

EXPLANATION OF COMMISSION DETERMINATION ON ADEQUACY

in

Raw In-Shell Pistachios from Iran,

Inv. No. 731-TA-287 (Review)

On June 6, 2005, the Commission determined, by a 3-3 vote, that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended, 19 U.S.C. §1675(c)(3)(B).

The Commission unanimously determined that the domestic interested party group response to the notice of institution was adequate. The Commission received an adequate response filed jointly on behalf of two producers, the California Pistachio Commission and the Western Pistachio Association. Because the Commission received an adequate response from domestic producers accounting for a substantial percentage of U.S. production, the Commission determined that the domestic interested party group response was adequate.

The Commission did not receive a response from any respondent interested parties. It therefore unanimously determined that the respondent interested party group response was inadequate. In the absence of an adequate respondent interested party group response, and the absence of other circumstances that they deemed warranted proceeding to a full review, Chairman Koplan, Commissioner Miller and Commissioner Hillman voted to conduct an expedited review. Vice Chairman Okun, Commissioner Lane and Commissioner Pearson voted to conduct a full review because the Commission has not previously conducted a five-year review on this order. The United States had imposed a trade embargo on imports of all products to the United States from Iran (which was not lifted until 2000) and the law did not permit a five-year review of embargoed products. As the Commission stated in its Notice of Final Rulemaking, 63 Fed. Reg. 30599, 30604 (June 5, 1998), the tie vote provision in section 771(11) of the Act is not applicable to a Commission decision on whether to expedite a review. Consequently, a decision to expedite a review requires a majority vote of the Commission. Thus, the Commission's tie vote in this matter means that it will conduct a full review.