 1996 (61 FR 15968, Apr. 10, 1996). The Commission held a conference on April 22, 1996, and, on May 16, 1996, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), unanimously determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Mexico of fresh tomatoes that are alleged to be sold in the United States at LTFV.[7] Unless it extends its investigation, Commerce is expected to make its preliminary LTFV determination by September 5, 1996, and if its determination is affirmative, the Commission will then institute a final investigation.

SUMMARY DATA

A summary of data collected in the investigation is presented in appendix D, tables D-1-D-6. Except as noted, data are based on official USDA and Commerce data supplemented with questionnaire responses of 163 growers that accounted for 57 percent and 27 percent of U.S. production of fresh tomatoes and fresh bell

---

[5] On May 17, 1996, (61 FR 24953) the Commission announced that it will not publish reports in 1996 on the results of the monitoring in order to avoid possible public confusion caused by the release of multiple reports containing different data series. The Commission will continue to monitor as required by section 316 of the NAFTA Implementation Act and will consider at a later date whether to resume publication of monitoring reports in 1997 and later years.

[6] *Fresh Winter Tomatoes*, USITC Pub. No. 2881, Apr. 1995.

[7] Vice Chairman Nuzum not participating.

peppers, respectively, during 1995; 33 packers handling 36 percent and 10 percent, respectively, of U.S. production of fresh tomatoes and fresh bell peppers during 1995; and 40 importers accounting for over 52 percent and 51 percent, respectively, of total U.S. imports from all sources of fresh tomatoes and fresh peppers in 1995.

THE PRODUCT

Fresh Tomatoes

Imported Product

The imported products subject to this investigation are fresh tomatoes, including common round tomatoes (*Lycopersicon esculentum*), roma (plum or pear type) tomatoes (*L. esculentum* Var. *pyriforme*), and cherry tomatoes (*L. esculentum* Var. *cerasiforme*).[8] All tomatoes, whether imported or domestically produced, are members of the Nightshade family. About 95 percent of all imports of fresh tomatoes come from Mexico. In recent years, such imports have entered throughout every month of the year, with the bulk of imports from Sinaloa entered during January-May and significant amounts from Baja California entered during June through November.[9] Fresh tomatoes from Mexico enter in different grades or sizes from season to season and usually from week to week within each season.[10] Historically, the majority of imported fresh tomatoes from Mexico were vine-ripe common round tomatoes, although increasing shipments of vine-ripe cherry tomatoes and roma tomatoes from Mexico have occurred in recent years.[11]

An increasing number of growers in Mexico have shifted to the use of transplants rather than using seeds for starting plants. Production practices include staking plants on plastic mulch and the use of computer-controlled underground drip irrigation systems.[12] Tomato growers in Mexico have traditionally raised and continue to raise most of the same tomato varieties as those grown in Florida, although Mexican growers have recently increased their production of ESL vine-ripe round tomatoes.[13] ESL tomatoes differ from conventional vine-ripe round tomatoes in that they have thicker walls and smaller seed chambers, which contribute to a longer shelf life.[14] Parties disagreed concerning whether ESL tomatoes are superior in taste to their conventional counterparts.[15]

---

[8] *Petition*, pp. 11-12.

[9] Transcript, p. 45.

[10] Shipments of fresh tomatoes in U.S. markets are covered by a Federal Marketing Order.

[11] Transcript, p. 191. Tomatoes are generally picked either at the "mature-green" or "vine-ripe" stage. Mature-green tomatoes are those picked when the fruit is fully formed but has not begun to turn color. Vine-ripe tomatoes are those picked when the fruit has begun to show some color (i.e., at the "breaker" stage), but has not yet fully ripened. At any particular time, an individual tomato plant may yield both mature-green and vine-ripe stage tomatoes. Accordingly, mature-green and vine-ripe tomatoes can be harvested simultaneously and subsequently sorted at the packing house. Transcript, p. 38.

[12] Posthearing brief of CAADES and CNPH (Mexican respondents' posthearing brief), tab 3; transcript, p. 167.

[13] Transcript, p. 166.

[14] Id.

[15] Transcript, pp. 51, 186.

U.S. Product

Domestically produced fresh tomatoes include common round tomatoes, roma tomatoes, and cherry tomatoes.[16] In 1995, Florida and California accounted for 42 and 31 percent, respectively, of total U.S. production. Fresh tomatoes are available from Florida principally from November through the following May, with production in California available principally from June through November. Fresh tomatoes are produced in most other States, with Georgia and Virginia accounting for 6 and 4 percent of production, respectively, and Tennessee, New Jersey, and South Carolina accounting for 2 percent each in 1995. Fresh tomatoes commercially produced in these and most other States are available primarily during June through October.

U.S.-grown fresh tomatoes also vary in grades or sizes from season to season and from week to week within each season. The majority of Florida-grown fresh tomatoes (approximately 85 percent) are mature-green common round tomatoes, although Florida growers have also devoted considerable acreage to production of vine-ripe round tomatoes and roma tomatoes.[17] Production in most other States is of vine-ripe common round, roma, cherry, and greenhouse tomatoes. ESL vine-ripe round tomatoes, similar to those grown in Mexico, are not grown in Florida to any extent.

Tomato production in the United States is similar to that in Mexico. Many growers in the principal U.S. production areas have shifted to the use of transplants and production practices that include the use of staking plants on plastic mulch and the use of underground drip irrigation systems.[18] In the major producing States, growers also use land leveler planes to grade their fields and dig wells adjacent to their fields for water to be used in freeze damage control.

The major difference in U.S. tomato production as compared with that in Mexico is the greater use in the United States of degreening rooms to hasten the ripening of the tomatoes prior to shipment. Tomatoes picked at the mature-green stage are placed in controlled atmospheric storage rooms where regulated amounts of ethylene, a naturally occurring gas given off by tomatoes during ripening, are added. Both Florida and California use this process to ripen their mature-green tomatoes, while it is rarely used in Mexico.[19] Degreening enables tomatoes picked at the mature-green stage to resemble those picked at later stages by the time they reach the retail level.[20]

Fresh Bell Peppers

Imported Product

More than 80 percent, by volume, of all imports of fresh peppers come from Mexico.[21] Mexican-produced fresh bell peppers include green bell peppers that are similar to those grown in Florida as well as

---

[16] *Petition*, pp. 11-12.

[17] See, e.g., *1995 Annual Report*, Florida Tomato Committee, Orlando, FL; petitioners' posthearing brief, *Answers to Questions*, p. 44; transcript, p. 25.

[18] Climatic conditions in California do not require staking of tomato plants; as a result, tomatoes in California are grown on the ground. Field visit with ***, June 11, 1996.

[19] The Mexican respondents estimate that approximately 10 percent of tomato production in Sinaloa is of mature-green tomatoes; it is unclear whether these tomatoes are gassed prior to shipment. Preliminary transcript, p. 147.

[20] Transcript, p. 38.

[21] See table 4, *infra*.

such newer hybrids as Bell Captain, Galaxy, Jupiter, and newer strains of colored peppers.[22] Growers use predominantly transplants that are hand planted and string staked. Peppers are still grown with furrow irrigation and little or no plastic.[23] Imports from Mexico are available principally during November through April.

In contrast to peppers grown in Mexico, peppers imported from the Netherlands are grown exclusively in greenhouses, and are grown hydroponically, i.e., without the use of soil.[24] Dutch growers raise peppers in a wide range of colors, including red, yellow, orange, purple, white, and lilac.[25] Peppers imported from Canada are grown both in fields and in greenhouses, but such imports are predominantly of the field variety. Imports from the Netherlands and Canada are generally available from April through November.[26]

U.S. Product

Domestically produced fresh peppers include principally California Wonder bell types, in green, yellow, red, orange, brown, purple, and some other colors. The most commonly grown fresh peppers are the green California Wonder bell pepper variety.[27] Most green fresh peppers will turn red if left on the plant longer to mature.

Fresh peppers are available throughout the year, with Florida production primarily from October through June. California production is available principally from June through October and supplies from New Jersey, Georgia, North Carolina, Texas, and most other States are available from June through November.[28] As with tomatoes, there are distinct U.S. standards and grades for sweet peppers (i.e., U.S. Fancy, U.S. No. 1, and U.S. No. 2).[29]

Fresh pepper production in the United States is similar to that in Mexico in that most production is field-grown. Further, growers have shifted to the production of a number of new cultivars, have switched to a greater use of transplants, and have increased their use of drip irrigation.[30] As with tomato production, Florida growers rely on both flood and drip irrigation for production, as well as the use of overhead irrigation for frost protection.[31] Pepper producers in Florida face problems of water availability and quality, restricted land and labor availability, restrictions on the use of certain chemicals, and increased government regulatory practices.[32] Florida pepper growers are represented by the Florida Bell Pepper Growers Exchange, a grower

---

[22] *Competition in the U.S. Winter Fresh Vegetable Industry*, ERS, USDA, Washington, DC, Agricultural Economic Report No. 691, July 1994, p. 49.

[23] Id.

[24] Transcript, p. 244. Vegetables grown hydroponically are grown in an inert base, such as sand, with nutrients provided through an aqueous solution. Dutch respondents' posthearing brief, p. 3.

[25] Transcript, p. 245.

[26] Canadian respondents' prehearing brief, table 5.

[27] *1994 Produce Availability and Merchandising Guide, The Packer*, Vance Publishing Corp., Overland Park, KS, Vol. 101, No. 53, 1995, p. 320.

[28] Id., p. 321.

[29] Sweet peppers are those peppers other than chili peppers, the bulk of which are believed to be bell-type peppers. *United States Standards for Sweet Peppers*, 7 CFR, Ch. 1 (1-1-95 Edition), pp. 438-439.

[30] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 30.

[31] Id., p. 49.

[32] Id., pp. 24-26.

cooperative that assists growers with the production and marketing of Florida peppers.[33] California pepper growers benefit from scientific research conducted by the California Pepper Commission.

THE U.S. MARKET

U.S. Growers

There were an estimated 15,500 U.S. growers of tomatoes located throughout the United States, with an estimated 400,000 acres in production in 1992.[34] Census estimates that California had over 1,400 growers with 254,000 acres in production, followed by Pennsylvania with 1,000 growers on 4,900 acres. Florida had 311 growers on 63,000 acres. These growers range in size from 0.1 acre to thousands of acres in production. Of the thousands of growers, many also produce other vegetable products such as bell peppers, cucumbers, and squash.

There were an estimated 7,400 U.S. growers of fresh peppers located throughout the United States in 1992, with an estimated 74,000 acres of production.[35] California had 395 growers with 19,900 acres in production and Florida had 199 growers and 19,550 acres. Other States with significant acreage included Texas, New Jersey, and North Carolina. New Jersey had the largest number of growers with about 670, but only an estimated 4,200 acres in production.[36] U.S. fresh pepper growers range in size from 0.1 to 100.0 acres or more in production, with about 80 percent of the farms producing less than 5 acres of peppers. Most of these growers also raise a number of other vegetables, such as tomatoes.

In this investigation, the Commission sent questionnaires to 666 growers of fresh tomatoes and/or bell peppers. The Commission's grower mailing list was based on lists submitted by the Florida Tomato Exchange and the Florida Department of Agriculture in the context of the 1995 investigation of fresh winter tomatoes (inv. No. TA-201-64), along with lists obtained from certain state grower organizations. The petitioners in this investigation supplied the names of additional growers of both tomatoes and bell peppers in their petition and in subsequent submissions to the Commission.

The Commission received usable responses from 163 growers.[37] Of these, 149 growers grew fresh tomatoes during the period examined, and 30 growers grew fresh bell peppers; 16 growers grew both products. Ninety-three firms on the Commission's list responded that they did not grow fresh tomatoes or bell peppers at any point during the last five growing seasons. Of the growers surveyed, 498 firms either did

---

[33] Id., p. 28.

[34] *1992 Census of Agriculture,* Commerce, Washington, DC, Vol. 1, Part 51, Pub. AC92-A-51, Oct. 1994, p. 41. Numbers include those farms producing tomatoes for fresh market and processing; Census data do not distinguish between the two types of tomatoes. According to petitioners, acreage devoted to growing of fresh-market tomatoes totaled 135,670 acres in 1995. Petitioners' prehearing brief, p. 72.

[35] *1992 Census of Agriculture,* Commerce, Washington, DC, Vol. 1, Part 51, Pub. AC92-A-51, Oct. 1994, p. 41.

[36] Id., p. 14.

[37] Several of these grower responses were for joint ventures between the grower and a particular packer. In some cases, a grower grew tomatoes for more than one packer under these arrangements. In such cases, each grower/packer combination is counted as a separate response.

not respond to the questionnaire, could not be reached, or did not provide usable data.[38] No responding grower reported any foreign affiliation.[39]

U.S. Packers

U.S. packers of fresh tomatoes are also located nationwide, with the heaviest concentrations located in the principal producing areas of Florida and California. Some are co-operatives, some are strictly packing houses, and some are both growers and packers (their own and/or others).[40] These packers may also pack other vegetables such as cucumbers and eggplant.

U.S. fresh bell pepper packers are located throughout the United States, with the heaviest concentration located in the principal producing areas of Florida and California. As with tomatoes, some are co-operatives, some only packers, and others grower/packers. In recent years, there were an estimated 25 fresh pepper packers in Florida.[41] These packers contract with brokers/shippers to sell their peppers nationally, with 60-70 packers accounting for the bulk of shipments.[42] Some of these packers buy direct from growers while others charge handling and selling fees for handling the peppers.[43] Most of these firms also handle other fresh vegetables as well.[44] In Florida, fresh peppers are sometimes packed in the growers' own sheds or other times field packed using mobile packing sheds, and then moved to a storage facility for precooling and storage prior to shipment.[45]

Certain packing houses also act as "repackers." These firms take in tomatoes for their customers (typically retail stores and supermarkets) and repack the tomatoes under their own label, sorting for size and color.[46] The tomatoes supplied to these firms may be from several sources, and may therefore be commingled in the repacking operation. Several packers reporting data to the Commission also acted as repackers during the period examined.

The Commission sent questionnaires to 94 packers of fresh tomatoes and/or bell peppers. The Commission based its mailing list for packers on the membership list of the Florida Tomato Exchange (virtually all of whom are "first handlers" of tomatoes (i.e., packers)), on individual firms listed on the Commission's grower mailing list and identified by the petitioners as packers of either fresh tomatoes or bell peppers (or both), and on published sources such as "The Red Book."[47] The Commission received usable responses from 33 packers. Of these, 27 packers packed fresh tomatoes during the period examined, and 9

---

[38] Of the 163 responses with usable data, 88 were received from growers to whom the Commission had not mailed a questionnaire.

[39] Mexican respondents alleged that, in Sinaloa, there are between 8 and 10 firms growing or packing tomatoes and bell peppers that are joint ventures with U.S. firms, and that, in Baja, there are between 4 and 6 such firms growing and packing tomatoes. Mexican respondents' posthearing brief, tab 4, p. 4.

[40] The degree of integration between tomato growers and packers appears to be considerably greater in California than in Florida. In California, tomato growers and packers often form joint ventures in order to market tomatoes, leading to a high level of involvement in growing decisions by packing houses. Field visit with ***, June 11, 1996.

[41] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 27.

[42] Id., pp. 26-27.

[43] Id., p. 27.

[44] Id.

[45] Id., pp. 27-28.

[46] Field visit with ***, June 11, 1996.

[47] *Red Book Credit Services*, Vol. 116, Issue 9535D, Dec. 1995 (and earlier editions).

packers packed fresh bell peppers; 3 packers packed both products. Eighteen firms on the Commission's packers' mailing list indicated that they did not pack tomatoes or peppers at any time during the last 5 growing seasons. Thus, 44 packers either did not respond to the Commission's questionnaire, were unreachable with the questionnaire, or submitted data that were unusable.[48]

U.S. Importers

A review of the CNIF for calendar year 1995 indicated hundreds of firms importing fresh tomatoes and/or bell peppers. The Commission sent questionnaires to 222 significant importers of fresh tomatoes and/or bell peppers during calendar years 1994 and 1995.[49] The Commission received usable data on imports and shipments of imports from 40 companies, the vast majority of which reported imports of the subject products from Mexico.[50] Sixteen firms reported that they have not imported fresh tomatoes or bell peppers since July 1, 1990. Accordingly, 166 companies either failed to respond to the Commission's questionnaire, were not reachable with a questionnaire, or provided data that were unusable.

Although imports of fresh tomatoes and bell peppers enter the United States through most ports of entry, virtually all imports from Mexico enter either through the ports of Nogales, AZ, or San Diego, CA. Of the 222 importers identified through the CNIF as significant, 69 were located in Nogales, AZ, and 9 in San Diego, CA. Firms importing from other sources were scattered across the country, but were primarily located on the East and West Coasts. Imports from Mexico do not enter the United States through any Florida ports. No responding grower or packer reported direct imports of fresh tomatoes or bell peppers.[51]

Apparent U.S. Consumption[52]

Apparent U.S. consumption of fresh tomatoes, in terms of volume, demonstrated a slow, steady increase over the five-year period examined, with the largest increases, in percentage terms, occurring between 1992 and 1993, and again between 1994 and 1995 (table 1). Consumption was 4 percent higher in 1995 than in 1994, despite a substantial decline in U.S. fresh tomato production in 1995.

The volume of apparent consumption of fresh bell peppers also increased steadily from 1991 to 1994, but declined from 1994 to 1995 (table 2). In 1995, the decline in U.S. production outweighed the increase in imports in that period. Value-based trends were similar, except that the decline in consumption in 1995 was less marked.

---

[48] The Commission received usable data from one firm that did not receive a questionnaire.

[49] An importer was considered "significant" if the value of its imports of fresh tomatoes and/or bell peppers exceeded $100,000 in any calendar year.

[50] Of the 40 responding importers, 32 reported imports from Mexico, 4 from Canada, 10 from the Netherlands, and 6 from other sources. Responding importers accounted for 52 and 51 percent by volume, respectively, of total 1995 imports of fresh tomatoes and bell peppers, based on official Commerce import statistics.

[51] Although such firms did not import directly, respondents alleged in this investigation that certain U.S. growers and/or packers have purchased imported tomatoes from Mexico. Mexican respondents' posthearing brief, tab 4, p. 15.

[52] Because public data on shipments are unavailable, data on production are being used in this section as a proxy for U.S. shipments of domestic product. As seen in app. D, reported shipments by domestic growers and packers of fresh tomatoes and bell peppers are only slightly less than production. To the extent, therefore, that production overestimates shipment levels, U.S. producers' share of apparent consumption will be overstated.

Table 1
Fresh tomatoes: U.S. production, exports, and imports, by sources, and apparent U.S. consumption, calendar years 1991-95

Item	1991	1992	1993	1994	1995
	Quantity (*1,000 pounds*)				
U.S. production	3,388,700	3,903,300	3,559,900	3,663,600	3,284,000
U.S. exports	300,282	367,479	345,830	340,748	289,226
U.S. imports from:					
Mexico	779,504	403,702	882,939	829,008	1,307,480
Netherlands	5,314	5,581	15,530	16,639	27,341
Canada	5,891	11,494	10,436	16,917	25,695
Other sources	4,784	11,390	13,496	10,410	8,393
Total	795,493	432,167	922,401	872,974	1,368,909
Apparent consumption	3,883,911	3,967,988	4,136,471	4,195,826	4,363,683
	Value (*1,000 dollars*)				
U.S. production	1,077,832	1,396,950	1,130,092	1,005,926	852,508
U.S. exports	110,435	140,179	122,255	119,772	101,984
U.S. imports from:					
Mexico	283,815	148,705	341,518	347,227	451,555
Netherlands	6,690	7,568	18,030	22,338	37,390
Canada	4,638	5,798	6,591	10,610	18,138
Other sources	8,527	12,547	16,897	17,176	12,565
Total	303,671	174,618	383,036	397,351	519,649
Apparent consumption	1,271,068	1,431,389	1,390,873	1,283,505	1,270,173

Source: Compiled from official statistics of Commerce and USDA.

Channels of Distribution

Fresh Tomatoes

Mature-green and vine-ripe fresh round tomatoes, both domestically produced and imported, are generally sold through the same channels of distribution. Roma and cherry tomatoes also travel through the same channels of distribution and are offered for sale to some of the same customers as round tomatoes.[53] During the winter months, fresh tomatoes grown and harvested in Florida are graded, packed, and sold through intermediaries to distributors, retailers, or food brokers.[54] Mexican fresh tomatoes grown during the same months are packed in Mexico and shipped principally to Nogales, AZ, for sale through importers and

[53] Preliminary transcript, pp. 81-83.

[54] *Fresh Winter Tomatoes*, USITC Pub. No. 2881, Apr. 1995, p. II-6.

Table 2
Fresh bell peppers: U.S. production, exports, and imports, by sources, and apparent U.S. consumption, calendar years 1991-95

Item	1991	1992	1993	1994	1995
	Quantity (*1,000 pounds*)				
U.S. production	1,052,795	1,228,943	1,234,907	1,313,697	1,121,279
U.S. exports	167,631	189,433	122,555	117,670	107,959
U.S. imports from:					
Mexico	192,539	168,162	223,183	213,215	256,117
Netherlands	17,953	21,684	35,696	37,271	39,244
Canada	5,170	4,058	7,740	8,463	14,821
Other sources	1,056	1,392	2,231	2,514	4,517
Total	216,718	195,296	268,850	261,463	314,700
Apparent consumption	1,101,882	1,234,806	1,381,202	1,457,490	1,328,020
	Value (*1,000 dollars*)				
U.S. production	272,314	328,230	371,858	387,852	348,389
U.S. exports	44,224	47,726	48,639	46,777	44,901
U.S. imports from:					
Mexico	83,574	74,193	102,827	106,921	122,106
Netherlands	36,209	43,006	60,695	70,697	79,174
Canada	4,842	4,520	6,718	7,004	11,382
Other sources	1,394	1,784	2,491	3,382	7,235
Total	126,019	123,503	172,730	188,004	219,897
Apparent consumption	354,109	404,007	495,949	529,079	523,385

Source: Compiled from official statistics of Commerce and USDA.

brokers to the same purchasers.[55] Petitioners state that Florida- and Mexican-grown fresh round tomatoes compete head-to-head in all of the same channels of distribution.[56] The Mexican respondents allege, however, that head-to head competition between Florida and Mexican tomatoes is attenuated somewhat by the fact that Mexico specializes in vine-ripe tomatoes while Florida specializes in mature-green tomatoes, and the two types are not perfectly substitutable.[57]

During June through October, fresh round tomatoes grown in California and Baja California are sold in many of the same markets and distributed through the same channels as mature-green and vine-ripe tomatoes grown during the winter.[58] Imports from Baja California are entered exclusively in the Western

[55] Id.

[56] *Petition* in inv. No. 731-TA-747 (Preliminary), p. 42.

[57] Mexican respondents' posthearing brief, pp. 15-18.

[58] *Fresh Winter Tomatoes*, USITC Pub. No. 2881, Apr. 1995, p. II-7.

United States.[59] In addition, a large volume of fresh tomatoes grown in numerous other States in the non-winter months are sold through regional distributors, farmer's markets, and roadside stands.[60]

Fresh tomatoes are generally sold through telephone contacts between shippers and wholesale terminal market buyers, with many transactions taking place among shippers and buyers with a long established trading history.[61] Tomatoes are perishable and normally last less than 7 days if harvested in the pink stage and from 21 to 28 days if mature-green.[62] The recommended storage environment is usually at 62 to 68 degrees and 85- to 88-percent relative humidity.

U.S.-produced fresh tomatoes are commonly shipped and marketed in an assortment of containers and sizes, including 10-, 20-, and 25-pound flats/cartons, loose or in layers (mature-greens), 15-pound flats and 5-pound cartons (cherry), and 25-pound cartons (roma). Imports from Mexico are often in 30-pound 2-layer and 3-layer lugs, and imports from the Netherlands in 15-pound and 7-kilo 1-layer flats.[63]

Fresh Bell Peppers

Most fresh pepper sales are made by telephone contacts between shipping point operators and wholesale terminal market buyers.[64] Most shipments are trucked to wholesale terminal market storage facilities, from which the peppers are sold and moved to retail and institutional markets.[65] Fresh peppers are perishable and generally last only 14 to 21 days after harvest,[66] even when stored at the recommended 50 degrees and 95-percent relative humidity.[67] Florida has accounted for the dominant market share of fresh peppers available at wholesale terminal markets in the Eastern United States (i.e., Atlanta, Chicago, and New York City) and Mexico the dominant market share in the west (i.e., Los Angeles).[68] Historically, Florida has held the majority of market share in the U.S. fresh pepper market for the overall October-June period, while Mexico has held the greater share during December-April.[69]

U.S.-produced fresh peppers are commonly marketed in an assortment of containers, including 35-pound 1 and 1/4-bushel cartons, 30-pound cartons/crates, 28-pound bushel and 1 and 1/9-bushel cartons, 28-pound 3.56 dekaliter cartons, 25-pound cartons, 14-15-pound 1/2-bushel cartons, and 11-pound flat cartons. Imports from Mexico are often sold in 30-pound cartons/crates and imports from the Netherlands in 11-pound flat cartons.

---

[59] Id.

[60] Id.

[61] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 28.

[62] *1996 Produce Services Handbook*, p. 28.

[63] *1994 Produce Availability & Merchandising Guide*, p. 419.

[64] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 28.

[65] Id.

[66] *1996 Produce Services Sourcebook*, p. 28.

[67] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 49.

[68] Id., pp. 20-24.

[69] Id., p. 8.

THE QUESTION OF INCREASED IMPORTS

U.S. Imports

Commerce statistics for imports of fresh tomatoes from all sources, by individual source, for calendar years 1991 through 1995, are presented in table 3. Equivalent statistics for imports of fresh bell peppers are shown in table 4. Official data on imports of fresh tomatoes and bell peppers, segregated by district of entry, are presented in appendix E.

Fresh Tomatoes

Periodic data show that, except for 1992, imports from Mexico increased from 1991 to 1995 by 68 percent overall in terms of quantity and by 59 percent in value terms.[70] The volume of imports from the Netherlands, the second-largest import source in 1995, grew consistently as well over the period examined, with the largest increase in percentage terms occurring between 1992 and 1993. Total imports essentially followed the same trend as that shown by imports from Mexico, reflecting the dominant share of imports from Mexico in total imports (95 percent or more of total imports, by volume, in all years except 1992). Unit values of imports from Mexico were consistently lower than those from other major sources, with imports from the Netherlands being the most expensive and imports from Canada somewhere in between.

Fresh Bell Peppers

Trends in global imports of fresh bell peppers were quite similar to those associated with fresh tomatoes. In terms of volume, imports dropped in 1992 (again, influenced by the flooding situation in Mexico), and then rebounded in 1993 to a higher level than that of 1991.[71] After a small decline in 1994, imports surged again to over 300 million pounds in 1995.

Relative unit values from the three largest import sources for bell peppers were similar to those for fresh tomatoes. Specifically, unit values from Mexico were the lowest, with unit values of imports from Canada about twice as high and unit values from the Netherlands three to four times as high as those of imports from Mexico. On a quantity basis, imports from Mexico held a dominant share of total imports, with over 80 percent of the import market in all periods, whereas on a value basis, Mexico held a much smaller lead over imports from the Netherlands, particularly toward the end of the period examined.

U.S. Imports Relative to Production

Tables 5 and 6 indicate the ratio of U.S. imports of fresh tomatoes and bell peppers, respectively, to domestic production. With regard to fresh tomatoes, except for 1992 when imports from Mexico were severely curtailed by flooding, the volume of imports from Mexico was equivalent to from one-fifth to two-fifths of U.S. production during each calendar year. In 1995, import volumes from Mexico surged to nearly 40 percent of U.S. production, from only 23 percent in the previous year. Import quantities from the Netherlands and Canada were consistently equal to 0.5 percent or less of U.S. production except in the 1995 season, when they increased to 0.8 percent of such production.

---

[70] The 1992 season was unusual in that imports from Mexico were cut drastically because of severe flooding in the tomato and bell pepper production areas.

[71] Value-based data show only a very slight decline in 1992.

Table 3
Fresh tomatoes: U.S. imports for consumption, by sources, 1991-95

Source	1991	1992	1993	1994	1995
	Quantity (*1,000 pounds*)				
Mexico	779,504	403,702	882,939	829,008	1,307,480
Netherlands	5,314	5,581	15,530	16,639	27,341
Canada	5,891	11,494	10,436	16,917	25,695
All other	4,784	11,390	13,496	10,410	8,393
Total	795,493	432,167	922,401	872,974	1,368,909
	Value (*1,000 dollars*)				
Mexico	283,815	148,705	341,518	347,227	451,555
Netherlands	6,690	7,568	18,030	22,338	37,390
Canada	4,638	5,798	6,591	10,610	18,138
All other	8,527	12,547	16,897	17,176	12,565
Total	303,671	174,618	383,036	397,351	519,649
	Unit value (*per pound*)				
Mexico	$0.36	$0.37	$0.39	$0.42	$0.35
Netherlands	1.26	1.36	1.16	1.34	1.37
Canada	0.79	0.50	0.63	0.63	0.71
All other	1.78	1.10	1.25	1.65	1.50
Average	0.38	0.40	0.42	0.46	0.38
	Share of the quantity of total imports (*percent*)				
Mexico	98.0	93.4	95.7	95.0	95.5
Netherlands	0.7	1.3	1.7	1.9	2.0
Canada	0.7	2.7	1.1	1.9	1.9
All other	0.6	2.6	1.5	1.2	0.6
Total	100.0	100.0	100.0	100.0	100.0
	Share of the value of total imports (*percent*)				
Mexico	93.5	85.2	89.2	87.4	86.9
Netherlands	2.2	4.3	4.7	5.6	7.2
Canada	1.5	3.3	1.7	2.7	3.5
All other	2.8	7.2	4.4	4.3	2.4
Total	100.0	100.0	100.0	100.0	100.0

Note.--Because of rounding, figures may not add to the totals shown. Unit values and share are calculated from the unrounded figures.

Source: Compiled from official statistics of Commerce.

Table 4
Fresh bell peppers: U.S. imports for consumption, by sources, 1991-95

Source	1991	1992	1993	1994	1995
	Quantity (*1,000 pounds*)				
Mexico	192,539	168,162	223,183	213,215	256,117
Netherlands	17,953	21,684	35,696	37,271	39,244
Canada	5,170	4,058	7,740	8,463	14,821
All other	1,056	1,392	2,231	2,514	4,517
Total	216,718	195,296	268,850	261,463	314,700
	Value (*1,000 dollars*)				
Mexico	83,574	74,193	102,827	106,921	122,106
Netherlands	36,209	43,006	60,695	70,697	79,174
Canada	4,842	4,520	6,718	7,004	11,382
All other	1,394	1,784	2,491	3,382	7,235
Total	126,019	123,503	172,730	188,004	219,897
	Unit value (*per pound*)				
Mexico	$0.43	$0.44	$0.46	$0.50	$0.48
Netherlands	2.02	1.98	1.70	1.90	2.02
Canada	0.94	1.11	0.87	0.83	0.77
All other	1.32	1.28	1.12	1.35	1.60
Average	0.58	0.63	0.64	0.72	0.70
	Share of the quantity of total imports (*percent*)				
Mexico	88.8	86.1	83.0	81.5	81.4
Netherlands	8.3	11.1	13.3	14.3	12.5
Canada	2.4	2.1	2.9	3.2	4.7
All other	0.5	0.7	0.8	1.0	1.4
Total	100.0	100.0	100.0	100.0	100.0
	Share of the value of total imports (*percent*)				
Mexico	66.3	60.1	59.5	56.9	55.5
Netherlands	28.7	34.8	35.1	37.6	36.0
Canada	3.8	3.7	3.9	3.7	5.2
All other	1.1	1.4	1.4	1.8	3.3
Total	100.0	100.0	100.0	100.0	100.0

Note.--Because of rounding, figures may not add to the totals shown. Unit values and share are calculated from the unrounded figures.

Source: Compiled from official statistics of Commerce.

Table 5
Fresh tomatoes: U.S. imports for consumption relative to U.S. production, by sources, 1991-95

Source	1991	1992	1993	1994	1995
	Ratio to quantity of U.S. production (*percent*)				
U.S. imports from:					
Mexico	23.0	10.3	24.8	22.6	39.8
Netherlands	0.2	0.1	0.4	0.5	0.8
Canada	0.2	0.3	0.3	0.5	0.8
Other sources	0.1	0.3	0.4	0.3	0.3
Total	23.5	11.1	25.9	23.8	41.7
	Ratio to value of U.S. production (*percent*)				
U.S. imports from:					
Mexico	26.3	10.6	30.2	34.5	53.0
Netherlands	0.6	0.5	1.6	2.2	4.4
Canada	0.4	0.4	0.6	1.1	2.1
Other sources	0.8	0.9	1.5	1.7	1.5
Total	28.2	12.5	33.9	39.5	61.0

Source: Compiled from official statistics of Commerce and USDA.

Table 6
Fresh bell peppers: U.S. imports for consumption relative to U.S. production, by sources, 1991-95

Source	1991	1992	1993	1994	1995
	Ratio to quantity of U.S. production (*percent*)				
U.S. imports from:					
Mexico	18.3	13.7	18.1	16.2	22.8
Netherlands	1.7	1.8	2.9	2.8	3.5
Canada	0.5	0.3	0.6	0.6	1.3
Other sources	0.1	0.1	0.2	0.2	0.4
Total	20.6	15.9	21.8	19.9	28.1
	Ratio to value of U.S. production (*percent*)				
U.S. imports from:					
Mexico	30.7	22.6	27.7	27.6	35.1
Netherlands	13.3	13.1	16.3	18.2	22.7
Canada	1.8	1.4	1.8	1.8	3.3
Other sources	0.5	0.5	0.7	0.9	2.1
Total	46.3	37.6	46.5	48.5	63.1

Source: Compiled from official statistics of Commerce and USDA.

The volume of bell pepper imports from all sources, as a ratio to U.S. production, fell overall between 1991 and 1994, but then increased in 1995 to 28 percent of such production. Imports from Mexico mirrored the trend in total imports. Imports from countries other than Mexico generally accounted for a larger ratio to production in the case of bell peppers than for tomatoes, with the volume of imports of bell peppers from the Netherlands equivalent to between 1.7 and 3.5 percent of U.S. production throughout the period, and import quantities from Canada peaking at 1.3 percent of U.S. production in 1995.

THE QUESTION OF SERIOUS INJURY

U.S. Acreage, Production, and Yield

Fresh Tomatoes

Data on total U.S. acreage planted to fresh tomatoes, total acreage harvested, production of such tomatoes, and the tomato yield per acre, based on official USDA published statistics, are presented in table 7. Data on acreage, production, and yield based on grower and packer responses to Commission questionnaires are presented in tables D-3 and D-5, appendix D.

Table 7
Fresh tomatoes: U.S. acreage planted and harvested, production, and yield, 1991-95

Item	1991	1992	1993	1994	1995
Area planted (acres)	135,440	136,790	138,390	136,380	135,910
Area harvested (acres)	131,680	131,910	134,650	132,620	131,720
Percent harvested	97.2	96.4	97.3	97.2	96.9
Production (1,000 pounds)	3,388,700	3,903,300	3,559,900	3,663,600	3,284,000
Yield (pounds per acre)	25,734	29,591	26,438	27,625	24,932

Source: Compiled from official statistics of USDA.

Based on official data, total acreage planted to fresh tomatoes increased between 1991 and 1993, then began a slow decline, ending up in 1995 at a level just slightly exceeding that of 1991. The percent of acres harvested hovered between 96 and 97 percent throughout the period. Production increased irregularly from 1991 to 1994, then fell in 1995 to below its 1991 level. Yield reached a periodic high in 1992, but declined overall during the period examined.

Fresh Bell Peppers

Table 8 presents official USDA data concerning acreage, production, and yield for bell peppers. Similar data reported in grower and packer responses to Commission questionnaires are shown in tables D-4 and D-6, appendix D. Both acreage planted for fresh bell peppers and acreage harvested increased strongly from 1991 to 1992, then began a steady decline until 1995. Acreage planted in 1995, however, still exceeded that at the beginning of the period examined, by a margin of 4 percent. Unharvested acreage, as seen from

Table 8
Fresh bell peppers[1]: U.S. acreage planted and harvested, production, and yield, 1991-95

Item	1991	1992	1993	1994	1995
Area planted (acres)	63,633	68,900	67,550	67,300	66,300
Area harvested (acres)	62,339	66,600	64,950	64,500	63,400
Percent harvested	98.0	96.7	96.2	95.8	95.6
Production (1,000 pounds)	1,052,795	1,228,943	1,234,907	1,313,697	1,121,279
Yield (pounds per acre)	16,888	18,453	19,013	20,367	17,686

[1] Data on acreage include acreage planted to processed peppers, while data on production are for fresh peppers only. As a result, data on yield are slightly understated.

Source: Compiled from official statistics of USDA.

data on percent of acreage harvested, increased throughout the period. Production grew consistently from 1991 to 1994, most notably from 1991 to 1992, then dropped off by 15 percent in 1995. Yield increased steadily from 1991 to 1994, then fell in 1995.

U.S. Producers' Domestic and Export Shipments

Data on U.S. producers' domestic and export shipments, as reported by 163 growers in response to Commission questionnaires, are shown in table 9. Data on such shipments, as reported by 33 packers, are shown in table 10.

Fresh Tomatoes

The volume of grower shipments rose sharply between 1991 and 1992, then fluctuated through 1995. In value terms, however, shipments rose between 1991 and 1992, then declined for the remainder of the period examined. Unit values dropped from $0.22 per pound in 1991 to $0.18 per pound in 1995.

The volume of U.S. shipments reported by packers, by contrast, after an initial increase between 1991 and 1992, declined steadily between 1992 and 1995. In value terms, such shipments increased through 1993, then declined during the rest of the period examined. As with grower shipments, unit values fell between 1993 and 1995. Unit values of export shipments were consistently higher than those for U.S. shipments.

Fresh Bell Peppers

The volume of growers' shipments of fresh bell peppers increased steadily from 1991 to 1994, with the sharpest increase occurring between 1991 and 1992; such shipments, however, tailed off in 1995. Unit values showed no particular trend during the period examined; they reached their lowest level in crop year 1994.

Packer shipments of fresh bell peppers increased overall between 1991 and 1995, but fell in 1994 from their 1993 level. Unit values increased in 1992, fell in 1994, then returned to the 1993 level in 1995.

Table 9
Fresh tomatoes and bell peppers: U.S. shipments by growers, crop years 1991-96[1]

Item	1991	1992	1993	1994	1995	1996
	Quantity (*1,000 pounds*)					
Fresh tomatoes	1,227,355	1,566,860	1,519,539	1,573,666	1,601,623	738,659
Fresh bell peppers	179,259	249,296	256,157	301,653	285,641	134,034
	Value (*1,000 dollars*)					
Fresh tomatoes	274,154	370,902	353,352	301,171	283,667	128,893
Fresh bell peppers	61,579	85,887	87,804	80,396	99,354	53,413
	Unit value (*per pound*)					
Fresh tomatoes	$0.22	$0.24	$0.23	$0.19	$0.18	$0.18
Fresh bell peppers	0.34	0.34	0.34	0.27	0.35	0.40

[1] Data for crop year 1996 are limited to data through Feb. 29, 1996.

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

U.S. Employment, Wages, and Productivity

Public data on fresh tomato and bell pepper producers' employment are not generally available. As a result, data presented here are based on grower and packer responses to Commission questionnaires (tables 11 and 12).

Fresh Tomatoes

Data from growers of fresh tomatoes show that the total number of PRWs (both contract and salaried) increased overall from 1991 to 1995 without, however, showing any clear pattern. Total and hourly compensation figures increased steadily until 1995, when they both declined from their 1994 levels.

Packer employment data (limited to salaried labor) show a slight decline in hours worked between 1992 and 1995, while the number of employees packing tomatoes increased overall, with the only periodic decline occurring from 1992 to 1994. Productivity declined steadily from 1992 to 1995, after increasing in 1992 over 1991, while unit labor costs increased slightly overall.

Fresh Bell Peppers

The number of PRWs, both contract and salaried, in grower establishments rose consistently between 1991 and 1994, but fell off markedly in 1995. Hours worked increased steadily, however. Hourly compensation increased from 1991 to 1995, while unit labor costs showed no marked trend.

Table 10
Fresh tomatoes and bell peppers: Shipments by packers, by types, crop years 1991-96[1]

Item	1991	1992	1993	1994	1995	1996
	Quantity (*1,000 pounds*)					
Fresh tomatoes:						
U.S. shipments	871,190	1,157,129	1,071,730	1,037,192	1,000,904	415,895
Exports	62,549	78,814	72,138	57,631	51,774	19,620
Total	933,739	1,235,943	1,143,868	1,094,823	1,052,678	435,515
Fresh bell peppers:						
U.S. shipments	80,101	107,405	108,572	95,990	109,973	43,205
Exports	466	1,809	585	1,560	1,566	565
Total	80,567	109,214	109,157	97,550	111,539	43,770
	Value (*1,000 dollars*)					
Fresh tomatoes:						
U.S. shipments	268,271	308,821	320,469	284,751	257,037	90,994
Exports	21,203	27,298	24,917	21,544	16,350	4,740
Total	289,474	336,219	345,386	306,295	273,387	95,734
Fresh bell peppers:						
U.S. shipments	25,035	37,467	38,006	27,648	38,435	12,526
Exports	263	354	185	381	385	134
Total	25,298	37,821	38,191	28,029	38,820	12,660
	Unit value (*per pound*)					
Fresh tomatoes:						
U.S. shipments	$0.31	$0.27	$0.30	$0.27	$0.26	$0.22
Exports	0.34	0.35	0.35	0.37	0.32	0.24
Average	0.31	0.27	0.30	0.28	0.26	0.22
Fresh bell peppers:						
U.S. shipments	0.31	0.35	0.35	0.29	0.35	0.29
Exports	0.56	0.20	0.32	0.24	0.25	0.24
Average	0.31	0.35	0.35	0.29	0.35	0.29

[1] Data for crop year 1996 are limited to data through Feb. 29, 1996.

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

Table 11
Fresh tomatoes and bell peppers: Average number of U.S. PRWs employed in grower establishments, hours worked, total compensation paid to such employees, hourly total compensation, and unit labor costs, crop years 1991-96[1]

Item	1991	1992	1993	1994	1995	1996
	Number of PRWs					
Fresh tomatoes:						
Contract	14,394	17,554	16,285	17,723	18,867	16,247
Salaried	8,685	9,681	9,641	10,986	11,423	6,081
Fresh bell peppers:						
Contract	6,997	8,719	9,517	11,317	7,784	5,514
Salaried	693	846	888	3,042	2,705	1,846
	Hours worked by PRWs[2] (*1,000 hours*)					
Fresh tomatoes:						
Salaried	4,213	4,449	4,736	5,208	4,989	2,355
Fresh bell peppers:						
Salaried	1,492	1,770	1,853	2,038	2,105	1,300
	Total compensation paid to PRWs (*1,000 dollars*)					
Fresh tomatoes:						
Contract	43,767	53,187	57,677	74,756	61,348	36,373
Salaried	26,875	31,413	34,482	37,496	36,273	16,154
Fresh bell peppers:						
Contract	20,871	27,819	31,054	32,495	30,270	17,901
Salaried	8,057	10,241	11,017	12,912	13,568	8,117
	Hourly total compensation paid to PRWs					
Fresh tomatoes:						
Salaried	$6.38	$7.06	$7.28	$7.20	$7.27	$6.86
Fresh bell peppers:						
Salaried	5.40	5.79	5.95	6.34	6.45	6.24
	Unit labor costs (*per 1,000 pounds*)					
Fresh tomatoes	$50.49	$47.28	$52.64	$60.90	$51.94	$58.21
Fresh bell peppers	156.10	146.88	158.96	142.99	146.38	187.28

[1] Data for crop year 1996 are limited to data through Feb. 29, 1996.
[2] Growers were unable to provide data on hours worked by contract PRWs.

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

Table 12
Fresh tomatoes and bell peppers: Average number of U.S. PRWs employed in packer establishments, hours worked, total compensation paid to such employees, hourly total compensation, productivity, and unit labor costs, crop years 1991-96[1]

Item	1991	1992	1993	1994	1995	1996
	Number of PRWs					
Fresh tomatoes	4,545	4,646	4,633	4,623	4,763	2,442
Fresh bell peppers	734	853	791	771	880	859
	Hours worked by PRWs (*1,000 hours*)					
Fresh tomatoes	3,422	3,607	3,536	3,507	3,414	903
Fresh bell peppers	713	1,065	979	846	997	483
	Total compensation paid to PRWs (*1,000 dollars*)					
Fresh tomatoes	19,286	22,809	22,224	22,330	22,016	7,781
Fresh bell peppers	4,461	5,777	5,397	4,948	5,801	3,004
	Hourly total compensation paid to PRWs					
Fresh tomatoes	$5.64	$6.32	$6.29	$6.37	$6.45	$8.62
Fresh bell peppers	6.26	5.42	5.52	5.85	5.82	6.22
	Productivity (*pounds per hour*)					
Fresh tomatoes	307	382	363	354	343	575
Fresh bell peppers	116	107	114	120	113	96
	Unit labor costs (*per 1,000 pounds*)					
Fresh tomatoes	$18.37	$16.55	$17.31	$18.01	$18.77	$14.99
Fresh bell peppers	53.93	50.85	48.56	48.89	51.48	65.07

[1] Data for crop year 1996 are limited to data through Feb. 29, 1996.

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

Packer employment data show similar trends, with general increases during the period examined in all indicators except hourly compensation, unit labor costs, and productivity. Total compensation rose 30 percent from 1991 to 1995.

Financial Experience of U.S. Producers

Introduction

One hundred and forty-nine tomato growers representing approximately 51.1 percent of 1995 U.S. production of fresh tomatoes provided usable financial information on their operations producing fresh tomatoes.[72] Twenty-five bell pepper growers representing 18.5 percent of 1995 U.S. production of bell peppers provided usable financial information on their operations producing bell peppers.[73] Nineteen tomato packers representing approximately 31.3 percent of 1995 U.S. production of fresh tomatoes provided usable financial information on their fresh tomato packing operations.[74] Six bell pepper packers representing 5.8 percent of 1995 U.S. production of bell peppers provided usable financial information on their operations packing bell peppers.[75]

Data for 5 California tomato growers operating as joint ventures (seasonal partnerships) with *** (a tomato packer) were verified by the Commission's staff. As a result of the verification, the originally reported growing costs for the 5 tomato growers and other tomato growers involved in joint ventures with *** were changed.

Operations of U.S. Growers

Operations of U.S. tomato growers

Income-and-loss data for the U.S. growers on their fresh tomato operations are presented in table 13. The net sales values for the tomato growers are after packers' fees, if any. The net sales values for the tomato packers are after payments to tomato growers, if any. The combined net sales values of the tomato growers and the tomato packers approximate the market values as sold by the packers. For instance, the tomato growers' net sales value in fiscal year 1995 of 16 cents per pound combined with the packers' net sales value of 11 cents per pound totals 27 cents, which approximates the U.S. shipment value for tomato packers of 26 cents for the 1995 crop year.

The quantity of fresh tomatoes sold in 1995 was higher than in the prior 4 years; however, the average unit sales value in 1995 was lower than the 4 prior years, which contributed to the largest net loss during the 5-year period.

---

[72] Sixty-seven tomato growers have fiscal yearends of June 30; 39 have Aug. 31; 32 have Dec. 31; 4 have May 31, and 2 have July 31. Fiscal yearends of Mar., Sept., Oct., and Nov. each represent 1 grower. One grower did not provide its yearend date. One hundred and six of the tomato growers are partnerships, 32 are corporations, and 10 are proprietors. One grower did not provide the type of entity. Eighty-six tomato growers are located in California, 54 in Florida, 2 each in Tennessee and Virginia, and 1 each in Georgia, Maryland, North Carolina, Pennsylvania, and South Carolina.

[73] Eight bell pepper growers have fiscal years that end June 30; 11 have Dec. 31; 2 have Aug. 31; 1 has May 31; 1 has Sept. 30; and 1 has Oct. 31. One grower did not provide its fiscal yearend date. Thirteen of the growers are corporations; 7 are partnerships; 4 are proprietorships; and 1 did not submit its type of organization. Nineteen of the bell pepper growers are located in Florida, 2 in Georgia, and 1 each in California, Pennsylvania, Texas, and Virginia.

[74] Eight tomato packers have fiscal yearends of Dec. 31; 7 have June 30; 3 have Aug. 31; and 1 has Mar. 31. Sixteen of the packers are corporations and 3 are partnerships. Fourteen packers are located in Florida, 4 in California, and 1 in Maryland.

[75] Four bell pepper packers have fiscal years that end Dec. 31; 1 has May 31; and 1 has June 30. All of the packers are corporations. Four of the bell pepper packers are located in Florida, 1 in Georgia, and 1 in North Carolina.

Table 13
Income-and-loss experience of U.S. growers on their operations producing fresh tomatoes, fiscal years 1991-95, July 1994-Feb. 1995, and July 1995-Feb. 1996

Item	1991	1992	1993	1994	1995	July.-Feb.-- 1995	1996
	Quantity (1,000 pounds)						
Net sales:							
Related packers	770,867	1,069,166	1,033,177	1,115,318	1,173,409	590,632	570,104
Unrelated packers	74,513	106,065	106,284	97,930	107,725	62,702	49,651
Other fresh tomato sales	32,211	42,978	49,279	62,162	51,892	21,854	21,360
Total fresh tomato sales	877,591	1,218,208	1,188,741	1,275,411	1,333,026	675,188	641,115
	Value (1,000 dollars)						
Net sales:[1]							
Gross sales to related packers	239,966	317,661	320,143	306,639	298,865	162,577	115,662
Less packer fees	59,908	87,830	85,774	95,499	93,309	48,686	46,553
Net value received from related packers[2]	180,057	229,832	234,369	211,140	205,556	113,891	69,108
Gross sales to unrelated packers	25,544	28,166	33,303	22,223	22,031	19,840	12,223
Less packer fees	4,607	6,674	6,618	5,682	6,784	5,312	4,562
Net value received from unrelated packers	20,936	21,492	26,685	16,541	15,247	14,528	7,661
Other fresh tomato sales	8,840	17,248	17,563	18,152	15,888	7,414	5,736
Total fresh tomato sales	209,834	268,581	278,617	245,833	236,691	135,833	82,506
Operating expenses:							
Growing costs	116,804	140,833	151,755	156,602	164,093	89,805	83,016
Harvesting, hauling, and packing	41,473	50,774	53,129	55,598	56,232	28,489	25,222
Fresh tomatoes purchased for resale	660	396	523	628	558	321	331
General and administrative	14,762	16,359	17,650	20,687	19,807	12,791	9,639
Interest expense	5,440	4,307	3,335	3,263	4,917	1,517	3,458
Other expenses	15,421	18,592	20,685	20,500	20,265	4,496	3,898
Total operating expenses	194,560	231,261	247,077	257,278	265,873	137,419	125,563
Other income	10,163	6,840	4,739	3,989	6,389	3,866	1,507
Net income or loss (-) before income taxes	25,436	44,161	36,279	-7,456	-22,793	2,280	-41,550
Capital expenditures	7,864	6,592	10,079	12,083	10,159	2,083	2,018
	Ratio to net sales (percent)						
Operating expenses:							
Growing costs	55.7	52.4	54.5	63.7	69.3	66.1	100.6
Harvesting, hauling, and packing	19.8	18.9	19.1	22.6	23.8	21.0	30.6
Fresh tomatoes purchased for resale	0.3	0.1	0.2	0.3	0.2	0.2	0.4
General and administrative	7.0	6.1	6.3	8.4	8.4	9.4	11.7
Interest expense	2.6	1.6	1.2	1.3	2.1	1.1	4.2
Other expenses	7.3	6.9	7.4	8.3	8.6	3.3	4.7
Total operating expenses	92.7	86.1	88.7	104.7	112.3	101.2	152.2
Other income	4.8	2.5	1.7	1.6	2.7	2.8	1.8
Net income or loss (-) before income taxes	12.1	16.4	13.0	-3.0	-9.6	1.7	-50.4
	Value (per pound)						
Net sales	$0.22	$0.21	$0.22	$0.18	$0.16	$0.20	$0.13
Operating expenses:							
Growing costs	0.13	0.11	0.13	0.12	0.12	0.13	0.13
Harvesting, hauling, and packing	0.05	0.04	0.04	0.04	0.04	0.04	0.04
Fresh tomatoes purchased for resale	0.00	0.00	0.00	0.00	0.00	0.00	0.00
General and administrative	0.02	0.01	0.01	0.01	0.01	0.02	0.02
Interest expense	0.01	0.00	0.00	0.00	0.00	0.00	0.01
Other expenses	0.01	0.01	0.01	0.01	0.01	0.01	0.01
Total operating expenses	0.20	0.18	0.19	0.19	0.19	0.20	0.20
Other income	0.01	0.00	0.00	0.00	0.00	0.01	0.00
Net income or loss (-) before income taxes	0.03	0.04	0.03	-0.01	-0.02	0.01	-0.06
	Number of firms reporting						
Net losses	33	51	24	49	50	44	96
Data	78	88	93	104	112	104	118

[1] Some of the growers reported only the net value received from packers. The net values are included in both gross sales and net revenue.
[2] The net value received from related packers compared to total fresh tomato net revenue (expressed as a percent) was 85.8 percent in 1991, 85.6 percent in 1992, 84.1 percent in 1993, 85.9 percent in 1994, 86.8 percent in 1995, 83.8 percent in interim 1995, and 83.8 percent in interim 1996.

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

Operations of U.S. bell pepper growers

Income-and-loss data for the U.S. growers on their bell pepper operations are presented in table 14. The quantity of bell peppers sold in 1995, the most recent period for full-year data, was lower than that of any of the previous years except 1991. Prices on a per-pound basis declined by 22 percent from 1991 to 1994, but recovered in 1995 to a level just 6 percent below the 1991 level. The decline was 31 percent from the first interim period to the second interim period. Net income deteriorated from 1991 to 1995 even as quantity sold increased from 1991 to 1994. The bell pepper growers experienced aggregate net losses in every period since 1992.

Operations of U.S. Packers

Operations of U.S. tomato packers

Income-and-loss data for the tomato packers are shown in table 15. Net revenue of the packers was consistently 11 cents per pound for each year. The packers' operating expenses were 10 cents per pound in each year. Net revenue and operating expenses per pound were higher in the interim periods when compared to the annual data.

Operations of U.S. bell pepper packers

Income-and-loss data for the U.S. packers on their bell pepper operations are presented in table 16. Quantity packed increased from 1991 to 1994, but decreased in 1995 although the quantity was higher than that packed in 1991. Net sales on a per-pound basis increased from 1991 to 1993, decreased in 1994, and then increased in 1995.

Capital and Investment

The Commission requested U.S. growers and packers to describe any actual or potential negative effects of imports of fresh tomatoes and bell peppers from all sources and Mexico on their growth, investment, ability to raise capital, or production efforts. Their responses are shown in appendix F.

THE QUESTION OF THREAT OF SERIOUS INJURY

The Industry in Mexico

Fresh Tomatoes

Production of fresh tomatoes in Mexico is concentrated in the states of Sinaloa, Sonora, and Baja California, which are situated along Mexico's west coast, and which are usually frost-free year round. There is also limited production in Michoacan, San Luis Potosi, and Morelos. In recent years, Sinaloa accounted for 35 percent of total fresh tomato production in Mexico. Vegetable producers in Sinaloa tend to raise several crops, including cucumbers, bell peppers, tomatoes, and eggplant, depending on a number of factors, including expected prices.

Table 14
Income-and-loss experience of U.S. growers on their operations producing bell peppers, fiscal years 1991-95, July 1994-Feb. 1995, and July 1995-Feb. 1996

Item	1991	1992	1993	1994	1995	July.-Feb.-- 1995	1996
	Quantity (1,000 *pounds*)						
Net sales:							
Related parties	163,211	215,138	195,151	213,017	165,299	74,298	59,931
Unrelated parties	22,716	27,375	33,287	30,275	30,009	15,807	22,273
Other fresh pepper sales	36,691	48,035	55,566	89,855	83,206	40,661	45,681
Total fresh pepper sales	222,617	290,548	284,004	333,147	278,514	130,766	127,884
	Value (1,000 dollars)						
Net sales:[1]							
Gross sales to related parties	73,238	87,388	69,128	70,004	65,772	27,457	18,524
Less packer fees	6,037	6,979	6,648	5,749	6,314	2,689	2,817
Net value received from related packers[2]	67,201	80,410	62,480	64,255	59,458	24,768	15,707
Gross sales to unrelated parties	9,301	13,389	12,984	11,675	13,255	5,929	4,894
Less packer fees	1,139	1,390	1,994	1,230	1,295	486	712
Net value received from unrelated packers	8,163	11,999	10,990	10,445	11,960	5,443	4,181
Other fresh pepper sales	15,007	19,227	24,318	25,703	32,372	18,227	13,241
Total fresh pepper sales	90,371	111,635	97,787	100,403	103,790	48,438	33,129
Operating expenses:							
Growing costs	35,392	45,106	43,976	54,542	52,957	31,273	24,076
Harvesting, hauling, and packing	34,073	39,713	41,067	48,502	41,769	23,608	19,272
Fresh peppers purchased for resale	0	0	0	19	315	74	61
General and administrative	6,677	9,334	9,081	12,069	11,615	6,261	7,299
Interest expense	1,625	1,347	1,455	1,865	2,322	1,255	1,770
Other expenses	2,656	7,443	8,361	13,450	7,493	4,171	4,532
Total operating expenses	80,423	102,943	103,940	130,447	116,473	66,643	57,009
Other income	1,885	2,730	3,746	8,475	5,790	2,777	3,780
Net income or loss (-) before income taxes	11,832	11,423	-2,407	-21,569	-6,892	-15,427	-20,099
Capital expenditures	2,822	2,864	3,109	3,384	2,180	1,317	1,107
	Ratio to net sales (percent)						
Operating expenses:							
Growing costs	39.2	40.4	45.0	54.3	51.0	64.6	72.7
Harvesting, hauling, and packing	37.7	35.6	42.0	48.3	40.2	48.7	58.2
Fresh peppers purchased for resale	0.0	0.0	0.0	0.0	0.3	0.2	0.2
General and administrative	7.4	8.4	9.3	12.0	11.2	12.9	22.0
Interest expense	1.8	1.2	1.5	1.9	2.2	2.6	5.3
Other expenses	2.9	6.7	8.5	13.4	7.2	8.6	13.7
Total operating expenses	89.0	92.2	106.3	129.9	112.2	137.6	172.1
Other income	2.1	2.4	3.8	8.4	5.6	5.7	11.4
Net income or loss (-) before income taxes	13.1	10.2	-2.5	-21.5	-6.6	-31.8	-60.7
	Value (per pound)						
Net sales	$0.32	$0.31	$0.29	$0.25	$0.30	$0.32	$0.22
Operating expenses:							
Growing costs	0.14	0.14	0.13	0.14	0.17	0.21	0.17
Harvesting, hauling, and packing	0.10	0.10	0.10	0.11	0.11	0.13	0.11
Fresh peppers purchased for resale	0.00	0.00	0.00	0.00	0.00	0.00	0.00
General and administrative	0.03	0.03	0.03	0.03	0.04	0.04	0.05
Interest expense	0.01	0.00	0.01	0.01	0.01	0.01	0.01
Other expenses	0.01	0.02	0.03	0.04	0.02	0.03	0.03
Total operating expenses	0.28	0.29	0.30	0.33	0.35	0.42	0.38
Other income	0.01	0.01	0.01	0.02	0.02	0.02	0.03
Net income or loss (-) before income taxes	0.04	0.03	0.00	-0.06	-0.03	-0.08	-0.13
	Number of firms reporting						
Net losses	5	5	7	16	7	13	16
Data	20	23	23	23	23	19	19

[1] Some of the bell pepper growers reported only the net value received from packers. The net values are included in both gross sales and net revenue.

[2] The net revenue received from related packers compared to total bell pepper net revenue (expressed as a percent) was 74.4 percent in 1991, 72.0 percent in 1992, 63.9 percent in 1993, 64.0 percent in 1994, 57.3 percent in 1995, 51.1 percent in interim 1995, and 47.4 percent in interim 1996.

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

Table 15
Income-and-loss experience of U.S. packers on their operations packing fresh tomatoes, fiscal years 1991-95, July 1994-Feb. 1995, and July 1995-Feb. 1996

Item	1991	1992	1993	1994	1995	July.-Feb.-- 1995	1996
	Quantity (*1,000 pounds*)						
Net sales	816,155	1,019,594	986,416	959,345	893,753	508,191	465,718
	Value (*1,000 dollars*)						
Net sales:							
Gross sales	235,596	296,393	289,128	256,123	227,675	136,152	105,009
Less payments to related growers	90,902	118,278	119,789	110,622	101,809	51,340	37,293
Less payments to unrelated growers	52,909	62,238	58,270	35,073	25,384	20,248	10,427
Less cost of fresh tomatoes purchased for resale	1,360	2,091	2,464	1,013	1,720	1,236	662
Net revenue	90,425	113,785	108,606	109,416	98,762	63,328	56,627
Operating expenses:							
Packing materials and containers	22,892	30,196	30,371	28,843	29,354	16,200	16,251
Labor	19,308	21,261	22,373	21,619	20,094	12,601	11,684
Overhead	11,773	14,191	13,897	14,127	14,481	9,112	9,079
Selling	6,354	7,767	6,660	7,188	5,756	4,354	3,975
General and administrative	23,281	28,047	23,937	22,009	22,176	12,084	12,023
Total operating expenses	83,608	101,462	97,238	93,787	91,862	54,351	53,013
Operating income	6,817	12,323	11,368	15,629	6,901	8,978	3,614
Other income or expense:							
Interest expense	3,070	2,510	1,438	1,391	1,686	973	1,425
All other expense	3,737	2,940	3,246	2,539	2,232	1,590	1,226
All other income	7,430	9,150	8,361	6,558	6,741	3,732	3,552
Total other income or (expense)	623	3,700	3,677	2,628	2,823	1,168	901
Net income or (loss) before income taxes	7,440	16,024	15,045	18,257	9,724	10,146	4,515
Capital expenditures	5,755	8,755	6,569	8,206	3,536	3,253	1,861
	Ratio to net sales (*percent*)						
Operating expenses:							
Packing materials and containers	25.3	26.5	28.0	26.4	29.7	25.6	28.7
Labor	21.4	18.7	20.6	19.8	20.3	19.9	20.6
Overhead	13.0	12.5	12.8	12.9	14.7	14.4	16.0
Selling	7.0	6.8	6.1	6.6	5.8	6.9	7.0
General and administrative	25.7	24.6	22.0	20.1	22.5	19.1	21.2
Total operating expenses	92.5	89.2	89.5	85.7	93.0	85.8	93.6
Operating income	7.5	10.8	10.5	14.3	7.0	14.2	6.4
Total other income or (expense)	0.7	3.3	3.4	2.4	2.9	1.8	1.6
Net income or (loss) before income taxes	8.2	14.1	13.9	16.7	9.8	16.0	8.0
	Value (*per pound*)						
Net sales	$0.11	$0.11	$0.11	$0.11	$0.11	$0.12	$0.12
Operating expenses:							
Packing material	0.03	0.03	0.03	0.03	0.03	0.03	0.03
Labor	0.02	0.02	0.02	0.02	0.02	0.02	0.03
Overhead	0.01	0.01	0.01	0.01	0.02	0.02	0.02
Selling	0.01	0.01	0.01	0.01	0.01	0.01	0.01
General and administrative	0.03	0.03	0.02	0.02	0.02	0.02	0.03
Total operating expenses	0.10	0.10	0.10	0.10	0.10	0.11	0.11
Operating income	0.01	0.01	0.01	0.02	0.01	0.02	0.01
Total other income or (expense)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Net income or (loss) before income taxes	0.01	0.02	0.02	0.02	0.01	0.02	0.01
	Number of firms reporting						
Operating losses	4	7	3	5	8	5	5
Net losses	4	3	2	3	3	3	3
Data	19	19	19	19	19	16	15

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

Table 16
Income-and-loss experience of U.S. packers on their operations packing bell peppers, fiscal years 1991-95, July 1994-Feb. 1995, and July 1995-Feb. 1996[1]

Item	1991	1992	1993	1994	1995	July.-Feb.-- 1995	1996
	Quantity (*pounds*)						
Net sales	40,431	67,047	64,263	86,000	63,647	59,844	30,892
	Value (*1,000 dollars*)						
Net sales:							
Gross sales	7,908	15,390	16,566	18,372	16,234	10,193	5,734
Less payments to related growers	3,813	4,373	3,562	4,482	4,604	1,483	1,555
Less payments to unrelated growers	20	0	5	0	0	0	0
Less cost of fresh peppers purchased for resale	0	0	0	0	22	40	20
Net revenue	4,076	11,016	12,999	13,890	11,609	8,670	4,158
Operating expenses:							
Packing materials and containers	1,348	2,100	1,998	2,584	2,012	1,750	927
Labor	1,193	4,001	4,038	5,426	5,391	3,814	3,649
Overhead	725	3,232	3,190	2,399	2,900	2,190	669
Selling	95	589	729	870	308	124	195
General and administrative	261	1,364	840	1,115	1,144	1,190	1,041
Total operating expenses	3,622	11,286	10,795	12,393	11,754	9,069	6,481
Operating income	454	-269	2,203	1,497	-146	-399	-2,323
Other income or expense:							
Interest expense	261	226	205	197	187	108	144
All other expense	1,137	1,588	2,371	2,993	4,467	2,353	2,819
All other income	1,200	4,011	2,207	3,367	4,614	1,998	2,866
Total other income or (expense)	-198	2,197	-370	177	-41	-463	-97
Net income or loss (-) before income taxes	256	1,928	1,834	1,674	-186	-862	-2,419
Capital expenditures	105	1,045	383	993	476	424	421
	Ratio to net sales (*percent*)						
Operating expenses:							
Packing materials and containers	33.1	19.1	15.4	18.6	17.3	20.2	22.3
Labor	29.3	36.3	31.1	39.1	46.4	44.0	87.8
Overhead	17.8	29.3	24.5	17.3	25.0	25.3	16.1
Selling	2.3	5.3	5.6	6.3	2.7	1.4	4.7
General and administrative	6.4	12.4	6.5	8.0	9.9	13.7	25.0
Total operating expenses	88.9	102.4	83.0	89.2	101.3	104.6	155.9
Operating income	11.1	-2.4	17.0	10.8	-1.3	-4.6	-55.9
Total other income or (expense)	-4.9	19.9	-2.8	1.3	-0.4	-5.3	2.3
Net income or loss (-) before income taxes	6.3	17.5	14.1	12.1	-1.6	-9.9	-58.2
	Value (*per pound*)						
Net sales	$0.10	$0.16	$0.20	$0.16	$0.18	$0.14	$0.13
Operating expenses:							
Packing material	0.03	0.03	0.03	0.03	0.03	0.03	0.03
Labor	0.03	0.06	0.06	0.06	0.08	0.06	0.12
Overhead	0.02	0.05	0.05	0.03	0.05	0.04	0.02
Selling	0.00	0.01	0.01	0.01	0.00	0.00	0.01
General and administrative	0.01	0.02	0.01	0.01	0.02	0.02	0.03
Total operating expenses	0.09	0.17	0.17	0.14	0.18	0.15	0.21
Operating income	0.01	0.00	0.03	0.02	0.00	-0.01	-0.08
Total other income or (expense)	-0.00	0.03	-0.01	0.00	-0.00	-0.01	-0.00
Net income or loss (-) before income taxes	0.01	0.03	0.03	0.02	-0.00	-0.01	-0.08
	Number of firms reporting						
Operating losses	1	2	1	1	2	4	2
Net losses	2	1	1	1	3	4	3
Data	5	6	6	5	5	5	5

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

Fresh tomato consumption in Mexico is considerably higher than that in the United States, although its future rate of growth is not expected to be rapid.[76] Most tomato production in Mexico is intended for export; however, increasing amounts have been sold in domestic markets including Guadalajara, Mexico City, Monterrey, and Torreon.[77] Mexico imports small quantities of tomatoes from the United States; in 1993, imports from the United States amounted to 22,038 metric tons, compared to 231,701 metric tons of exports from Mexico to the United States. U.S. fresh tomato exports to Mexico fell dramatically in 1994 and 1995 following an economic downturn in the Mexican economy.[78]

As with production in Florida, Mexican tomatoes are harvested and transported to packing sheds for cleaning, grading, sorting, and packing. Most of the production for export is transported to Nogales, AZ by truck. Most of the land in Sinaloa for raising tomatoes is privately owned and upwards of 150,000 seasonal laborers are reported to migrate to this area annually during the production season.[79] Recently, fewer imports from Sinaloa have arrived in the United States in April and May, when higher temperatures and humidity stress plants; rather, imports have been concentrated in earlier months, particularly January and February.

Most Sinaloan tomato growers are private landowners, with about 12 growers' groups accounting for the majority of production for export. There are 10 growers associations organized in CAADES.[80] Many of these large grower groups are vertically integrated with established distributorships in Nogales, AZ. Fewer than 80 distributors handle the bulk of Sinaloan shipments through Nogales annually, with about 5 distributors handling an estimated three-fourths of tomato imports. A handful of U.S. customs brokers handle the bulk of Mexican tomatoes entered through Nogales.

As shown in table 17, USDA reports that the total area in Mexico planted in fresh tomatoes in crop year 1995 is estimated at 168,031 acres, or about 90 percent of the total area planted in tomatoes for all uses. The total area planted represents a slight decline from the previous season. Fresh tomato production in 1995/96 is forecast to be ***, with exports to the United States also expected to ***.[81] Tomato exports to the United States during late 1995 were still helped by the peso devaluation and the slight drop in the tariff on fresh tomatoes under the NAFTA. There is no significant expansion in fresh tomato production expected in Sinaloa over the next 3 to 5 years because of increasing production input costs, limited credit availability for financing production operations, the restriction of water availability in Sinaloa, and low domestic prices for fresh tomatoes sold in Mexico.[82]

Yields have increased in Sinaloa in recent years because of technological improvements, resulting in production increases on the same or declining amounts of planted area. Yields in other regions of the country are generally lower because of lack of current technology (e.g., drip irrigation, plastic mulch, and fertilizers) and fewer pest-control efforts. Also, fresh tomato growers in other producing areas are said to be less cooperative with each other, resulting in greater production and quality problems in those areas.[83] Mexican banks are reported to be refusing loans to growers producing primarily for the Mexican market.

---

[76] FAS, USDA, Annual Report, *Tomatoes and Tomato Products 1995*, Dec. 12, 1995.

[77] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 34.

[78] *Florida-Mexico Competition in the U.S. Market for Fresh Vegetables*, Vegetables and Specialties: Situation and Outlook Report, ERS, USDA, Washington, DC, VGS-268, Apr. 1996, p. 22.

[79] *Tomatoes and Tomato Products, 1995*, Dec. 12, 1995, p. 35.

[80] Id., p. 38. CAADES represents virtually all fresh tomato production in Sinaloa, as well as all growers of other fresh vegetables. There are a total of *** tomato growers in CAADES, who grow other vegetables in addition to tomatoes, such as bell peppers, cucumbers, and squash. Mexican respondents' posthearing brief, tab 4, p. 5.

[81] *Tomatoes and Tomato Products, 1995*, Dec. 12, 1995, p. 1.

[82] Id.

[83] Id., p. 5.

Table 17
Fresh tomatoes: Mexican acreage planted and harvested, production, and yield, 1991-95

Item	1991	1992	1993	1994	1995
Area planted (acres)	150,734	177,916	165,560	173,715	168,031
Area harvested (acres)	143,321	170,502	159,383	169,267	163,089
Percent harvested	95.1	95.8	96.3	97.4	97.1
Production (1,000 pounds)	2,976,237	3,020,329	2,689,636	3,306,930	3,086,468
Yield (pounds per acre)	20,766	17,714	16,875	19,537	18,925

Source: Compiled from FAS, USDA, *Tomatoes and Tomato Products 1995*, Dec. 12, 1995.

The Commission also requested counsel for CAADES to provide data on area planted and harvested, production, shipments, and exports. Data provided are presented in table 18.

Table 18
Fresh tomatoes: Acreage planted and harvested, production, shipments, and exports of member growers of CAADES, 1991-95 and projected 1996

Item	1991	1992	1993	1994	1995	1996
Area planted (acres)	55,027	53,927	50,030	43,398	46,816	***
Area harvested (acres)	55,027	53,927	50,030	43,398	46,816	***
Percent harvested	100.0	100.0	100.0	100.0	100.0	***
Production (million lbs.)	1,245	790	1,363	1,303	1,257	***
Shipments:						
Home market (million lbs.)	588	541	643	618	629	***
Exports to:						
The United States (million lbs.)	657	249	720	685	917	***
All other markets (million lbs.)	0	0	0	0	0	***
Total exports (million lbs.)	657	249	720	685	917	***
Total shipments (million lbs.)	1,245	790	1,363	1,303	1,546	***

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

Fresh Bell Peppers

Fresh pepper production is concentrated in Sinaloa in Northwest Mexico with additional production in Baja California.[84] As with tomatoes, the bulk of production was originally intended for export.[85] Fresh

[84] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 1.

[85] Id., p. 38.

peppers are reported to have been shipped in limited amounts to Mexican domestic markets in recent years.[86] As prices improve, the quality of products improves, and the size of these markets grows, additional amounts of peppers are expected to be shipped to these markets.[87]

Production practices in Mexico are similar to those in Florida, including the use of some of the same cultivars as well as new cultivars, but limited use of drip irrigation under plastic mulch. Sinaloa peppers are harvested, cleaned, graded, sorted, and packed at packing sheds. Sinaloa pepper growers are also represented by CAADES, the grower association that assists them with production and marketing.[88]

As with tomato growers, pepper growers are also concerned with land and water cost and availability, weather, and pests. The availability of water, land, and labor, however, has not been a serious constraint to pepper production.[89] Vegetables are reported to have received top priority over field crops for access to irrigation water in recent years, and thousands of migrant farm workers are brought in each season to cultivate and harvest fresh peppers and other vegetables.[90] In real terms, daily wage rates for laborers have not risen substantially for many years.[91] Further, there is little or no Mexican Government monitoring of chemical use at the farm level.[92]

Recent increases in fresh pepper production are reported to have resulted from higher yields from newer hybrids and increased plantings of colored peppers.[93] Mexican-grown fresh peppers are shipped to the main border crossing point at Nogales, AZ, by truck. A limited number of brokers handle the majority of fresh peppers entered each year.[94]

Public data on the bell pepper industry in Mexico similar to those compiled by USDA for the tomato industry (see table 17, above) are unavailable. The Commission, however, requested counsel for CAADES to provide data on area planted and harvested to fresh bell peppers, production, shipments, and exports. CAADES accounted for *** percent of exports of fresh bell peppers from Mexico to the United States in 1995. Data provided are presented in table 19.

CAADES noted that Sinaloa is currently experiencing a major drought and that, as a result, production would be likely to drop significantly in the current crop year.[95] The drought also resulted in reduced acreage planted, as planting occurred unusually early. CAADES reported that approximately *** percent of its pepper production is in green peppers, with the balance in red and yellow peppers.

---

[86] Id., p. 36.

[87] Id.

[88] *** bell pepper growers are member of CAADES, *** of whom also grow tomatoes. Mexican respondents' posthearing brief, tab 4, p. 5.

[89] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 34.

[90] Id., pp. 34-35. Mexican respondents dispute that Sinaloa and Baja vegetable production has received preferential access to water, and note that during the current drought, access to water for all crops has been severely restricted. Mexican respondents' posthearing brief, tab 4, p. 1.

[91] *Competition in the U.S. Winter Fresh Vegetable Industry*, p. 35.

[92] Id., p. 34.

[93] Id., p. 42.

[94] Id., p. 38.

[95] Transcript, p. 239.

Table 19
Fresh bell peppers: Acreage planted and harvested, production, shipments, and exports of member growers of CAADES, 1991-95 and projected 1996

Item	1991	1992	1993	1994	1995	1996
Area planted (acres)	12,619	12,278	11,532	11,596	8,735	***
Area harvested (acres)	(1)	(1)	(1)	(1)	(1)	(1)
Percent harvested	(1)	(1)	(1)	(1)	(1)	(1)
Production (1,000 lbs.)	190,996	156,347	227,401	220,324	253,156	***
Shipments:						
Home market (1,000 lbs.)	13,168	14,991	13,117	17,716	11,373	***
Exports to:						
The United States (1,000 lbs.)	177,828	141,356	214,284	202,608	241,784	***
All other markets (1,000 lbs.)	(1)	(1)	(1)	(1)	(1)	(1)
Total exports (1,000 lbs.)	177,828	141,356	214,284	202,608	241,784	***
Total shipments (1,000 lbs)	190,996	156,347	227,401	220,324	253,156	***

[1] Data incomplete or unavailable.

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

The Industries in Canada and the Netherlands

The Industry in Canada

Counsel for the Canadian Horticultural Council supplied data on the Canadian industries producing fresh tomatoes and bell peppers. Available data are presented in tables 20 and 21. These data include both fresh tomatoes and bell peppers grown in the field and those grown in greenhouses.[96]

Imports of tomatoes from Canada are concentrated on the west coast, the Midwestern States, and the northeastern states, specifically in the terminal markets of Detroit, Boston, and Seattle.[97] They enter the United States primarily during the period May through September.[98] Canada exports peppers in a wide variety of colors; common green peppers, however, are grown only in the field, while greenhouse growers specialize in red, yellow, and orange peppers.[99]

[96] Growers of greenhouse vegetables did not supply data on acreage. Data submitted indicate that, in 1994, approximately 71 percent of exports to the United States of fresh tomatoes were grown in greenhouses. For bell peppers, by contrast, 37 percent of exports to the United States in 1994 were grown in greenhouses.

[97] Canadian respondents' *Answers to Commission Questions*, p. 1.

[98] Id.

[99] Id., p. 3.

Table 20
Fresh tomatoes: Canadian acreage planted, production, shipments, and exports, 1991-95 and projected 1996

Item	1991	1992	1993	1994	1995	1996
Area planted (acres)	8,373	9,445	9,199	9,555	(1)	(1)
Area harvested (acres)	(1)	(1)	(1)	(1)	(1)	(1)
Production (1,000 lbs.)	172,506	193,832	260,259	285,513	(1)	(1)
Shipments:						
Home market (1,000 lbs.)	(1)	(1)	(1)	(1)	(1)	(1)
Exports to:						
The United States (1,000 lbs.)	5,878	11,470	10,414	16,881	25,288	(1)
All other markets[2] (1,000 lbs.)	16	46	30	116	64	(1)
Total exports (1,000 lbs.)	5,895	11,516	10,444	16,997	25,351	(1)
Total shipments (1,000 lbs)	(1)	(1)	(1)	(1)	(1)	(1)

[1] Data incomplete or unavailable.
[2] Other principal export markets are Italy, the Netherlands, Singapore, Martinique, St. Pierre-Miquelon, and Cuba.

Note: Totals may not add due to rounding.

Source: Agriculture Canada.

Table 21
Fresh bell peppers: Canadian acreage planted, production, shipments, and exports, 1991-95 and projected 1996

Item	1991	1992	1993	1994	1995	1996
Area planted (acres)	5,028	5,028	4,465	4,512	(1)	(1)
Area harvested (acres)	(1)	(1)	(1)	(1)	(1)	(1)
Production (1,000 lbs.)	(1)	(1)	(1)	74,394	(1)	(1)
Shipments:						
Home market (1,000 lbs.)	(1)	(1)	(1)	(1)	(1)	(1)
Exports to:						
The United States (1,000 lbs.)	5,161	4,050	7,732	8,445	15,224	(1)
All other markets[2] (1,000 lbs.)	25	14	17	18	32	(1)
Total exports (1,000 lbs.)	5,186	4,064	7,750	8,463	15,256	(1)
Total shipments (1,000 lbs)	(1)	(1)	(1)	(1)	(1)	(1)

[1] Data incomplete or unavailable.
[2] Other principal export markets include Martinique, Singapore, and Cuba.

Note: Totals may not add due to rounding.

Source: Agriculture Canada.

The Industry in the Netherlands

Counsel for the CBT supplied data on the industries in the Netherlands producing fresh tomatoes and bell peppers.[100] Available data are presented in tables 22 and 23.

Table 22
Fresh tomatoes: Netherlands' acreage planted and harvested, production, shipments, and exports, 1991-95 and projected 1996

* * * * * * *

Table 23
Fresh bell peppers: Netherlands' acreage planted and harvested, production, shipments, and exports, 1991-95 and projected 1996

* * * * * * *

All tomatoes and peppers grown in the Netherlands are grown in greenhouses.[101] Production, however, occurs only during the period April through December due to low light levels in the Netherlands during the winter season.[102] Dutch tomatoes and bell peppers are distributed throughout the United States.[103] Both tomatoes and peppers are generally shipped by air to customers, who tend to be chain stores and specialty retailers.[104] Bell peppers from Holland are imported in a wide variety of colors (except green); parties testifying at the hearing alleged that Dutch peppers are thicker walled and have a longer shelf life than domestic peppers.[105]

CONSIDERATION OF THE QUESTION OF THE CAUSAL RELATIONSHIP BETWEEN THE ALLEGED SERIOUS INJURY AND IMPORTS

Market Penetration of Imports

As seen in table 24, U.S. and Mexican producers dominate the U.S. market for fresh tomatoes, accounting for at least 99 percent of the market, in terms of volume, throughout the period examined. U.S. producers' share reached its highest level of the period in 1992, as the Mexican share fell in the wake of severe flooding in Mexico's production area. In 1995, U.S. producers lost over 10 percentage points of volume-based market share. Most of this market share was captured by Mexico, although the share of the market held by the Netherlands and Canada in 1995 also increased slightly over the previous year.

For bell peppers, the United States and Mexico again dominate the market in volume terms, accounting for 96 percent or more of the market in all periods. The shares, however, of the market held by the Netherlands and Canada, particularly in value terms, are more substantial for bell peppers than for

---

[100] The CBT is a cooperative operated by various Dutch vegetable growers. Transcript, p. 244.

[101] Id., p. 245.

[102] Id., p. 246.

[103] Dutch respondents' posthearing brief, exhibit 1, p. 2.

[104] Id.

[105] Transcript, p. 248; Dutch respondents' posthearing brief, p. 6.

Table 24
Fresh tomatoes and bell peppers: Apparent U.S. consumption and market shares, 1991-95

Item	1991	1992	1993	1994	1995
	Quantity (*1,000 pounds*)				
Apparent consumption:					
Fresh tomatoes	3,883,911	3,967,988	4,136,471	4,195,826	4,363,683
Fresh bell peppers	1,101,882	1,234,806	1,381,202	1,457,490	1,328,020
	Value (*1,000 dollars*)				
Apparent consumption:					
Fresh tomatoes	1,271,068	1,431,389	1,390,873	1,283,505	1,270,173
Fresh bell peppers	354,109	404,007	495,949	529,079	523,385
	Share of the quantity of U.S. consumption (*percent*)				
Fresh tomatoes:					
U.S. shipments[1]	79.5	89.1	77.7	79.2	68.6
U.S. imports from:					
Mexico	20.1	10.2	21.3	19.8	30.0
Netherlands	0.1	0.1	0.4	0.4	0.6
Canada	0.2	0.3	0.3	0.4	0.6
Other sources	0.1	0.3	0.3	0.3	0.2
Total	20.5	10.9	22.3	20.8	31.4
Fresh bell peppers:					
U.S. shipments[1]	80.3	84.2	80.5	82.1	76.3
U.S. imports from:					
Mexico	17.5	13.6	16.2	14.6	19.3
Netherlands	1.6	1.8	2.6	2.6	3.0
Canada	0.5	0.3	0.6	0.6	1.1
Other sources	0.1	0.1	0.2	0.2	0.3
Total	19.7	15.8	19.5	17.9	23.7
	Share of the value of U.S. consumption (*percent*)				
Fresh tomatoes:					
U.S. shipments[1]	76.1	87.8	72.5	69.0	59.1
U.S. imports from:					
Mexico	22.3	10.4	24.6	27.1	35.6
Netherlands	0.5	0.5	1.3	1.7	2.9
Canada	0.4	0.4	0.5	0.8	1.4
Other sources	0.7	0.9	1.2	1.3	1.0
Total	23.9	12.2	27.5	31.0	40.9
Fresh bell peppers:					
U.S. shipments[1]	64.4	69.4	65.2	64.5	58.0
U.S. imports from:					
Mexico	23.6	18.4	20.7	20.2	23.3
Netherlands	10.2	10.6	12.2	13.4	15.1
Canada	1.4	1.1	1.4	1.3	2.2
Other sources	0.4	0.4	0.5	0.6	1.4
Total	35.6	30.6	34.8	35.5	42.0

[1] U.S. production less exports.

Source: Compiled from official statistics of Commerce and USDA.

tomatoes. For example, in 1995, the Netherlands held 15 percent of the market for bell peppers in dollar terms, whereas its corresponding share for tomatoes was only 3 percent.

Prices and Related Information

Weather and Other Supply-Related Factors

Prices for tomatoes and bell peppers are heavily influenced by supply and demand conditions in the industry, with prices rising in times of tight supply and falling in times of excess supply. One packer reported that "FOB prices are usually thought to be determined by supply and demand. If the local supply is not sufficient, it is then expected that the FOB market price would increase locally. However, if another area of supply is available to fill local demand, our FOB price would remain the same even though the demand exceeds the supply. As such, we are rarely in a position to set our own prices or even negotiate a price that is higher than current market price."[106] Factors such as weather and disease can have a large impact on the amount of tomatoes (and/or bell peppers) available in the marketplace. For example, in the most recent growing season, poor weather (e.g., heavy rains and cold temperatures) in Florida adversely affected production in Florida.[107]

Packing Costs

Prices for fresh tomatoes can vary depending on the type of packaging used.[108] Domestic tomatoes are usually packed in 25-pound bulk boxes containing a single size of tomato (e.g., extra large, large, etc.) while Mexican tomatoes are usually "place packed" in flats. Place packing, a more labor intensive and costly method of packing, involves placing the tomatoes in boxes in rows generally configured 4-by-4 or 5-by-5. The method of packing is often determined by the type of tomato that is being packed, with vine-ripe tomatoes generally being place packed to avoid bruising and mature-greens being packed in bulk.

Transportation Costs

Transportation costs for fresh tomatoes from Canada, Mexico, and the Netherlands to the United States are estimated to be 3.4, 7.0, and 74.6 percent, respectively. Similarly, transportation costs for fresh bell peppers are estimated to be 1.2, 7.9, and 57.9 percent for Canada, Mexico, and the Netherlands, respectively.[109] These estimates are derived from official U.S. import data for 1995 and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with the customs value.

---

[106] Questionnaire response of ***.

[107] Preliminary transcript, p. 118.

[108] While fresh bell peppers are packed in a variety of containers, most of these are bulk containers that vary in the amount of peppers they contain. In the case of imports from the Netherlands, fresh bell peppers are usually sold in 11-pound flat containers.

[109] Transportation costs to the United States from the Netherlands are high because of the fact that tomato and pepper products are shipped via air.

Exchange Rates

Data reported by the IMF indicate that the nominal value of the Mexican peso depreciated 59.6 percent in relation to the U.S. dollar during the period January-March 1993-January-March 1996 (figure 1).[110] During the period from January-March 1993 to the same period of 1994, the real value of the peso appreciated 3.7 percent, but it then depreciated irregularly through the remainder of the period for an overall depreciation of 28.8 percent.

Quarterly data reported by the IMF indicate that the nominal value of the Canadian dollar depreciated 7.9 percent from the first quarter of 1993 to the same period of 1996 (figure 1). Adjusted for changes in producer price indexes in Canada and the United States, the real value of the Canadian dollar (vis-a-vis the U.S. dollar) appreciated 0.1 percent in the time period examined.

The nominal value of the currency of the Netherlands (i.e., the guilder) appreciated 11.9 percent during the period January-March 1993 to January-March 1996 (figure 1). Similarly, the real value of the guilder vis-a-vis the U.S. dollar appreciated 7.9 percent in the time period examined.

Pricing Practices

Most of the sales in the fresh tomato and fresh bell pepper market are made through telephone contacts on a verbal agreement basis; written contracts are not generally used. Prices for fresh tomatoes and bell peppers change very frequently, as often as every day or even several times within a given day. Both of these products are sent first from the grower to the packer; at that time the grower does not usually receive any money for its tomatoes or peppers. It is the packer that will actually sell the tomatoes and/or peppers after the product has been packed. The grower receives payment from the packer after the packer has sold the product; the packer remits back to the grower the price for which the tomatoes and/or peppers were sold less a flat rate packing fee.

In the fresh tomato and bell pepper markets there are two price points that are relevant. The first is the initial negotiated price that is usually quoted over the telephone.[111] The second price is the actual price that is received by the packer (and ultimately by the grower) after any changes have been made due to price protection policies (e.g., rebilling) used in the industry.[112] Rebilling refers to the process of having to lower the previously agreed upon price of the tomatoes or bell peppers after they have been sold and usually occurs when the market is volatile.[113] Generally, a grower sends the tomatoes or bell peppers to a packer who in turn sells the products to a repacker, terminal market, or other wholesale distributor for a specified price. If, however, the market drops, the repacker notifies the packer of the new price. Once the packer receives payment, the packing charge is deducted and the remaining amount is remitted back to the grower. Instead of having to rebill, packers will often delay the invoicing of the product until the market reaches bottom.

Growers, packers, and importers were all asked to report whether or not they had to rebill (or offer other price protection policies) and if so, to estimate the percentage of their sales for which they had to rebill. Some firms were able to estimate the percentage of their sales for which they had to rebill; these firms

---

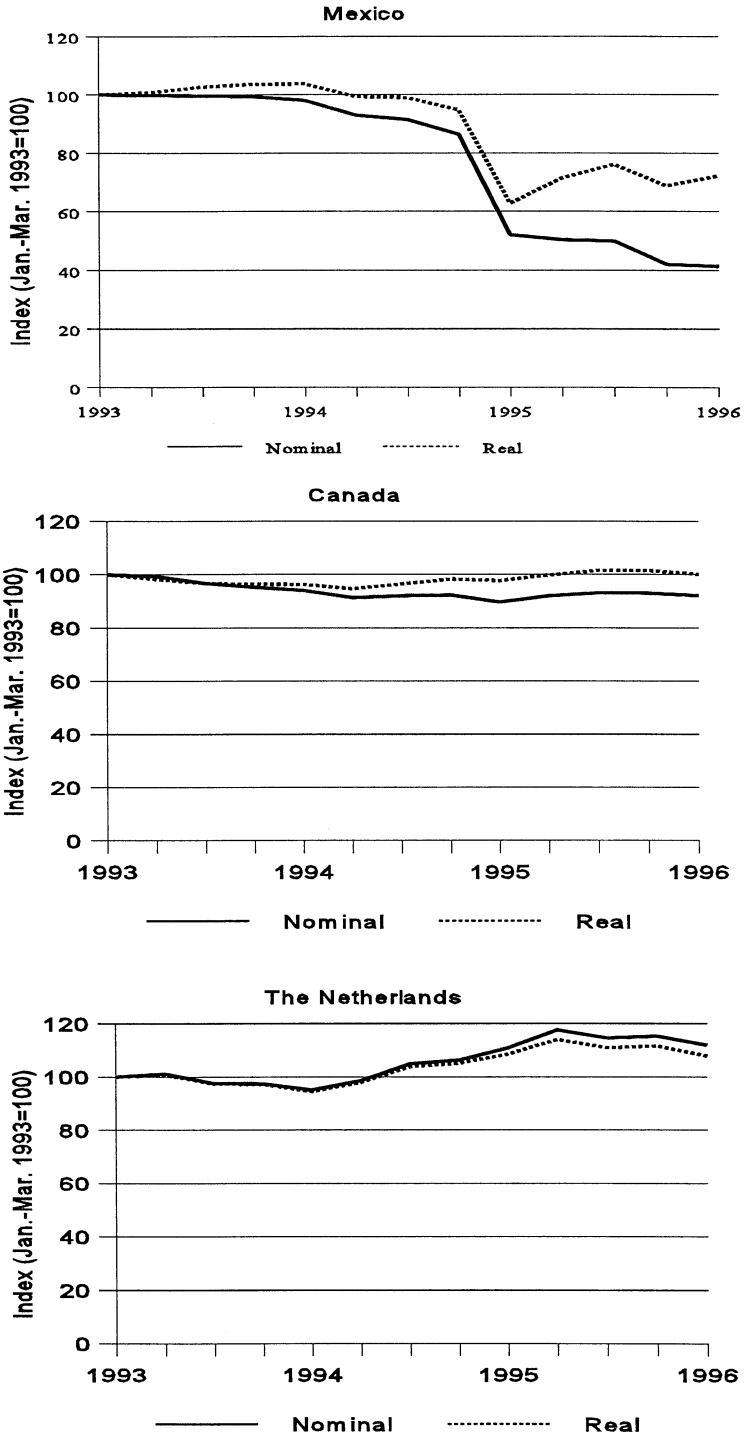
[110] IMF, *International Financial Statistics*, May 1996.

[111] Prices reported by USDA are these negotiated prices, which do not include any "rebilling" that may occur.

[112] Petitioners also reported that pricing changes also occur due to sales of a product with price protection. In this scenario, the packer sells the tomatoes "with protection;" thus, the tomatoes are purchased with the guarantee that the packer will be billed at the lower price if the prices go down (petitioners' posthearing brief, p. 25).

[113] Rebilling is reportedly more common in the tomato market than it is in the bell pepper market. Petitioners' posthearing brief, p. 42.

FIGURE 1
EXCHANGE RATES: INDEXES OF THE NOMINAL AND REAL EXCHANGE RATES BETWEEN THE U.S. DOLLAR AND THE CURRENCIES OF MEXICO, CANADA, AND THE NETHERLANDS, BY QUARTERS, JAN. 1993-MAR. 1996



Source: IMF, *International Financial Statistics*, May 1996.

reported that rebilling occurred on approximately 1-50 percent of their sales and the rebilled difference accounted for between 0.5 and 50 percent of the total cost of the product, although most firms reported that the rebilling lowered the cost by less than 10 percent.[114] Several firms reported that they did in fact have to rebill, but they had difficulty in quantifying the exact amount as records are often only maintained on the final price received for the product. Many firms reported that the frequency and amount of price reductions that occur tend to track the increases in shipments of Mexican product to the United States; these firms reported that rebilling increases in the months when imports from Mexico are highest, for example, January-March.

Fresh tomatoes and bell peppers are also sometimes sold on a consignment basis in the U.S. marketplace. In general, consignment sales involve taking delivery of the shipment, selling it for the shipper's account at some price, then deducting the handling fee and returning the balance to the shipper.[115] While a few U.S. growers and packers reported that all of their sales were on a consignment basis, most reported that they did not sell a significant portion of their tomatoes or bell peppers via consignment sales.[116] Although petitioners have argued that most of the Mexican fresh tomatoes sold in the U.S. market are sold on consignment, most of the responding importers reported that they did not consign any sales of tomatoes.[117]

Price Data

The Commission requested U.S. growers, packers, and importers to provide monthly data for the total quantity and total value of fresh tomatoes and fresh bell peppers that were shipped to unrelated U.S. customers during the period January 1993-February 1996.[118] The products for which pricing data were requested are as follows:

Product 1:	Mature-green tomatoes, 85 percent U.S. #1 or better, large size
Product 2:	Vine-ripe tomatoes, 85 percent U.S. #1 or better, large size
Product 3:	Vine-ripe tomatoes, 25-pound cartons, large size (not including product reported as product 2)
Product 4:	Roma tomatoes, large size
Product 5:	Green bell peppers, extra-large size
Product 6:	Colored bell peppers, other than green, extra-large size

Thirty-one growers, 19 packers, and 22 importers provided usable pricing data for sales of the requested products, although not all firms reported prices for all products or for all months. For tomatoes,

---

[114] Only one firm reported that the rebilled difference accounted for 50 percent of the total cost of the tomatoes sold.

[115] There appear to be similarities between sales done with price protection/rebilling and consignment sales. Both involve shipping product to another firm that is responsible for selling the product and remitting payment back to the grower after the sale has been completed. Petitioners reported that rebilling is not a form of consignment sale. With rebilling, there is a sales price at which the merchandise goes out. With the consignment sale, however, the product is shipped with the knowledge that it can be sold at any price.

[116] Petitioners reported that consignment sales must comply with requirements under the Perishable Agricultural Commodities Act. As a result, most sales in the market are labeled "open billing" instead of consignment. Under "open billing," the purchaser (i.e., repacker, terminal market, or wholesale distributor) sells the load, averages the amount received per box, deducts the charges for disposing the load, and remits the balance to the packer without a detailed list of all sales involved in disposing of the load. Petitioners' posthearing brief, p. 26.

[117] The questionnaire specifically asked firms to estimate the percentage of their firm's sales that were made on a consignment basis in Jan. 1996.

[118] Firms were requested to provide the final net value, excluding any deductions for discounts or rebilling.

pricing data reported by these firms accounted for 8.7 percent of production of U.S.-grown fresh tomatoes and 15.9 percent of imports of Mexican fresh tomatoes in 1995. In addition, two importers reported pricing for sales of greenhouse tomatoes imported from Canada and two others reported pricing for imports from the Netherlands; price data reported by these firms accounted for less than 5 percent of imports from both Canada and the Netherlands.

For bell peppers, the reported data accounted for less than 5 percent of shipments of U.S.-produced bell peppers in 1995 and 17.6 percent of shipments of bell peppers imported from Mexico. In addition, five firms reported prices for greenhouse bell peppers imported from Canada and the Netherlands; these data accounted for 9.4 percent of imports from Canada and less than 5 percent of imports from the Netherlands during 1995.

As discussed above, U.S. growers ship fresh tomatoes and/or bell peppers to packers who are responsible for both packing the tomatoes or peppers and for selling the product. Therefore, it is the sales price of the packer, not the grower, that is comparable to the importers' sales price.[119] Prices reported by packers and importers are presented in tables 25-32, while prices reported by growers are presented in appendix G. Comparisons are made between prices reported by packers and importers, as that is the level at which competition exists.[120]

It is important to note that while the practice of rebilling can cause prices to change, data collected from questionnaire responses specifically requested growers, packers, and importers to report the final value of shipments, net of all discounts and adjustments for rebilling. Therefore, price data reported in this section of the report reflect prices after all adjustments and should not be affected by the practice of rebilling.[121]

Data were collected for monthly sales and represent an average price for the particular product in each month. Because prices of fresh tomatoes and bell peppers can vary considerably within a month, a monthly average price may not accurately capture all price movements. Also, price comparisons are made using calculated average per-pound prices (calculated from total value and total quantity data) and do not consider the manner in which the tomatoes are packed. Actual sales prices are quoted for specific packing sizes, e.g., 25-pound cartons, 4-by-4 flats, etc.; therefore, reported average prices may include additional packing costs for some sales but not include them in others.

Price Trends and Comparisons

As mentioned earlier, prices change frequently in the tomato and bell pepper market and as such it is difficult to discuss trends. Prices reported by U.S. packers for sales of the four specific fresh tomato products (products 1-4) grown and packed in the United States all fluctuated throughout the period January 1993-

---

[119] Petitioners argue that a "significant percent of sales prices from the U.S. packer will not be directly comparable to the importer's prices" because domestic growers and packers ship through repackers and to brokers and wholesalers rather than directly to retailers. Petitioners' prehearing brief, p. 57. Questionnaire responses indicate that U.S. packers and importers sell both to repackers/wholesalers and directly to retailers. While the reported percentage of sales to repackers/wholesalers was larger for U.S. packers (compared to importers), the overlap in sales is sufficient to warrant comparisons between sales prices reported by packers and reported by importers.

[120] Comparisons are made between prices for U.S.-grown products and those imported from Mexico. Price comparisons are not made between U.S.-grown tomatoes (and/or bell peppers) and the greenhouse tomatoes and bell peppers imported from Canada and the Netherlands because of differences in the products. As can be seen from the data, prices for greenhouse tomatoes and bell peppers are significantly higher than those for vine-grown tomatoes and bell peppers.

[121] While the coverage of questionnaire data is likely to be lower than that of published USDA data, USDA data do not account for rebilling.

February 1996. Similarly, prices for fresh tomatoes imported from Mexico showed significant fluctuations, with no discernible trend. Prices for greenhouse tomatoes imported from Canada and the Netherlands were significantly higher than those for domestic and Mexican vine grown tomatoes.[122]

Prices for domestic and Mexican green bell peppers (product 5) and for colored bell peppers also fluctuated throughout the period for which data were requested. Prices for greenhouse bell peppers also fluctuated but they were at consistently higher prices (as compared to domestic and Mexican bell peppers).

Price comparisons were made between prices of each of the four specified tomato products and the two specified bell peppers in 166 instances where prices of both domestic and imported products were reported. With regard to tomatoes, the data generally indicate a mixture of both underselling and overselling; much of the underselling is present in the comparisons between domestic and imported mature-green tomatoes and between roma tomatoes; the overselling tends to be in the comparisons of the domestic and imported vine-ripe tomatoes.[123] Overall, prices for the Mexican product were below those for the domestic product in 59 of the months where comparisons were possible; margins ranged from 0.4 to 63.2 percent, with an average of 18.4 percent. In the remaining 61 months, the Mexican product was priced above the domestic product; margins ranged from 0.2 to 166.7 percent, with an average of 39.3 percent.

With regard to bell peppers, price comparisons were possible in 46 instances. In general, the data indicate underselling in the comparisons between domestic and Mexican green bell peppers and overselling for the comparisons between prices for colored bell peppers. For green bell peppers, the Mexican product undersold the domestic product in 15 of the 24 instances where comparisons were possible; margins ranged from 1.9 to 55.4 percent. In the other 9 instances, the Mexican product was priced above the domestic, with margins ranging from 2.1 to 63.3 percent.

With regard to colored bell peppers, prices for the Mexican product were below those for the domestic product in 5 of the 22 instances; margins ranged from 7.5 to 69.7 percent. In the other instances, the Mexican product was priced between 2.1 and 182.8 percent above the domestic product. It is important to note that prices for colored bell peppers (other than green) include data for various colors (e.g, red, yellow); therefore, prices can vary within the presented series due to the reporting of different colored peppers.

---

[122] One firm reported prices for greenhouse roma tomatoes imported from the Netherlands for part of the period for which data were collected. These prices fluctuated within the range of $*** and $*** (per pound) from Dec. 1994 through Feb. 1996.

[123] In the case of mature-green and roma tomatoes (products 1 and 4), the Mexican product undersold the domestic product in 40 of the 59 instances where comparisons were possible. On the other hand, in the case of vine-ripe tomatoes (products 2 and 3), the Mexican product was priced higher than the domestic in 42 of the 61 instances where comparisons were possible.

Table 25
Product 1: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1993:					
January	$0.35	33,891	$0.36	4,749	(3.5)
February	.21	27,964	.22	9,330	(3.8)
March	.21	42,951	.20	14,268	3.7
April	.36	31,480	.36	11,203	1.2
May	.50	26,452	.35	1,665	31.3
June	.29	18,883	(2)	(2)	(3)
July	.17	15,871	(2)	(2)	(3)
August	.29	17,855	(2)	(2)	(3)
September	.28	14,108	(2)	(2)	(3)
October	.18	15,520	(2)	(2)	(3)
November	.31	36,285	(2)	(2)	(3)
December	.58	36,648	.40	2	30.1
1994:					
January	.47	33,554	.40	2,178	14.2
February	.20	32,623	.19	9,012	6.5
March	.26	26,916	.20	21,999	22.8
April	.18	42,063	.21	10,048	(18.8)
May	.20	31,052	.22	1,526	(11.2)
June	.16	8,832	.33	55	(109.7)
July	.24	18,669	(2)	(2)	(3)
August	.27	16,570	(2)	(2)	(3)
September	.21	13,438	(2)	(2)	(3)
October	.28	14,026	(2)	(2)	(3)
November	.34	41,351	(2)	(2)	(3)
December	.39	43,177	.33	1,873	15.8
1995:					
January	.40	28,695	.40	8,505	1.8
February	.29	32,562	.32	7,027	(11.0)
March	.36	24,525	.33	10,548	9.1
April	.25	31,216	.30	6,394	(22.0)
May	.14	37,056	.20	1,444	(43.3)
June	.26	2,479	.21	152	16.2

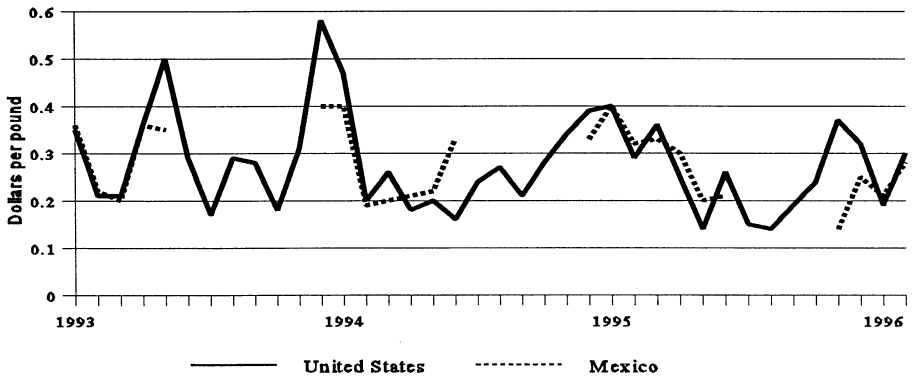
See footnotes at end of table.

Table 25--Continued
Product 1: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1995:					
July	$0.15	12,164	(2)	(2)	(3)
August	.14	19,370	(2)	(2)	(3)
September	.19	15,451	(2)	(2)	(3)
October	.24	12,032	(2)	(2)	(3)
November	.37	22,596	$0.14	26	60.3
December	.32	41,827	.25	2,732	19.8
1996:					
January	.19	41,579	.21	12,023	(10.5)
February	.30	25,935	.28	10,275	4.7

[1] Parentheses indicate that the price of the imported product was higher than the price of the domestic product.
[2] Data not reported.
[3] Margins not calculated.

Note.--Percentage margins calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.



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

Table 26
Product 2: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1993:					
January	$0.40	1,527	$0.38	1,477	4.5
February	.19	391	.30	2,474	(58.2)
March	.14	1,950	.24	4,862	(73.8)
April	.34	717	.31	1,688	6.3
May	.55	319	.24	173	56.6
June	.37	626	(2)	(2)	(3)
July	.23	399	(2)	(2)	(3)
August	.12	90	.11	1	8.5
September	.23	29	(2)	(2)	(3)
October	.14	47	.19	916	(35.2)
November	.33	1,088	.22	155	33.3
December	.34	1,150	.36	584	(5.0)
1994:					
January	.40	1,272	.46	2,070	(15.1)
February	.15	1,154	.23	4,343	(54.7)
March	.21	1,243	.25	6,396	(18.3)
April	.14	971	.27	1,741	(100.6)
May	.14	756	.27	309	(90.1)
June	.13	593	(2)	(2)	(3)
July	.17	192	(2)	(2)	(3)
August	.21	100	.24	785	(14.6)
September	.16	41	.15	36	9.8
October	.29	53	.28	7	6.1
November	.29	1,032	.35	108	(24.2)
December	.31	1,639	.41	413	(34.5)
1995:					
January	.31	986	.49	1,834	(59.4)
February	.29	711	.29	7,792	(0.2)
March	.30	990	.40	5,009	(36.6)
April	.28	985	.40	5,448	(41.8)
May	.12	290	.32	3,502	(166.7)
June	.19	105	.24	1,118	(31.9)

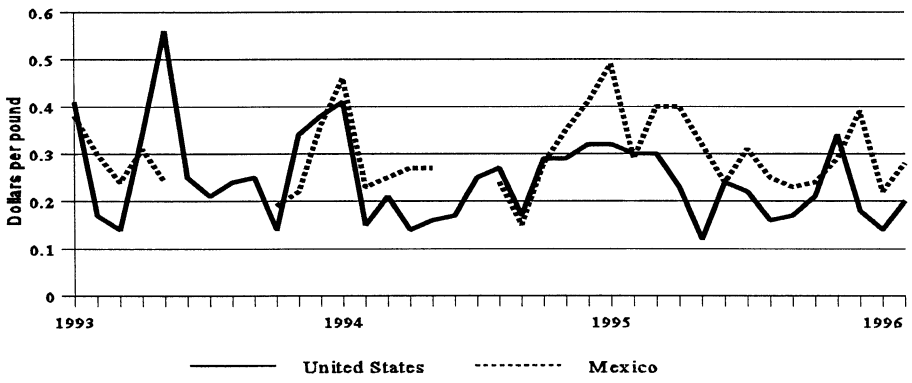
See footnotes at end of table.

Table 26--Continued
Product 2: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States Price	United States Quantity	Mexico Price	Mexico Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1995:					
July	$0.18	118	$0.31	2,638	(69.3)
August	.16	778	.25	1,812	(52.0)
September	.17	146	.23	3,228	(38.2)
October	.21	24	.24	6,827	(13.0)
November	.32	290	.29	15,010	8.1
December	.19	1,490	.39	10,080	(100.2)
1996:					
January	.17	1,565	.22	6,174	(25.8)
February	.20	1,977	.28	5,201	(42.5)

[1] Parentheses indicate that the price of the imported product was higher than the price of the domestic product.
[2] Data not reported.
[3] Margins not calculated.

Note.--Percentage margins calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.



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

Table 27
Product 3: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1993:					
January	$0.30	2,462	$0.28	602	5.8
February	.17	777	.28	1,536	(63.3)
March	.17	3,141	.17	2,336	(2.3)
April	.28	3,374	(2)	(2)	(3)
May	.43	1,528	.16	2	63.2
June	.26	717	(2)	(2)	(3)
July	.12	290	(2)	(2)	(3)
August	.28	1,922	(2)	(2)	(3)
September	.29	953	(2)	(2)	(3)
October	.15	968	(2)	(2)	(3)
November	.24	1,651	(2)	(2)	(3)
December	.40	1,766	(2)	(2)	(3)
1994:					
January	.31	2,001	.27	1,453	13.2
February	.13	1,924	.24	1,019	(80.4)
March	.19	2,342	.22	3,700	(15.3)
April	.12	2,855	.20	1,360	(70.8)
May	.26	1,357	.24	131	7.9
June	.24	107	(2)	(2)	(3)
July	.19	1,476	.28	5	(47.6)
August	.21	2,028	.27	228	(29.5)
September	.17	1,052	.22	296	(29.0)
October	.19	845	.27	182	(40.8)
November	.26	1,361	.35	35	(35.8)
December	.26	2,677	.39	38	(48.5)
1995:					
January	.27	1,859	.33	2,135	(21.9)
February	.18	1,793	.27	2,362	(45.9)
March	.30	2,721	.25	3,458	16.1
April	.25	3,173	.21	2,776	16.2
May	.16	1,258	.11	1,330	28.5
June	.31	31	(2)	(2)	(3)

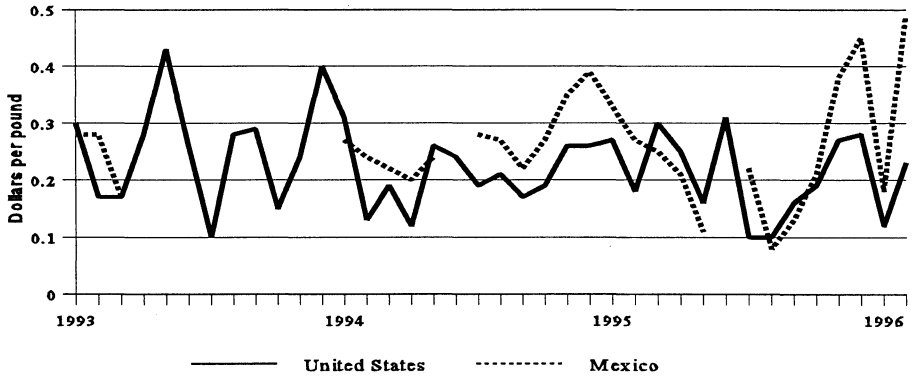
See footnotes at end of table.

Table 27--Continued
Product 3: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States Price	United States Quantity	Mexico Price	Mexico Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1995:					
July	$0.10	567	$0.22	305	(127.2)
August	.10	1,423	.08	247	25.9
September	.16	1,214	.13	131	15.4
October	.19	479	.21	477	(6.0)
November	.27	820	.38	505	(37.6)
December	.28	1,766	.45	80	(63.1)
1996:					
January	.12	845	.12	1,678	0.4
February	.23	3,006	.19	3,421	18.4

[1] Parentheses indicate that the price of the imported product was higher than the price of the domestic product.
[2] Data not reported.
[3] Margins not calculated.

Note.--Percentage margins calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.



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

Table 28
Greenhouse tomatoes: Weighted-average net U.S. f.o.b. selling prices reported by U.S. importers, by countries and by months, Jan. 1993-Feb. 1996

* * * * * * *

Table 29
Product 4: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1993:					
January	$0.22	711	$0.27	3,909	(25.7)
February	.26	577	.18	5,398	30.0
March	.21	712	.12	8,867	39.7
April	.25	1,159	.23	10,592	9.2
May	.44	2,140	.30	14,934	31.8
June	.28	2,276	.32	1,901	(17.1)
July	.31	560	(2)	(2)	(3)
August	.24	742	.38	16	(61.4)
September	.28	400	.30	930	(6.0)
October	.24	350	.17	1,001	29.9
November	.30	730	.28	1,299	9.1
December	.28	749	.34	4,806	(22.7)
1994:					
January	.31	987	.27	9,163	11.4
February	.20	764	.17	8,638	12.4
March	.20	668	.21	10,866	(4.5)
April	.23	934	.18	8,299	20.9
May	.19	2,019	.14	7,277	24.7
June	.37	538	.32	2,431	13.7
July	.39	763	(2)	(2)	(3)
August	.27	855	.30	308	(12.3)
September	.32	482	.34	1,727	(6.9)
October	.26	376	.22	2,272	14.4
November	.46	1,443	.41	2,004	11.2
December	.31	1,624	.26	2,390	15.9
1995:					
January	.28	310	.31	6,820	(10.3)
February	.24	430	.23	11,186	6.1
March	.32	842	.21	20,006	34.4
April	.20	1,476	.17	21,127	16.6

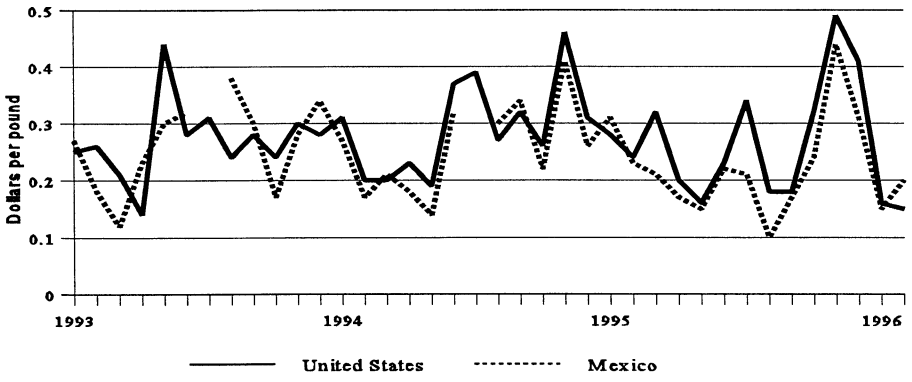
See footnotes at end of table.

Table 29--Continued
Product 4: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States Price	United States Quantity	Mexico Price	Mexico Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1995:					
May	$0.16	4,099	$0.15	14,884	3.0
June	.23	940	.22	4,430	4.4
July	.34	1,207	.21	1,464	37.9
August	.18	1,377	.10	2,421	47.1
September	.18	644	.17	2,221	9.2
October	.32	101	.24	3,404	25.9
November	.50	1,039	.44	2,807	11.6
December	.41	1,523	.31	2,278	24.2
1996:					
January	.16	1,262	.15	9,139	7.1
February	.15	160	.20	7,046	(31.4)

[1] Parentheses indicate that the price of the imported product was higher than the price of the domestic product.
[2] Data not reported.
[3] Margins not calculated.

Note.--Percentage margins calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.



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

Table 30
Product 5: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1993:					
January	$0.28	759	$0.27	9,290	3.5
February	.39	878	.36	5,872	9.2
March	.42	980	.32	3,344	23.9
April	.63	2,166	.54	1,965	15.2
May	.63	1,387	.35	263	44.4
June	.46	451	.20	12	55.4
July	(2)	(2)	(2)	(2)	(3)
August	(2)	(2)	(2)	(2)	(3)
September	(2)	(2)	(2)	(2)	(3)
October	.38	219	(2)	(2)	(3)
November	.39	2,883	.36	461	6.1
December	.38	3,070	.45	1,539	(16.8)
1994:					
January	.34	2,248	.34	4,801	1.9
February	.27	1,605	.28	4,728	(2.7)
March	.25	2,578	.28	5,507	(12.5)
April	.25	3,640	.31	1,649	(24.0)
May	.26	1,307	.32	220	(25.0)
June	.22	144	(2)	(2)	(3)
July	(2)	(2)	(2)	(2)	(3)
August	(2)	(2)	(2)	(2)	(3)
September	(2)	(2)	(2)	(2)	(3)
October	.56	425	(2)	(2)	(3)
November	.40	1,977	.58	113	(45.9)
December	.47	1,944	.52	5,000	(10.1)
1995:					
January	.50	927	.41	9,731	19.6
February	.68	815	.49	7,523	28.2
March	.75	988	.46	3,814	38.5
April	.23	2,326	.37	2,425	(63.3)
May	.20	2,223	.13	141	32.9
June	.26	312	(2)	(2)	(3)

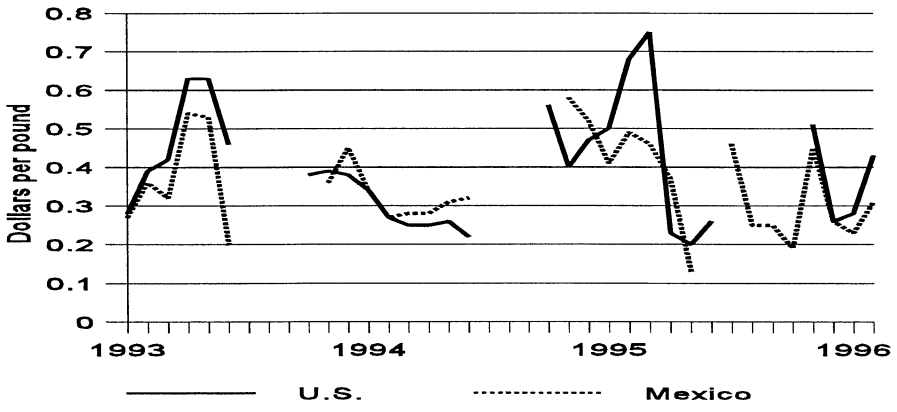
See footnotes at end of table.

Table 30--Continued
Product 5: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States Price	United States Quantity	Mexico Price	Mexico Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1995:					
July	(2)	(2)	$0.46	1	(3)
August	(2)	(2)	.25	176	(3)
September	(2)	(2)	.25	870	(3)
October	(2)	(2)	.19	810	(3)
November	$0.51	381	.45	2,203	13.0
December	.26	1,665	.26	5,980	(2.1)
1996:					
January	.28	935	.23	9,825	16.8
February	.43	1,105	.31	5,950	28.7

[1] Parentheses indicate that the price of the imported product was higher than the price of the domestic product.
[2] Data not reported.
[3] Margins not calculated.

Note.--Percentage margins calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.



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

Table 31
Product 6: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1993:					
January	$0.38	434	$0.70	9,290	(84.3)
February	.44	235	.55	5,872	(25.0)
March	.70	212	.85	3,344	(21.6)
April	.26	332	.16	1,965	37.9
May	.74	20	.22	263	69.7
June	(2)	(2)	(2)	(2)	(3)
July	(2)	(2)	(2)	(2)	(3)
August	(2)	(2)	(2)	(2)	(3)
September	(2)	(2)	(2)	(2)	(3)
October	.43	7	.81	4	(88.7)
November	.79	51	.85	18	(7.0)
December	.65	415	1.40	329	(114.8)
1994:					
January	.67	2,248	1.15	1,034	(70.7)
February	.27	1,605	.74	1,307	(179.0)
March	.35	2,578	.61	1,662	(76.0)
April	.39	3,640	.68	183	(75.1)
May	.41	1,307	.73	171	(78.9)
June	(2)	(2)	.45	108	(3)
July	(2)	(2)	(2)	(2)	(3)
August	(2)	(2)	(2)	(2)	(3)
September	(2)	(2)	(2)	(2)	(3)
October	.81	20	(2)	(2)	(3)
November	.91	123	(2)	(2)	(3)
December	.56	288	.92	756	(65.6)
1995:					
January	1.31	61	1.18	2,400	10.0
February	.75	48	.62	4,654	17.3
March	.82	60	.76	2,502	7.5
April	.79	218	.80	417	(2.1)
May	.25	1,238	.51	454	(108.7)
June	(2)	(2)	.41	405	(3)

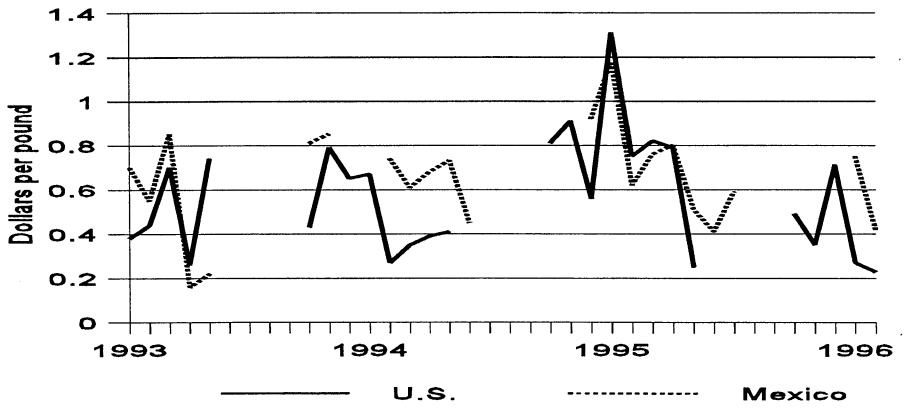
See footnotes at end of table.

Table 31--Continued
Product 6: Weighted-average net U.S. f.o.b. selling prices reported by U.S. packers and importers, and margins of under/(over)selling,[1] by months, Jan. 1993-Feb. 1996

Period	United States		Mexico		
	Price	Quantity	Price	Quantity	Margin
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*	*Percent*
1995:					
July	(2)	(2)	.59	48	(3)
August	(2)	(2)	(2)	(2)	(3)
September	(2)	(2)	(2)	(2)	(3)
October	.49	1	(2)	(2)	(3)
November	.35	2	(2)	(2)	(3)
December	.71	19	1.13	505	(58.0)
1996:					
January	.27	86	.75	2,070	(182.8)
February	.23	262	.42	4,542	(81.8)

[1] Parentheses indicate that the price of the imported product was higher than the price of the domestic product.
[2] Data not reported.
[3] Margins not calculated.

Note.--Percentage margins calculated from unrounded figures; thus, margins cannot always be directly calculated from the rounded prices in the table.



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

Table 32
Greenhouse colored bell peppers: Weighted-average net U.S. f.o.b. selling prices reported by U.S. importers, by countries and by months, Jan. 1993-Feb. 1996

* * * * * * *

Factors Other Than Imports Affecting the Domestic Industry

In its questionnaire, the Commission requested U.S. producers to indicate whether they were injured and, if so, to rank various listed factors in terms of their importance in causing such injury, on a scale of 1-11, with 1 being the most important factor and 11 the least important. The number of producers ranking each factor, by level of importance, as compiled from responses to Commission questionnaires, is shown in the following tabulation:

	Level of importance										
Factor	1	2	3	4	5	6	7	8	9	10	11
Government regulations	9	30	18	7	15	6	6	0	0	0	0
Competition from substitute products	5	3	2	1	10	4	6	3	4	23	12
Weather	5	11	15	10	15	4	9	6	6	2	1
Environmental costs	2	4	21	12	13	21	7	7	3	0	1
Imports from Mexico	82	4	3	1	1	1	0	1	0	0	0
Imports from Canada	0	0	4	0	2	0	0	4	1	3	10
Imports from other sources	0	4	1	3	1	0	0	4	1	0	9
Inability to obtain financing	3	7	5	3	13	5	7	8	4	7	9
Increased input costs	5	13	23	21	7	5	2	6	1	3	4
Labor problems	8	11	8	12	12	8	9	7	3	2	3
Production problems	1	0	5	3	9	11	7	16	9	4	6
Relative quality differences	2	2	4	1	6	2	8	7	20	11	2
Other factors	5	0	3	0	1	0	0	3	1	6	23

Competitive Efforts and Proposed Adjustments

In its questionnaire, the Commission asked U.S. growers and packers of fresh tomatoes and bell peppers to indicate whether, since July 1, 1990, they had undertaken any efforts to compete more effectively in the U.S. market for fresh tomatoes and/or bell peppers. These efforts included the following: (1) actual investments made; (2) cost reductions with existing equipment; (3) diversifications and/or expansions; (4) research and development; (5) organizational changes; (6) changes in production practices; (7) marketing changes in U.S. and/or foreign markets; and (8) any other relevant changes.

Of 163 growers providing data to the Commission, 37 answered this question in the affirmative. The amounts spent in efforts to compete, by category, are shown in the following tabulation:

Type of competitive effort	Expense
Investments made	$15,787,057
Cost reductions	246,000
Diversifications/expansions	3,890,000
Research and development	1,412,000
Organizational changes	1,743,000
Changes in production practices	996,704
Marketing changes	2,666,000
All other changes	475,000
Total	$27,215,761

Similarly, of 33 packers providing data to the Commission, 20 answered this question in the affirmative. The amounts spent in efforts to compete, by category, are shown in the following tabulation:

Type of competitive effort	Expense
Investments made	$16,279,695
Cost reductions	3,901,000
Diversifications/expansions	17,785,000
Research and development	1,752,000
Organizational changes	1,220,000
Changes in production practices	1,130,760
Marketing changes	2,850,000
All other changes	19,325
Total	$44,937,780

In addition, the Commission requested U.S. packers to indicate whether, if import relief were granted as a result of this investigation, they would make such efforts to compete in the future. Of 33 packers providing data to the Commission, 12 answered this question in the affirmative. The proposed adjustments, by type of competitive effort involved, are shown in the tabulation below:

Type of competitive effort	Projected expense
Investments proposed	$7,000,300
Cost reductions	100,000
Diversifications/expansions	6,225,000
Research and development	1,300,000
Organizational changes	82,000
Changes in production practices	0
Marketing changes	75,000
All other changes	0
Total	$14,782,300

APPENDIX A

TARIFF TREATMENT OF SUBJECT MERCHANDISE

Heading/ Subheading	Stat. Suf-fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
0702.00		Tomatoes, fresh or chilled:				
0702.00.20		If entered during the period from March 1 to July 14, inclusive, or the period from September 1 to November 14, inclusive, in any year	.....	4.4¢/kg	Free (E,IL,J) 0.9¢/kg (CA) See 9906.07.01-9906.07.05 (MX)	6.6¢/kg
	30	Cherry	kg			
	60	Roma (plum type)	kg			
	90	Other	kg			
0702.00.40		If entered during the period from July 15 to August 31, inclusive, in any year	.....	3.1¢/kg	Free (E,IL,J) 0.6¢/kg (CA) 1.3¢/kg (MX)	6.6¢/kg
	30	Cherry	kg			
	60	Roma (plum type)	kg			
	90	Other	kg			
0702.00.60		If entered during the period from November 15, in any year, to the last day of the following February, inclusive	.....	3.1¢/kg	Free (A,E,IL,J) 0.6¢/kg (CA) See 9906.07.06-9906.07.09 (MX)	6.6¢/kg
	30	Cherry	kg			
	60	Roma (plum type)	kg			
	90	Other	kg			

Heading/ Subheading	Stat. Suf- fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
		Tomatoes, fresh or chilled:				
		Provided for in subheading 0702.00.20:				
		Cherry tomatoes:				
9906.07.01	1/	If entered during the period from March 1 to April 30, inclusive.....	1/		Free (MX)	
9906.07.02	1/	If entered during the period from May 1 to July 14, inclusive, or the period September 1 to November 14, inclusive, in any year.....	1/		1.3¢/kg (MX)	
		Other:				
		If entered during the period from March 1 to July 14, inclusive:				
9906.07.03	1/	Subject to the quantitative limits specified in U.S. note 9 to this subchapter.....	1/		3.2¢/kg (MX)	
9906.07.04	1/	Other.....	1/		4.4¢/kg (MX)	
9906.07.05	1/	If entered during the period from September 1 to November 14, inclusive, in any year.....	1/		1.8¢/kg (MX)	
		Provided for in subheading 0702.00.60:				
		Cherry tomatoes:				
9906.07.06	1/	If entered during the period from November 15 to November 30, inclusive, in any year.....	1/		1.3¢/kg (MX)	
9906.07.07	1/	If entered during the period from December 1, in any year, to the last day of the following February, inclusive..	1/		Free (MX)	
		Other:				
9906.07.08	1/	Subject to the quantitative limits specified in U.S. note 10 to this subchapter.....	1/		2.3¢/kg (MX)	
9906.07.09	1/	Other.....	1/		3.1¢/kg (MX)	

1/ See chapter 99 statistical note 1.

Heading/ Subheading	Stat. Suf- fix	Article Description	Units of Quantity	Rates of Duty 1 General	Special	2
0709.60		Fruits of the genus Capsicum (peppers) or of the genus Pimenta (e.g., allspice):				
0709.60.20	00	Chili peppers.....	kg.....	5.1¢/kg	Free (A,E,IL,J) 1.1¢/kg (CA) See 9906.07.41-9906.07.43 (MX)	5.5¢/kg
0709.60.40	00	Other.....	kg.....	5.2¢/kg	Free (A,E,IL,J) 1.1¢/kg (CA) See 9906.07.44-9906.07.45 (MX)	5.5¢/kg

Heading/ Subheading	Stat. Suf- fix	Article Description	Units of Quantity	Rates of Duty 1 General	Rates of Duty 1 Special	Rates of Duty 2
		Provided for in subheading 0709.60.40:				
9906.07.44	1/	If entered during the period from June 1 to October 31, inclusive, in any year.....	1/		2.2¢/kg (MX)	
9906.07.45	1/	If entered during the period from January 1 to May 31, inclusive, or the period from November 1 to December 31, inclusive, in any year.....	1/		3.8¢/kg (MX)	

1/ See chapter 99 statistical note 1.

APPENDIX B

FEDERAL REGISTER NOTICE

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-201-66]

Fresh Tomatoes and Bell Peppers

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 202 of the Trade Act of 1974 (19 U.S.C. § 2252) (the Act).

SUMMARY: Following receipt of a petition filed on March 11, 1996, on behalf of the Florida Fruit & Vegetable Association, Orlando, FL, the Florida Bell Pepper Growers Exchange, Inc., Orlando, FL, the Florida Commissioner of Agriculture, Tallahassee, FL, the Ad Hoc Group of Florida Tomato Growers and Packers, and individual Florida bell pepper growers, the U.S. International Trade Commission instituted Investigation No. TA-201-66 under section 202 of the Act to determine whether fresh tomatoes and bell peppers, provided for in subheadings 0702.00.20, 0702.00.40, 0702.00.60, and 0709.60.40 of the Harmonized Tariff Schedule of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.[1]

[1] For purposes of this investigation, "fresh tomatoes" are defined as fresh or chilled tomatoes, including but not limited to the varieties known scientifically as *Lycopersicon esculentum*, *Lycopersicon cerasiforme*, and *Lycopersicon pyriforme*, but excluding tomatoes grown for processing. "Bell peppers," also called sweet peppers, are defined as fresh or chilled peppers belonging to the species *Capsicum annuum var. annuum*, but excluding peppers grown for processing.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202-205-3183), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the Federal Register. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of confidential business information (CBI) under an administrative protective order (APO) and CBI service list.—Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

Hearings on injury and remedy.—The Commission has scheduled separate hearings in connection with the injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on June 3, 1996, at the U.S. International Trade Commission Building. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on August 1, 1996. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before May 17, 1996, and July 15, 1996, respectively. All persons desiring to appear at the hearings and make oral presentations should attend prehearing conferences to be held at 9:30 a.m. on May 21, 1996, and July 18, 1996, respectively, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on injury is May 28, 1996; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. § 2252(a)(6)(B), is July 25, 1996. Parties may also file posthearing briefs. The deadline for filing posthearing briefs on injury is June 10, 1996; that for filing posthearing briefs on remedy is August 8, 1996. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before June 10, 1996, and pertinent to the consideration of remedy on or before August 8, 1996. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is

published pursuant to section 206.3 of the Commission's rules.

Issued: March 22, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–7492 Filed 3–27–96; 8:45 am]

BILLING CODE 7020–02–P

APPENDIX C

CALENDAR OF PUBLIC HEARING

CALENDAR OF PUBLIC HEARING

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

Subject:	:	FRESH TOMATOES AND BELL PEPPERS (INJURY)
Inv. No.	:	TA-201-66
Date and Time	:	June 3, 1996 - 9:30 a.m.

Sessions were held in connection with the investigation in the Main Hearing Room 101, 500 E Street, S.W., Washington, D.C.

OPENING REMARKS

Petitioners (Terence P. Stewart, Stewart and Stewart)
Respondents (Robert E. Herzstein and Thomas B. Wilner, Shearman & Sterling)

IN SUPPORT OF THE PETITION:

Stewart and Stewart
Washington, D.C.
and
Greenberg, Traurig, Hoffman, Lipoff,
Rosen & Quentel, P.A.
Miami, FL
on behalf of

PANEL 1

Ad Hoc Group of Florida Tomato Growers & Packers

Bob Crawford, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services

Dr. Martha Roberts, Deputy Commissioner for Food Safety, Florida Department of Agriculture and Consumer Services

IN SUPPORT OF THE PETITION-Continued:

Tom F. DiMare, CEO/Owner, DMB Packing Co.

Joseph Esformes, Co-Owner/Partner, Pacific Tomato Growers, Ltd.

Stephen L. Price, President and CEO, First Bank of Immokalee

James Williams, Vice President, Williams Farms

James Barfield, General Manager, Barfield Farms, Inc.

Terence P. Stewart)
Amy S. Dwyer)--OF COUNSEL
Howard A. Vine)

PANEL 2 (Available for questioning only)

Billy Don Grant, President/Co-Owner, Bonita Packing Co., Inc.

Wayne Hawkins, Executive Vice President, Florida Tomato Growers Exchange

Larry Lipman, Owner/Manager, Six L's Packing Co., Inc.

Michael J. Stuart, Executive Vice President, Florida Fruit and Vegetable Association

Jay Taylor, President, Taylor & Fulton, Inc.

PANEL 3

Migrant Farmworker Justice Project, Belle Glade, FL

Farmworker Coordinating Council of Palm Beach County

Ruben Chavez, Executive Director, Farmworker Coordinating Council of Palm Beach County

Sarah Cleveland--OF COUNSEL

IN OPPOSITION TO THE PETITION:

Shearman & Sterling
Washington, D.C.
on behalf of

PANEL 1

Confederacion de Asociaciones Agricolas
del Estado Sinaloa ("CAADES")
Confederacion Nacional de Productores
de Hortalizas ("CNPH")

Basilio Gatzionis, Chairman of the Board,
CNPH

Martin Ley, Vice Chairman, Fresh Produce
Association of the Americas, Chairman,
Tomato Division, Fresh Produce Association
of the Americas and General Manager,
Del Campo Gargiulo

Professor Norman F. Oebker, Professor of
Horticulture, Department of Plant Services,
University of Arizona

Professor Alan O. Sykes, Professor of Law,
The Law School, University of Chicago

Robert E. Blomquist, Managing Director,
Integrated Marketing Management, Ltd.

Stephen Serra, Owner, Serra Brothers Inc.

Joseph Procacci, CEO, Procacci Brothers
Sales Corporation and Vice Chairman,
National Association of Perishable
Agricultural Receivers

Robert E. Herzstein)
Thomas B. Wilner)--OF COUNSEL
Aaron D. Fishman)

Stephan E. Becker--OF COUNSEL
Keller and Heckman
(Counsel for the Government of Mexico)

IN OPPOSITION TO THE PETITION-Continued:

PANEL 2 (Available for questioning only)

Eduardo Palau Blanco, Manager, Vegetable Commission for Defense, Research, and Development, CAADES

James D. Cathey, Chairman, Fresh Produce Association of the Americas

Diego Ley Lopez, President, Agricola Industrial del Rio Culiacan S.A. de C.V.

W. D. Class, Owner, W. D. Class & Sons and Vice Chairman, National Association of Perishable Agricultural Receivers

Gustavo E. Bamberger, Vice President and Economist, Lexecon Inc.

Raul Batiz, Agricola Batiz & RB Packing, Inc.

Gary Lee, President, National Association of Perishable Agricultural Receivers

PANEL 3

Ablondi, Foster, Sobin & Davidow, P.C.
Washington, D.C.
on behalf of

Central Bureau for Fruit and Vegetable Auctions in the Netherlands ("CBT")

Harry Beukelman, Marketing Manager, USA, CBT

Janice L. Honigberg, President, J.L. Honigberg & Associates, Inc.

Kristie Johnson, Produce Buyer, Sutton Place Gourmet

Will E. Leonard)
Lauren D. Frank)--OF COUNSEL

IN OPPOSITION TO THE PETITION-Continued:

PANEL 4

Cameron & Hornbostel
Washington, D.C.
on behalf of

Canadian Horticultural Council
B.C. Hot House Foods, Inc.
Ontario Greenhouse Vegetable Producers
Marketing Board
IGINO Ingratta & Son
Bayshore Vegetable Shippers
Erie Shores Growers Ltd.
Groupe Vegeco Inc.
C.A.M.S. Terres Noires Ltee
Les Productions Mar-Gi-Ric Inc.
Syndicat des producteurs en serres du Quebec
Serres du St. Laurent
Fruits & Legumes Vegebec Inc.

Alain Gravel, Directeur General, Association
des Jardiniers Maraichers du Quebec

Denton E. Hoffman, General Manager,
Ontario Greenhouse Vegetable Producers
Marketing Board

James D. Lightbody, Vice-President, Marketing
and Sales, B.C. Hot House Foods, Inc.

Michel Riendeau, President, Michel Riendeau Ferme

Andre Turenne, Manager, Export Sales,
Les Productions Mar-Gi-Ric Inc.

William K. Ince)
Kerstin Carlson)--OF COUNSEL
Michele C. Sherman)

IN OPPOSITION TO THE PETITION-Continued:

Miller & Chevalier
Washington, D.C.
on behalf of

Government of Canada

W. A. Hewett, First Secretary (Agriculture), Embassy of Canada

Michael Bowser, Trade Officer, Trade Remedies Division, Foreign Affairs and International Trade Canada

Brian Rattray, Trade Analyst, International Trade Policy Directorate, Agriculture and Agri-food Canada

Catherine Curtiss--OF COUNSEL

APPENDIX D

SUMMARY DATA

Table D-1
Fresh tomatoes: Summary data concerning the U.S. market, 1991-95 and Jan.-Feb. 1996

(Quantity=1,000 pounds, value=1,000 dollars, unit values=per pound; period changes=percent, except where noted)

Item	Reported data						Period changes			
	1991	1992	1993	1994	1995	Jan.-Feb. 1996	1991-95	1993-95	1993-94	1994-95
US consumption quantity:										
Amount	3,883,911	3,967,988	4,136,471	4,195,826	4,363,683	N/A	12.4	5.5	1.4	4.0
Producer's share (1)	79.5	89.1	77.7	79.2	68.6	N/A	-10.9	-9.1	1.5	-10.6
Importers' share: (1)										
Mexico	20.1	10.2	21.3	19.8	30.0	N/A	9.9	8.6	-1.6	10.2
All other	0.4	0.7	1.0	1.0	1.4	N/A	1.0	0.5	0.1	0.4
Total	20.5	10.9	22.3	20.8	31.4	N/A	10.9	9.1	-1.5	10.6
US consumption value:										
Amount	1,271,068	1,431,389	1,390,873	1,283,505	1,270,173	N/A	-0.1	-8.7	-7.7	-1.0
Producer's share (1)	76.1	87.8	72.5	69.0	59.1	N/A	-22.4	-18.5	-4.7	-14.4
Importers' share: (1)										
Mexico	22.3	10.4	24.6	27.1	35.6	N/A	59.2	44.8	10.2	31.4
All other	1.6	1.8	3.0	3.9	5.4	N/A	243.2	79.6	30.8	37.3
Total	23.9	12.2	27.5	31.0	40.9	N/A	71.2	48.6	12.4	32.2
US imports from--										
Mexico:										
Imports quantity	779,504	403,702	882,939	829,008	1,307,480	345,539	67.7	48.1	-6.1	57.7
Imports value	283,815	148,705	341,518	347,227	451,555	153,660	59.1	32.2	1.7	30.0
Unit value	$0.36	$0.37	$0.39	$0.42	$0.35	$0.44	-5.1	-10.7	8.3	-17.5
Other sources:										
Imports quantity	15,989	28,465	39,462	43,966	61,429	3,044	284.2	55.7	11.4	39.7
Imports value	19,856	25,913	41,518	50,124	68,094	4,084	242.9	64.0	20.7	35.9
Unit value	$1.24	$0.91	$1.05	$1.14	$1.11	$1.34	-10.7	5.4	8.4	-2.8
All sources:										
Imports quantity	795,493	432,167	922,401	872,974	1,368,909	348,583	72.1	48.4	-5.4	56.8
Imports value	303,671	174,618	383,036	397,351	519,649	157,744	71.1	35.7	3.7	30.8
Unit value	$0.38	$0.40	$0.42	$0.46	$0.38	$0.45	-0.6	-8.6	9.6	-16.6
US producers'--										
Acreage:										
Planted (acres)	135,440	136,790	138,390	136,380	135,910	N/A	0.3	-1.8	-1.5	-0.3
Harvested (acres)	131,680	131,910	134,650	132,620	131,720	N/A	0.0	-2.2	-1.5	-0.7
Ratio of harvested to planted (1)	97.2	96.4	97.3	97.2	96.9	N/A	-0.3	-0.4	-0.1	-0.3
US production:										
Quantity	3,388,700	3,903,300	3,559,900	3,663,600	3,284,000	N/A	-3.1	-7.8	2.9	-10.4
Yield	25,734	29,591	26,438	27,625	24,932	N/A	-3.1	-5.7	4.5	-9.7

(1) "Reported data" are in percent and "period changes" are in percentage points.

Source: Compiled from official statistics of Commerce and USDA.

Table D-2
Fresh bell peppers: Summary data concerning the U.S. market, 1991-95 and Jan.-Feb. 1996

(Quantity=1,000 pounds, value=1,000 dollars, unit values=per pound; period changes=percent, except where noted)

Item	Reported data						Period changes			
	1991	1992	1993	1994	1995	Jan-Feb. 1996	1991-95	1993-95	1993-94	1994-95
US consumption quantity:										
Amount	1,101,882	1,234,806	1,381,202	1,457,490	1,328,020	N/A	20.5	-3.9	5.5	-8.9
Producer's share (1)	80.3	84.2	80.5	82.1	76.3	N/A	-4.0	-4.2	1.5	-5.8
Importers' share: (1)										
Mexico	17.5	13.6	16.2	14.6	19.3	N/A	1.8	3.1	-1.5	4.7
All other	2.2	2.2	3.3	3.3	4.4	N/A	2.2	1.1	0.0	1.1
Total	19.7	15.8	19.5	17.9	23.7	N/A	4.0	4.2	-1.5	5.8
US consumption value:										
Amount	354,109	404,007	495,949	529,079	523,385	N/A	47.8	5.5	6.7	-1.1
Producer's share (1)	64.4	69.4	65.2	64.5	58.0	N/A	-6.4	-7.2	-0.7	-6.5
Importers' share: (1)										
Mexico	23.6	18.4	20.7	20.2	23.3	N/A	-0.3	2.6	-0.5	3.1
All other	12.0	12.2	14.1	15.3	18.7	N/A	6.7	4.6	1.2	3.4
Total	35.6	30.6	34.8	35.5	42.0	N/A	6.4	7.2	0.7	6.5
US imports from--										
Mexico:										
Imports quantity	192,539	168,162	223,183	213,215	256,117	136,802	33.0	14.8	-4.5	20.1
Imports value	83,574	74,193	102,827	106,921	122,106	40,488	46.1	18.7	4.0	14.2
Unit value	$0.43	$0.44	$0.46	$0.50	$0.48	$0.30	9.8	3.5	8.8	-4.9
Other sources:										
Imports quantity	24,179	27,134	45,667	48,248	58,583	1,656	142.3	28.3	5.7	21.4
Imports value	42,445	49,310	69,903	81,083	97,791	3,155	130.4	39.9	16.0	20.6
Unit value	$1.76	$1.82	$1.53	$1.68	$1.67	$1.90	-4.9	9.1	9.8	-0.7
All sources:										
Imports quantity	216,718	195,296	268,850	261,463	314,700	138,459	45.2	17.1	-2.7	20.4
Imports value	126,019	123,503	172,730	188,004	219,897	43,643	74.5	27.3	8.8	17.0
Unit value	$0.58	$0.63	$0.64	$0.72	$0.70	$0.32	20.2	8.8	11.9	-2.8
US producers'--										
Acreage:										
Planted (acres)	63,633	68,900	67,550	67,300	66,300	N/A	4.2	-1.9	-0.4	-1.5
Harvested (acres)	62,339	66,600	64,950	64,500	63,400	N/A	1.7	-2.4	-0.7	-1.7
Ratio of harvested to planted (1)	98.0	96.7	96.2	95.8	95.6	N/A	-2.3	-0.5	-0.3	-0.2
US production:										
Quantity	1,052,795	1,228,943	1,234,907	1,313,697	1,121,279	N/A	6.5	-9.2	6.4	-14.6
Yield	16,888	18,453	19,013	20,367	17,686	N/A	4.7	-7.0	7.1	-13.2

(1) "Reported data" are in percent and "period changes" are in percentage points.

Source: Compiled from official statistics of Commerce and USDA.

Table D-3
Growers of fresh tomatoes: Summary data concerning the U.S. market, 1991-95 and Jan.-Feb. 1996

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, unit operating expenses, and unit net income are per pound; period changes=percent, except where noted)

Item	Reported data						Period changes			
	1991	1992	1993	1994	1995	Jan-Feb 1996	1991-95	1993-95	1993-94	1994-95
Acreage:										
Planted (acres)	38,043	43,714	43,440	49,070	51,496	30,409	35.4	18.5	13.0	4.9
Harvested (acres)	37,751	42,107	42,543	46,664	46,358	27,271	22.8	9.0	9.7	-0.7
Abandoned or partially picked (acres)	384	1,636	932	2,506	5,471	2,452	1,323.7	487.2	169.0	118.3
Ratio of harvested to planted (1)	99.2	96.3	97.9	95.1	90.0	89.7	-9.2	-7.9	-2.8	-5.1
Production (quantity)	1,399,212	1,789,447	1,750,755	1,843,149	1,879,347	902,410	34.3	7.3	5.3	2.0
Production per acre harvested	37,065	42,498	41,153	39,498	40,540	33,090	9.4	-1.5	-4.0	2.6
U.S. shipments:										
Quantity	1,227,355	1,566,860	1,519,539	1,573,666	1,601,623	738,659	30.5	5.4	3.6	1.8
Value	274,154	370,902	353,352	301,171	283,667	128,893	3.5	-19.7	-14.8	-5.8
Unit value	$0.22	$0.24	$0.23	$0.19	$0.18	$0.17	-20.7	-23.8	-17.7	-7.5
Unmarketable product	171,857	222,588	231,205	269,492	281,788	163,754	64.0	21.9	16.6	4.6
Ratio of unmark/production (1)	12.3	12.4	13.2	14.6	15.0	18.1	2.7	1.8	1.4	0.4
US ship to packers	(4)	(4)	(4)	(4)	883,071	(4)	(4)	(4)	(4)	(4)
US ship to retail/direct	(4)	(4)	(4)	(4)	26,906	(4)	(4)	(4)	(4)	(4)
US ship to processor	(4)	(4)	(4)	(4)	556	(4)	(4)	(4)	(4)	(4)
U.S. growers':										
PRW's (contract)	14,394	17,554	16,285	17,723	18,867	16,247	31.1	15.9	8.8	6.5
PRW's (salaried)	8,685	9,681	9,641	10,986	11,423	6,081	31.5	18.5	13.9	4.0
Hours worked (salaried)	4,213	4,449	4,736	5,208	4,989	2,355	18.4	5.3	10.0	-4.2
Tot comp. (contract)	43,767	53,187	57,677	74,756	61,348	36,373	40.2	6.4	29.6	-17.9
Tot comp. (salaried)	26,875	31,413	34,482	37,496	36,273	16,154	35.0	5.2	8.7	-3.3
Salaried comp./hr	$6.38	$7.06	$7.28	$7.20	$7.27	$6.86	14.0	-0.1	-1.1	1.0
Unit labor costs	$50.49	$47.28	$52.64	$60.90	$51.94	$58.21	2.9	-1.3	15.7	-14.7
Net sales:										
Quantity	877,591	1,218,208	1,188,741	1,275,411	1,333,026	(3)	51.9	12.1	7.3	4.5
Value	209,834	268,581	278,617	245,833	236,691	(3)	12.8	-15.0	-11.8	-3.7
Unit sales value	$0.22	$0.21	$0.22	$0.18	$0.16	(3)	-26.4	-23.9	-18.3	-6.8
Operating expenses	194,560	231,261	247,077	257,278	265,873	(3)	36.7	7.6	4.1	3.3
Net income (loss)	25,436	44,161	36,279	(7,456)	(22,793)	(3)	-189.6	-162.8	-120.6	-205.7
Capital expenditures	7,864	6,592	10,079	12,083	10,159	(3)	29.2	0.8	19.9	-15.9
Unit operating expenses	$0.20	$0.18	$0.19	$0.19	$0.19	(3)	-8.0	-4.0	-2.6	-1.4
Unit net income (loss)	$0.03	$0.04	$0.03	($0.01)	($0.02)	(3)	-160.0	-167.8	-137.5	-80.7
Operating expenses/sales (1)	92.7	86.1	88.7	104.7	112.3	(3)	19.6	23.6	16.0	7.7
Net income (loss)/sales (1)	12.1	16.4	13.0	(3.0)	(9.6)	(3)	-21.8	-22.7	-16.1	-6.6

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) The financial interim periods data are included in the financial section of this report.
(4) Data not available.

Note: Period changes are derived from the unrounded data. Because of rounding, figures may not add to totals shown. Grower trade data are reported in crop years/growing season and the financial data are reported in fiscal years.

Source: Compiled from responses to Commission questionnaires.

Table D-4
Growers of bell peppers: Summary data concerning the U.S. market, 1991-95 and Jan.-Feb. 1996

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, unit operating expenses, and unit net income are per pound; period changes=percent, except where noted)

Item	Reported data						Period changes			
	1991	1992	1993	1994	1995	Jan-Feb 1996	1991-95	1993-95	1993-94	1994-95
Acreage:										
Planted (acres)	9,047	11,213	11,448	13,797	12,718	9,085	40.6	11.1	20.5	-7.8
Harvested (acres)	9,024	11,030	11,423	13,615	12,593	7,985	39.5	10.2	19.2	-7.5
Abandoned or partially picked (acres)	23	183	150	383	260	981	1,020.7	73.3	155.0	-32.0
Ratio of harvested to planted (1)	99.7	98.4	99.8	98.7	99.0	87.9	-0.7	-0.8	-1.1	0.3
Production (quantity)	185,311	259,127	264,668	317,542	299,479	138,920	61.6	13.2	20.0	-5.7
Production per acre harvested	20,535	23,493	23,170	23,324	23,782	17,399	15.8	2.6	0.7	2.0
U.S. shipments:										
Quantity	179,259	249,296	256,157	301,653	285,641	134,034	59.3	11.5	17.8	-5.3
Value	61,579	85,887	87,804	80,396	99,354	53,413	61.3	13.2	-8.4	23.6
Unit value	$0.34	$0.34	$0.34	$0.27	$0.35	$0.40	1.3	1.5	-22.2	30.5
Unmarketable product	6,052	9,831	8,469	15,889	13,838	4,853	128.7	63.4	87.6	-12.9
Ratio of unmark/production (1)	3.3	3.8	3.2	5.0	4.6	3.5	1.4	1.4	1.8	-0.4
US ship to packers	(4)	(4)	(4)	(4)	46,324	(4)	(4)	(4)	(4)	(4)
US ship to retail/direct	(4)	(4)	(4)	(4)	76,123	(4)	(4)	(4)	(4)	(4)
US ship to processor	(4)	(4)	(4)	(4)	4,804	(4)	(4)	(4)	(4)	(4)
U.S. growers':										
PRW's (contract)	6,997	8,719	9,517	11,317	7,784	5,514	11.2	-18.2	18.9	-31.2
PRW's (salaried)	693	846	888	3,042	2,705	1,846	290.3	204.5	242.4	-11.1
Hours worked (salaried)	1,492	1,770	1,853	2,038	2,105	1,300	41.1	13.6	10.0	3.3
Tot comp. (contract)	20,871	27,819	31,054	32,495	30,270	17,901	45.0	-2.5	4.6	-6.8
Tot comp. (salaried)	8,057	10,241	11,017	12,912	13,568	8,117	68.4	23.2	17.2	5.1
Salaried comp./hr	$5.40	$5.79	$5.95	$6.34	$6.45	$6.24	19.4	8.4	6.6	1.7
Unit labor costs	$156.10	$146.88	$158.96	$142.99	$146.38	$187.28	-6.2	-7.9	-10.0	2.4
Net sales:										
Quantity	222,617	290,548	284,004	333,147	278,514	(3)	25.1	-1.9	17.3	-16.4
Value	90,371	111,635	97,787	100,403	103,790	(3)	14.8	6.1	2.7	3.4
Unit sales value	$0.32	$0.31	$0.29	$0.25	$0.30	(3)	-4.5	5.1	-14.2	22.5
Operating expenses	80,423	102,943	103,940	130,447	116,473	(3)	44.8	12.1	25.5	-10.7
Net income (loss)	11,832	11,423	(2,407)	(21,569)	(6,892)	(3)	-158.2	-186.3	-796.1	68.0
Capital expenditures	2,822	2,864	3,109	3,384	2,180	(3)	-22.8	-29.9	8.8	-35.6
Unit operating expenses	$0.28	$0.29	$0.30	$0.33	$0.35	(3)	24.2	16.5	10.5	5.5
Unit net income (loss)	$0.04	$0.03	$0.00	($0.06)	($0.03)	(3)	-159.4	-9721.4	-21769.6	55.6
Operating expenses/sales (1)	89.0	92.2	106.3	129.9	112.2	(3)	23.2	5.9	23.6	-17.7
Net income (loss)/sales (1)	13.1	10.2	(2.5)	(21.5)	(6.6)	(3)	-19.7	-4.2	-19.0	14.8

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) The financial interim periods data are included in the financial section of this report.
(4) Data not available.

Note: Period changes are derived from the unrounded data. Because of rounding, figures may not add to totals shown. Grower trade data are reported in crop years/growing season and the financial data are reported in fiscal years.

Source: Compiled from responses to Commission questionnaires.

Table D-5
Packers of fresh tomatoes: Summary data concerning the U.S. market, 1991-95 and Jan.-Feb. 1996

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, unit operating expenses, and unit net income are per pound; period changes=percent, except where noted)

Item	Reported data						Period changes			
	1991	1992	1993	1994	1995	Jan-Feb 1996	1991-95	1993-95	1993-94	1994-95
Production (quantity)	1,050,045	1,378,524	1,283,592	1,240,180	1,172,793	519,199	11.7	-8.6	-3.4	-5.4
U.S. shipments:										
Quantity	871,190	1,157,129	1,071,730	1,037,192	1,000,904	415,895	14.9	-6.6	-3.2	-3.5
Value	268,271	308,821	320,469	284,751	257,037	90,994	-4.2	-19.8	-11.1	-9.7
Unit value	$0.31	$0.27	$0.30	$0.27	$0.26	$0.22	-16.6	-14.1	-8.2	-6.5
Exports:										
Quantity	62,549	78,814	72,138	57,621	51,774	19,620	-17.2	-28.2	-20.1	-10.1
Value	21,203	27,298	24,917	21,544	16,350	4,740	-22.9	-34.4	-13.5	-24.1
Unit value	$0.34	$0.35	$0.35	$0.37	$0.32	$0.24	-6.8	-8.6	8.2	-15.5
Unmarketable product	116,306	142,580	139,724	145,357	120,146	83,685	3.3	-14.0	4.0	-17.3
Ratio of unmark/production (1)	11.1	10.3	10.9	11.7	10.2	16.1	-0.8	-0.6	0.8	-1.5
US ship to packers	(4)	(4)	(4)	(4)	508,451	(4)	(4)	(4)	(4)	(4)
US ship to retail/direct	(4)	(4)	(4)	(4)	48,467	(4)	(4)	(4)	(4)	(4)
US ship to processor	(4)	(4)	(4)	(4)	400	(4)	(4)	(4)	(4)	(4)
U.S. packers':										
PRW's	4,545	4,646	4,633	4,623	4,763	2,442	4.8	2.8	-0.2	3.0
Hours worked	3,422	3,607	3,536	3,507	3,414	903	-0.2	-3.4	-0.8	-2.6
Tot compensation	19,286	22,809	22,224	22,330	22,016	7,781	14.2	-0.9	0.5	-1.4
Compensation/hr	$5.64	$6.32	$6.29	$6.37	$6.45	$8.62	14.4	2.6	1.3	1.3
Productivity (lbs./hr)	307	382	363	354	343	575	11.9	-5.4	-2.6	-2.9
Unit labor costs	$18.37	$16.55	$17.31	$18.01	$18.77	$14.99	2.2	8.4	4.0	4.3
Net sales:										
Quantity	816,155	1,019,594	986,416	959,345	893,753	(3)	9.5	-9.4	-2.7	-6.8
Value	90,425	113,785	108,606	109,416	98,762	(3)	9.2	-9.1	0.7	-9.7
Unit sales value	$0.11	$0.11	$0.11	$0.11	$0.11	(3)	-0.3	0.4	3.6	-3.1
Operating expenses	83,608	101,462	97,238	93,787	91,862	(3)	9.9	-5.5	-3.5	-2.1
Operating income (loss)	6,817	12,323	11,368	15,629	6,901	(3)	1.2	-39.3	37.5	-55.8
Capital expenditures	5,755	8,755	6,569	8,206	3,536	(3)	-38.5	-46.2	24.9	-56.9
Unit operating expenses	$0.10	$0.10	$0.10	$0.10	$0.10	(3)	0.3	4.3	-0.8	5.1
Unit operating income (loss)	$0.01	$0.01	$0.01	$0.02	$0.04	(3)	-7.6	-33.0	41.4	-52.6
Operating expenses/sales (1)	92.5	89.2	89.5	85.7	93.0	(3)	0.6	3.5	-3.8	7.3
Oper. income (loss)/sales (1)	7.5	10.8	10.5	14.3	7.0	(3)	-0.6	-3.5	3.8	-7.3

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) The financial interim periods data are included in the financial section of this report.
(4) Data not available.

Note: Period changes are derived from the unrounded data. Because of rounding, figures may not add to totals shown. Grower trade data are reported in crop years/growing season and the financial data are reported in fiscal years.

Source: Compiled from responses to Commission questionnaires.

Table D-6
Packers of bell peppers: Summary data concerning the U.S. market, 1991-95 and Jan.-Feb. 1996

(Quantity=1,000 pounds, value=1,000 dollars, unit values, unit labor costs, unit operating expenses, and unit net income are per pound; period changes=percent, except where noted)

Item	Reported data						Period changes			
	1991	1992	1993	1994	1995	Jan-Feb 1996	1991-95	1993-95	1993-94	1994-95
Production (quantity)	82,711	113,617	111,149	101,216	112,674	46,164	36.2	1.4	-8.9	11.3
U.S. shipments:										
Quantity	80,101	107,405	108,572	95,990	109,973	43,205	37.3	1.3	-11.6	14.6
Value	25,035	37,467	38,006	27,648	38,435	12,526	53.5	1.1	-27.3	39.0
Unit value	$0.31	$0.35	$0.35	$0.29	$0.35	$0.29	11.8	-0.2	-17.7	21.3
Exports:										
Quantity	466	1,809	585	1,560	1,566	565	236.3	167.8	166.7	0.4
Value	263	354	185	381	385	134	46.2	108.5	106.6	0.9
Unit value	$0.56	$0.20	$0.32	$0.24	$0.25	$0.24	-56.5	-22.2	-22.6	0.5
Unmarketable product	740	3,375	1,343	2,608	2,781	1,008	275.6	107.1	94.2	6.6
Ratio of unmark/production (1)	0.9	3.0	1.2	2.6	2.5	2.2	1.6	1.3	1.4	-0.1
US ship to packers	(4)	(4)	(4)	(4)	21,414	(4)	(4)	(4)	(4)	(4)
US ship to retail/direct	(4)	(4)	(4)	(4)	37,770	(4)	(4)	(4)	(4)	(4)
US ship to processor	(4)	(4)	(4)	(4)	3,591	(4)	(4)	(4)	(4)	(4)
U.S. packers':										
PRW's	734	853	791	771	880	859	19.9	11.3	-2.5	14.1
Hours worked	713	1,065	979	846	997	483	39.8	1.9	-13.6	17.8
Tot compensation	4,461	5,777	5,397	4,948	5,801	3,004	30.0	7.5	-8.3	17.2
Compensation/hr	$6.26	$5.42	$5.52	$5.85	$5.82	$6.22	-7.0	5.5	6.1	-0.5
Productivity (lbs./hr)	116	107	114	120	113	96	-2.6	-0.5	5.3	-5.5
Unit labor costs	$53.93	$50.85	$48.56	$48.89	$51.48	$65.07	-4.5	6.0	0.7	5.3
Net sales:										
Quantity	40,431	67,047	64,263	86,000	63,647	(3)	57.4	-1.0	33.8	-26.0
Value	4,076	11,016	12,999	13,890	11,609	(3)	184.8	-10.7	6.9	-16.4
Unit sales value	$0.10	$0.16	$0.20	$0.16	$0.18	(3)	80.9	-9.8	-20.2	12.9
Operating expenses	3,622	11,286	10,795	12,393	11,754	(3)	224.6	8.9	14.8	-5.2
Operating income (loss)	454	(269)	2,203	1,497	(146)	(3)	-132.1	-106.6	-32.1	-109.7
Capital expenditures	105	1,045	383	993	476	(3)	353.8	24.4	159.2	-52.0
Unit operating expenses	$0.09	$0.17	$0.17	$0.14	$0.18	(3)	106.2	9.9	-14.2	28.2
Unit operating income (loss)	$0.01	$0.00	$0.03	$0.02	$0.00	(3)	-120.4	-106.7	-49.2	-113.1
Operating expenses/sales (1)	88.9	102.4	83.0	89.2	101.3	(3)	12.4	18.2	6.2	12.0
Oper. income (loss)/sales (1)	11.1	-2.4	17.0	10.8	-1.3	(3)	-12.4	-18.2	-6.2	-12.0

(1) "Reported data" are in percent and "period changes" are in percentage points.
(2) Not applicable.
(3) The financial interim periods data are included in the financial section of this report.
(4) Data not available.

Note: Period changes are derived from the unrounded data. Because of rounding, figures may not add to totals shown. Grower trade data are reported in crop years/growing season and the financial data are reported in fiscal years.

Source: Compiled from responses to Commission questionnaires.

APPENDIX E

DATA ON IMPORTS OF FRESH TOMATOES AND BELL PEPPERS, BY SELECTED DISTRICTS

Table E-1
Fresh tomatoes: U.S. imports for consumption, by sources and selected districts of entry, 1991-95

Source and district	1991	1992	1993	1994	1995
	Quantity (*1,000 pounds*)				
Mexico:					
El Paso, TX	0	5	9	0	1,024
Laredo, TX	7,636	3,353	4,777	4,082	27,508
Los Angeles, CA	0	0	19	15	49
Nogales, AZ	561,475	218,202	640,370	583,086	849,050
San Diego, CA	208,802	182,130	236,961	241,623	427,322
All other	1,591	12,801	801	201	2,527
Total	779,504	403,702	882,939	829,008	1,307,480
All other sources:					
Los Angeles, CA	646	924	1,490	528	1,239
All other	15,342	27,541	37,971	43,439	60,190
Total	15,989	28,465	39,462	43,966	61,429
Total sources:					
El Paso, TX	0	5	9	0	1,024
Laredo, TX	7,636	3,353	4,777	4,082	27,508
Los Angeles, CA	646	924	1,510	543	1,288
Nogales, AZ	561,475	218,202	640,370	583,086	849,050
San Diego, CA	208,802	182,130	236,961	241,623	427,322
All other	16,933	27,553	38,773	43,640	62,716
Total	795,492	432,167	922,401	872,974	1,368,909
	Value (*1,000 dollars*)				
Mexico:					
El Paso, TX	0	2	2	0	279
Laredo, TX	1,421	758	820	2,057	8,905
Los Angeles, CA	0	0	10	18	57
Nogales, AZ	217,134	97,293	267,642	258,587	316,791
San Diego, CA	64,439	50,650	72,630	86,348	124,688
All other	822	2	414	217	835
Total	283,815	148,705	341,518	327,227	451,555
All other sources:					
Los Angeles, CA	1,364	1,423	2,118	891	2,399
All other	18,492	24,490	39,400	49,232	65,695
Total	19,856	25,913	41,518	50,124	68,094
Total sources:					
El Paso, TX	0	2	2	0	279
Laredo, TX	1,421	758	820	2,057	8,905
Los Angeles, CA	1,364	1,423	2,128	909	2,456
Nogales, AZ	217,134	97,293	267,642	258,587	316,791
San Diego, CA	64,439	50,650	72,630	86,348	124,688
All other	19,314	24,492	39,814	49,449	66,529
Total	303,671	174,618	383,036	397,351	519,649

Table continued on next page.

Table E-1--Continued
Fresh tomatoes: U.S. imports for consumption, by sources and selected districts of entry, 1991-95

Source and district	1991	1992	1993	1994	1995
	Unit value (*per pound*)				
Mexico:					
El Paso, TX	([1])	$0.39	$0.22	([1])	$0.27
Laredo, TX	$0.19	0.23	0.17	$0.50	0.32
Los Angeles, CA	([1])	([1])	0.51	1.19	1.16
Nogales, AZ	0.39	0.45	0.42	0.44	0.37
San Diego, CA	0.31	0.28	0.31	0.36	0.29
All other	0.52	0.18	0.52	1.08	0.33
Total	0.36	0.37	0.39	0.42	0.35
All other sources:					
Los Angeles, CA	2.11	1.54	1.42	1.69	1.94
All other	1.21	0.89	1.04	1.13	1.09
Total	1.24	0.91	1.05	1.14	1.11
Total sources:					
El Paso, TX	([1])	0.39	0.22	([1])	0.27
Laredo, TX	0.19	0.23	0.17	0.50	0.32
Los Angeles, CA	2.11	1.54	1.41	1.68	1.91
Nogales, AZ	0.39	0.45	0.42	0.44	0.37
San Diego, CA	0.31	0.28	0.31	0.36	0.29
All other	1.14	0.89	1.03	1.13	1.06
Total	0.38	0.40	0.42	0.46	0.38

[1] Not applicable.

Note.--Because of rounding, figures may not add to the totals shown. Unit values and share are calculated from the unrounded figures.

Source: Compiled from official statistics of Commerce.

Table E-2
Fresh bell peppers: U.S. imports for consumption, by sources and selected districts of entry, 1991-95

Source and district	1991	1992	1993	1994	1995
	Quantity (*1,000 pounds*)				
Mexico:					
El Paso, TX	631	36	0	0	1,127
Laredo, TX	3,584	2,345	6,252	487	669
Los Angeles, CA	0	2	0	0	4
Nogales, AZ	148,346	134,088	170,198	187,043	213,426
San Diego, CA	39,974	31,690	46,696	25,462	40,679
All other	3	1	37	223	211
Total	192,539	168,162	223,183	213,215	256,117
All other sources:					
Los Angeles, CA	1,544	1,490	2,030	1,637	1,510
San Diego, CA	0	0	20	0	130
All other	22,634	25,645	43,617	46,611	56,943
Total	24,178	27,134	45,666	48,248	58,583
Total sources:					
El Paso, TX	631	36	0	0	1,127
Laredo, TX	3,584	2,345	6,252	487	669
Los Angeles, CA	1,544	1,492	2,030	1,637	1,514
Nogales, AZ	148,346	134,088	170,198	187,043	213,426
San Diego, CA	39,974	31,690	46,696	25,462	40,679
All other	22,637	25,645	43,654	46,834	57,154
Total	216,717	195,297	268,849	261,464	314,700
	Value (*1,000 dollars*)				
Mexico:					
El Paso, TX	145	14	0	0	203
Laredo, TX	1,695	1,498	2,255	187	225
Los Angeles, CA	0	1	0	0	14
Nogales, AZ	59,136	53,178	72,028	94,317	106,743
San Diego, CA	22,596	19,498	28,529	12,337	14,798
All other	2	3	15	81	123
Total	83,574	74,193	102,827	106,921	122,106
All other sources:					
Los Angeles, CA	3,971	3,532	4,190	3,378	3,724
San Diego, CA	0	0	12	0	34
All other	38,474	45,778	65,702	77,706	94,033
Total	42,445	49,310	69,903	81,083	97,791
Total sources:					
El Paso, TX	145	14	0	0	203
Laredo, TX	1,695	1,498	2,255	187	225
Los Angeles, CA	3,971	3,534	4,190	3,378	3,738
Nogales, AZ	59,136	53,178	72,028	94,317	106,743
San Diego, CA	22,596	19,498	28,541	12,337	14,832
All other	38,476	45,781	65,716	77,787	94,156
Total	126,019	123,503	172,730	188,005	219,897

Table continued on next page.

Table E-2--Continued
Fresh bell peppers: U.S. imports for consumption, by sources and selected districts of entry, 1991-95

Source and district	1991	1992	1993	1994	1995
	Unit value (*per pound*)				
Mexico:					
El Paso, TX	$0.23	$0.40	(1)	(1)	$0.18
Laredo, TX	0.47	0.64	$0.36	$0.38	0.34
Los Angeles, CA	(1)	0.61	(1)	(1)	3.30
Nogales, AZ	0.40	0.40	0.42	0.50	0.50
San Diego, CA	0.57	0.62	0.61	0.48	0.36
All other	0.64	3.53	0.40	0.36	0.58
Total	0.43	0.44	0.46	0.50	0.48
All other sources:					
Los Angeles, CA	2.57	2.37	2.06	2.06	2.47
San Diego, CA	(1)	(1)	0.62	(1)	0.26
All other	1.70	1.79	1.51	1.67	1.65
Total	1.76	1.82	1.53	1.68	1.67
Total sources:					
El Paso, TX	0.23	0.40	(1)	(1)	0.18
Laredo, TX	0.47	0.64	0.36	0.38	0.34
Los Angeles, CA	2.57	2.37	2.06	2.06	2.47
Nogales, AZ	0.40	0.40	0.42	0.50	0.50
San Diego, CA	0.57	0.62	0.61	0.48	0.36
All other	1.70	1.79	1.51	1.66	1.65
Total	0.58	0.63	0.64	0.72	0.70

[1] Not applicable.

Note.--Because of rounding, figures may not add to the totals shown. Unit values and share are calculated from the unrounded figures.

Source: Compiled from official statistics of Commerce.

APPENDIX F

COMMENTS RECEIVED FROM U.S. GROWERS AND PACKERS ON THE IMPACT OF IMPORTS OF FRESH TOMATOES AND BELL PEPPERS ON THEIR GROWTH, INVESTMENT, ABILITY TO RAISE CAPITAL, OR PRODUCTION EFFORTS

Response of U.S. growers and packers to the following questions:

1. Since July 1, 1990, has your firm experienced any actual negative effects on growth, investment, ability to raise capital, or production efforts as a result of imports of fresh tomatoes and/or bell peppers from (1) all sources and (2) Mexico?

Fresh Tomato Growers

Of the 149 responding fresh tomato growers, 10 reported no actual negative effects. The number of growers that reported a negative impact for specific categories is shown below (some growers responded in more than one category).

	Number	*Percent*
Cancellation or rejection of expansion projects	98	19.6
Denial or rejection of investment proposal	57	11.4
Reduction in the size of capital investments	90	18.0
Rejection of bank loans	31	6.2
Lowering of credit rating	39	7.8
Selling of assets to pay debt obligations	24	4.8
Difficulty in repaying agricultural program loans	50	10.0
Increase in debt obligations	91	18.2
Obtaining other or additional employment	19	3.8

Other comments were that imports were causing the prices to drop.

Bell Pepper Growers

Of the 25 responding growers, 9 reported no actual negative effects. The number of growers that reported a negative impact for specific categories is shown below (some growers responded in more than one category).

	Number	*Percent*
Cancellation or rejection of expansion projects	10	14.3
Denial or rejection of investment proposal	4	8.2
Reduction in the size of capital investments	8	12.2
Rejection of bank loans	6	10.2
Lowering of credit rating	6	10.2
Selling of assets to pay debt obligations	6	12.2
Difficulty in repaying agricultural program loans	2	4.1
Increase in debt obligations	14	22.4
Obtaining other or additional employment	3	6.1

Other comments generally indicated that labor rates were cheaper in Mexico and there were not the same environmental requirements, which enables the Mexican growers to undersell the U.S. growers.

Fresh Tomato Packers

All 18 responding tomato packers reported actual negative effects. The number of packers that reported a negative impact for specific categories is shown below (some packers responded in more than one category).

	Number	*Percent*
Cancellation or rejection of expansion projects	13	23.2
Denial or rejection of investment proposal	3	5.4
Reduction in the size of capital investments	13	23.2
Rejection of bank loans	6	10.7
Lowering of credit rating	7	12.5
Selling of assets to pay debt obligations	2	3.6
Difficulty in repaying agricultural program loans	1	1.8
Increase in debt obligations	11	19.6
Obtaining other or additional employment	0	0.0

Other comments were that oversupply was caused by Mexican imports.

Bell Pepper Packers

Of the 6 responding bell pepper packers, 2 reported no actual negative effects. The number of packers that reported a negative impact for specific categories is shown below (some packers responded in more than one category).

	Number	*Percent*
Cancellation or rejection of expansion projects	2	10.5
Denial or rejection of investment proposal	2	10.5
Reduction in the size of capital investments	3	15.8
Rejection of bank loans	2	10.5
Lowering of credit rating	3	15.8
Selling of assets to pay debt obligations	3	15.8
Difficulty in repaying agricultural program loans	0	0.0
Increase in debt obligations	3	15.8
Obtaining other or additional employment	1	5.3

Other comments generally indicated that the U.S. packers are at a disadvantage competing with the Mexican product that is cheaper to grow and harvest since labor costs are low and environmental controls are less stringent.

2. Does your firm anticipate any negative impact of imports of fresh tomatoes from (1) all sources, and (2) Mexico?

Fresh Tomato Growers

Of the 149 responding growers, 5 stated "No" and 135 said "Yes." The "yes" answers generally mentioned that Mexican imports would contribute to lower prices. Other comments were that prices were less than the cost to harvest.

Bell Pepper Growers

Of the 25 responding growers, 4 answered "No" or left the question blank and 19 answered "Yes." The "Yes" answers generally referred to the disastrous effect on profitability caused by the lower prices of the imported Mexican bell peppers.

Fresh Tomato Packers

All 19 responding packers stated "Yes." The "yes" answers generally stated that continued Mexican imports would drive prices down and that market share would decline. Other comments were that the dumping was at price levels below cost to produce, the firm could not modernize, and/or may have to close.

Bell Pepper Packers

Of the 6 responding packers, 2 answered "No" or left the question blank and 4 answered "Yes." The "Yes" answers generally referred to the cost advantages of the imported Mexican bell peppers and that this will eventually cause the U.S. packers to go out of business if no protection is provided.

APPENDIX G

GROWERS' PRICES

Table G-1
Fresh tomatoes: Weighted-average net U.S. f.o.b. selling prices for products 1 and 2 as reported by U.S. growers, by months, Jan. 1993-Feb. 1996

Period	Product 1		Product 2	
	Price	Quantity	Price	Quantity
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*
1993:				
January	$0.30	17,167	$0.29	1,897
February	.15	16,426	.20	685
March	.18	32,732	.13	2,376
April	.31	19,476	.16	1,452
May	.51	27,617	.73	532
June	.18	22,627	.16	1,036
July	.30	840	.51	253
August	.27	1,055	.47	277
September	.24	449	.25	10
October	.15	1,683	.14	56
November	.27	18,126	.30	1,066
December	.53	28,144	.36	1,648
1994:				
January	.44	28,905	.44	1,982
February	.17	32,704	.13	4,010
March	.22	26,437	.16	2,900
April	.15	34,186	.21	1,777
May	.19	39,128	.16	2,238
June	.22	5,588	.17	799
July	.31	421	.45	659
August	.30	1,184	.46	684
September	.25	582	.56	565
October	.30	1,382	.46	480
November	.32	24,135	.32	1,418
December	.39	28,026	.34	2,296
1995:				
January	.39	18,644	.26	1,142
February	.26	18,307	.28	1,030
March	.30	16,207	.26	1,779
April	.24	30,611	.25	1,973
May	.12	47,136	.10	1,558
June	.26	5,251	.11	657
July	.22	1,664	.44	730
August	.17	2,052	.24	1,631
September	.20	813	.31	634
October	.20	373	.44	279
November	.39	10,104	.41	384
December	.31	25,169	.21	1,842
1996:				
January	.15	24,157	.15	1,811
February	.29	22,235	.21	2,803

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

Table G-2
Fresh tomatoes: Weighted-average net U.S. f.o.b. selling prices for products 3 and 4 as reported by U.S. growers, by months, Jan. 1993-Feb. 1996

Period	Product 3		Product 4	
	Price	Quantity	Price	Quantity
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*
1993:				
January	$0.24	1,944	$0.18	364
February	.19	642	.11	2
March	.16	2,716	.10	86
April	.28	2,416	.23	722
May	.60	1,537	.37	7,905
June	.20	967	.26	2,657
July	.24	45	.18	4,229
August	.24	57	.24	588
September	.24	25	.25	299
October	.14	238	.18	171
November	.23	1,574	.29	3,397
December	.45	1,954	.33	2,862
1994:				
January	.39	1,487	.29	3,119
February	.12	2,505	.16	957
March	.19	2,133	.16	855
April	.13	2,741	.19	3,900
May	.18	3,000	.23	7,293
June	.22	127	.34	1,464
July	(1)	(1)	.37	432
August	(1)	(1)	.26	619
September	(1)	(1)	.30	227
October	.25	144	.26	302
November	.30	2,156	.45	5,157
December	.30	4,039	.30	5,010
1995:				
January	.34	2,359	.29	651
February	.18	1,981	.23	387
March	.29	3,156	.20	284
April	.21	3,348	.19	2,108
May	.11	2,665	.19	9,548
June	.15	247	.30	1,943
July	(1)	(1)	.31	923
August	(1)	(1)	.18	1,295
September	(1)	(1)	.19	507
October	.17	32	.32	47
November	.35	786	.56	2,230
December	.27	2,117	.36	5,375
1996:				
January	.15	3,624	.16	1,716
February	.23	4,034	.27	341

[1] Data not reported.

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

Table G-3
Fresh bell peppers: Weighted-average net U.S. f.o.b. selling prices for products 5 and 6 as reported by U.S. growers, by months, Jan. 1993-Feb. 1996

Period	Product 5		Product 6	
	Price	Quantity	Price	Quantity
	Per pound	*1,000 pounds*	*Per pound*	*1,000 pounds*
1993:				
January	$0.24	2,562	$0.38	878
February	.38	2,338	.37	692
March	.35	2,216	.58	863
April	.71	3,182	.31	598
May	.71	3,471	.38	206
June	.52	2,872	.19	307
July	.16	485	.22	23
August	(1)	(1)	(1)	(1)
September	(1)	(1)	(1)	(1)
October	.50	547	.17	27
November	.45	4,230	.64	244
December	.36	4,942	.53	1,020
1994:				
January	.32	3,955	.59	915
February	.20	4,314	.26	1,592
March	.28	5,523	.41	2,550
April	.25	6,703	.30	1,923
May	.23	5,013	.25	889
June	.19	5,880	.13	477
July	.22	346	(1)	(1)
August	(1)	(1)	(1)	(1)
September	(1)	(1)	(1)	(1)
October	.47	1,714	.26	122
November	.38	4,153	.65	526
December	.41	6,488	.36	1,792
1995:				
January	.40	3,840	.57	652
February	.54	5,046	.57	583
March	.67	5,553	.65	367
April	.26	6,527	.55	576
May	.22	5,717	.21	2,496
June	.30	3,830	.16	501
July	.19	451	(1)	(1)
August	.42	14	(1)	(1)
September	(1)	(1)	(1)	(1)
October	.31	787	.20	59
November	.50	1,521	.36	174
December	.23	5,207	.55	467
1996:				
January	.20	7,681	.48	734
February	.39	7,724	.21	1,656

[1] Data not reported.

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