

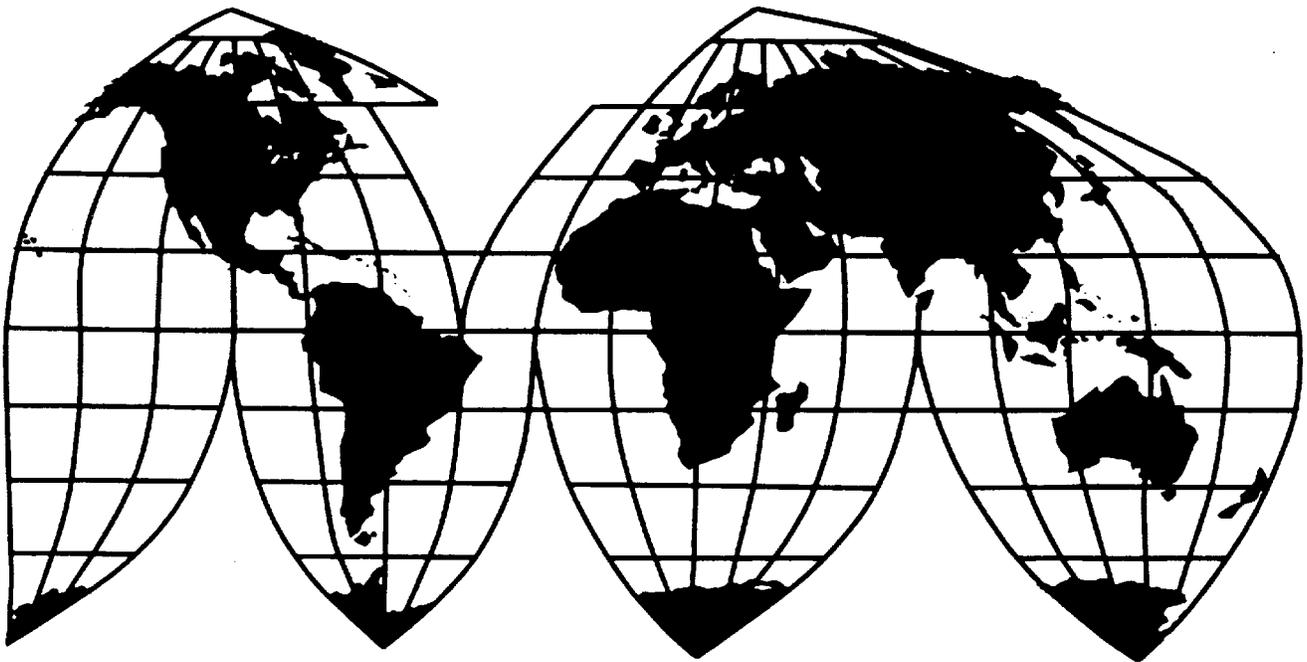
# Frozen Concentrated Orange Juice From Brazil

Investigation No. 731-TA-326 (Second Review)

Publication 3760

March 2005

**U.S. International Trade Commission**



# U.S. International Trade Commission

## COMMISSIONERS

**Stephen Koplan, Chairman**  
**Deanna Tanner Okun, Vice Chairman**  
**Marcia E. Miller**  
**Jennifer A. Hillman**  
**Charlotte R. Lane**  
**Daniel R. Pearson**

---

Robert A. Rogowsky  
*Director of Operations*

---

### *Staff assigned:*

Megan Spellacy, *Investigator*  
Kelly Clark, *Economist*  
Alfred Dennis, *Industry Analyst*  
John Ascienzo, *Accountant*  
Michael Diehl, *Attorney*  
Steve Hudgens, *Statistician*  
Diane Mazur, *Supervisory Investigator*

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

# **U.S. International Trade Commission**

Washington, DC 20436

*www.usitc.gov*

## **Frozen Concentrated Orange Juice From Brazil**

Investigation No.731-TA-326 (Second Review)



**Publication 3760**

**March 2005**



# CONTENTS

	<i>Page</i>
Determination . . . . .	1
Views of the Commission . . . . .	3
Part I: Introduction and overview . . . . .	I-1
Background . . . . .	I-1
Statutory criteria and organization of the report . . . . .	I-1
Summary of data . . . . .	I-4
The original investigation and first five-year review . . . . .	I-4
Commerce’s final results of expedited review . . . . .	I-8
Commerce’s administrative reviews . . . . .	I-8
Distribution of continued dumping and subsidy offset funds to affected domestic producers . . . . .	I-10
The subject product . . . . .	I-11
Domestic like product issues . . . . .	I-14
U.S. market participants . . . . .	I-14
U.S. producers . . . . .	I-14
U.S. importers . . . . .	I-15
Total available FCOJM and market shares . . . . .	I-15
Part II: Conditions of competition in the U.S. market . . . . .	II-1
U.S. market segments . . . . .	II-1
U.S. channels of distribution . . . . .	II-1
Supply and demand considerations . . . . .	II-1
U.S. supply . . . . .	II-1
U.S. demand . . . . .	II-4
Substitutability issues . . . . .	II-5
Factors affecting purchasing decisions . . . . .	II-5
Comparisons of domestic products, subject imports, and nonsubject imports . . . . .	II-9
Elasticity estimates . . . . .	II-11
U.S. supply elasticity . . . . .	II-11
U.S. demand elasticity . . . . .	II-11
Substitution elasticity . . . . .	II-11
Part III: Condition of the U.S. industry . . . . .	III-1
U.S. growers . . . . .	III-1
U.S. bearing acreage, production, inventories, and shipments . . . . .	III-1
U.S. extractor/processors . . . . .	III-6
U.S. extractor/processors’ capacity, production, and capacity utilization . . . . .	III-6
U.S. extractor/processors’ domestic shipments, company transfers, and export shipments . . . . .	III-8
U.S. extractor/processors’ inventories . . . . .	III-10
U.S. extractor/processors’ employment, wages, and productivity . . . . .	III-11
Financial condition of the U.S. industry . . . . .	III-12
Background . . . . .	III-12
Operations of U.S. FCOJM processors . . . . .	III-12
Capital expenditures and research and development expenses . . . . .	III-17
Assets and return on investment . . . . .	III-17

## CONTENTS

	<i>Page</i>
Part IV: U.S. imports and the foreign industry .....	IV-1
U.S. imports .....	IV-1
U.S. importers' inventories .....	IV-3
The industry in Brazil .....	IV-4
Part V: Pricing and related information .....	V-1
Factors affecting prices .....	V-1
Raw materials .....	V-1
Transportation costs to the U.S. market .....	V-1
U.S. inland transportation costs .....	V-1
Exchange rates .....	V-1
Pricing practices .....	V-3
Pricing methods .....	V-3
Price data .....	V-4
Price trends .....	V-5
 <b>Appendixes</b>	
A. <i>Federal Register</i> notices and the Commission's statement on adequacy .....	A-1
B. Hearing witnesses .....	B-1
C. Summary data .....	C-1
D. U.S. producers', U.S. importers', U.S. purchasers', and foreign producers' comments regarding the effects of the antidumping duty order and the likely effects of revocation .....	D-1
E. U.S. producers' comments regarding their support or opposition to the current antidumping duty order .....	E-1

*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.*

# UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-326 (Second Review)

## FROZEN CONCENTRATED ORANGE JUICE FROM BRAZIL

### DETERMINATION

On the basis of the record<sup>1</sup> developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act), that revocation of the antidumping duty order on frozen concentrated orange juice from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### BACKGROUND

The Commission instituted this review on April 1, 2004 (69 F.R. 17230) and determined on July 6, 2004 that it would conduct a full review (69 F.R. 44060, July 23, 2004). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* on August 20, 2004 (69 F.R. 51711). The hearing was held in Washington, DC, on February 1, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

---

<sup>1</sup> The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).



## VIEWS OF THE COMMISSION

Based on the record in this five-year review, we determine under section 751(c) of the Tariff Act of 1930, as amended (the Act), that revocation of the antidumping duty order on frozen concentrated orange juice (FCOJM)<sup>1</sup> from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

### I. BACKGROUND

In April 1987, the Commission determined that an industry in the United States was materially injured or threatened with material injury by reason of imports of FCOJM from Brazil that were being sold at less than fair value.<sup>2</sup> On May 5, 1987, Commerce issued an antidumping duty order on imports of FCOJM from Brazil.<sup>3</sup>

In May 1999, the Commission completed its first five-year review of the order. Based on the record before it, the Commission determined that revocation of the order would be likely to lead to the continuation or recurrence of material injury.<sup>4</sup> The Commission instituted the instant review on April 1, 2004.<sup>5</sup>

In five-year reviews, the Commission initially determines whether to conduct a full review (which includes a public hearing, the issuance of questionnaires, and other procedures) or an expedited review. In order to make this decision, the Commission first determines whether individual responses to the notice of institution are adequate. Next, based on those responses deemed individually adequate, the Commission determines whether the collective responses submitted by two groups of interested parties – domestic interested parties (such as producers, unions, trade associations, or worker groups) and respondent interested parties (such as importers, exporters, foreign producers, trade associations, or subject country governments) – demonstrate a sufficient willingness among each group to participate and provide information requested in a full review. If the Commission finds the responses from both groups of interested parties adequate, or if other circumstances warrant, it will determine to conduct a full review.<sup>6</sup>

In response to its notice of institution, the Commission received a joint substantive response from four domestic interested parties: Florida Citrus Mutual (“FCM”); A. Duda & Sons, Inc.; Citrus World, Inc.; and Peace River Citrus Products, Inc. FCM is a voluntary cooperative organization whose membership consists of 11,000 growers of citrus fruit, including oranges for processing into FCOJM.<sup>7</sup>

---

<sup>1</sup> As described in section II.A below, the order covers imports of frozen concentrated orange juice from Brazil only in the highly concentrated form known as frozen concentrated orange juice for manufacturing (FCOJM). FCOJM is distinguished from the downstream, less concentrated product made from FCOJM known as frozen concentrated orange juice for retail (FCOJR). For purposes of clarity, we refer to the subject product as FCOJM in these views.

<sup>2</sup> Frozen Concentrated Orange Juice from Brazil, Inv. No. 731-TA-326 (Final), USITC Pub. 1970, April 1987 (hereinafter “Original Determination”) at 1.

<sup>3</sup> 52 Fed. Reg. 16426 (May 5, 1987).

<sup>4</sup> Frozen Concentrated Orange Juice from Brazil, Inv. No. 731-TA-326 (Review), USITC Pub. 3195 (May 1999) (“First Review”) at 3.

<sup>5</sup> 69 Fed. Reg. 17230 (April 1, 2004).

<sup>6</sup> See 19 C.F.R. § 207.62(a); 63 Fed. Reg. 30599, 30602-05 (June 5, 1998).

<sup>7</sup> May 21, 2004 response of the domestic interested parties to the notice of institution (“domestic interested party response”) at 2.

The other three domestic interested parties are processors of FCOJM from oranges grown by FCM.<sup>8</sup> The domestic interested parties indicated that they accounted for 80 percent of the domestically produced oranges used for processing into FCOJM during the most recent crop year, and approximately \*\*\* percent of U.S. production of FCOJM.<sup>9</sup> The Commission found the responses adequate as to each domestic interested party, as well as to the group as a whole, because the group accounted for a substantial percentage of U.S. production.<sup>10</sup>

The Commission received a second joint substantive response from Citrovita Agro Industrial Ltda. (“Citrovita”), a Brazilian producer, and Votorantim International North America, Inc. (“Votorantim”), an importer of FCOJM from Brazil (collectively “Respondents”). Citrovita indicated that it was “by far[] the largest Brazilian FCOJM producer that remains subject to the order . . . .”<sup>11</sup> Because imports from various foreign producers of FCOJM in Brazil were not covered by the order (due to an exclusion and several revocations), there was no publicly available data concerning U.S. imports and foreign production and exportation of the subject merchandise during 2003. The Commission determined that the response was adequate as to Citrovita and Votorantim individually, and as to the respondent group as a whole, given that they account for a substantial percentage of Brazilian subject production.<sup>12</sup>

The Commission determined to conduct a full review on July 6, 2004.<sup>13</sup>

By a letter dated November 16, 2004, Louis Dreyfus Citrus, Inc. (“Dreyfus”) requested permission to appear at the Commission’s hearing. Although Dreyfus is an extractor/processor of FCOJM and an importer of non-subject FCOJM from Brazil, the company did not respond to the Commission’s notice of institution, or file a notice of appearance. The Commission granted the request to appear at the hearing as a non-party. Dreyfus supported continuation of the order.

By a letter dated November 17, 2004, the domestic interested parties that responded to the notice of institution informed the Commission that they withdrew their interest in the continuation of the order.<sup>14</sup> The letter stated that “the order in its current form no longer serves its intended purpose of offsetting

---

<sup>8</sup> Domestic interested party response at 2.

<sup>9</sup> Domestic interested party response at 25. Growers reported data on the basis of the crop year spanning October 2002 through September 2003. Producers reported data for the period December 2002 through November 2003. Domestic interested party response at 24. These views refer to a crop year by the year in which it ended. The term “crop year” was defined as December through November for crop years 1983 through 1986, but October to September for crop years 1997 through 2004. OINV Final Staff Report, INV-CC-020 (Feb. 25, 2005), confidential version (“CR”) and public version (“PR”) at Table I-2, n.1.

<sup>10</sup> 69 Fed. Reg. 44060, 44061 (July 23, 2004); Explanation of Commission Determinations on Adequacy.

<sup>11</sup> May 21, 2004 response of Respondents to the notice of institution at 5. See also Respondents’ June 14, 2004 comments on adequacy at 3.

<sup>12</sup> 69 Fed. Reg. 44060, 44061 (July 23, 2004); Explanation of Commission Determinations on Adequacy at 1.

<sup>13</sup> 69 Fed. Reg. 44060, 44061 (July 23, 2004); Explanation of Commission Determinations on Adequacy at 1. In the first review, the Commission conducted an expedited review due to a lack of participation by foreign producers of FCOJM from Brazil. First Review at Appendix B (Explanation of Commission Determinations on Adequacy).

<sup>14</sup> As discussed below, Dreyfus argued that these domestic producers withdrew their support for continuation of the order in favor of a new antidumping petition filed on December 27, 2004, which covers all imports of not-from-concentrate orange juice from Brazil as well as imports of FCOJM produced in Brazil by producers that are not subject to the order currently under review. 70 Fed. Reg. 3510, 3510-11 (Jan 25, 2005). Dreyfus argued that the Commission should consider how the imposition of an order in the newly filed proceeding could affect the pattern of future imports if the order currently under review were revoked. As discussed below, we regard speculation as to the outcome of that investigation to be inappropriate in this review.

dumping margins and eliminating injury to the domestic industry.”<sup>15</sup> As a result, Dreyfus is the only domestic producer that supports continuation of the order.

## II. DOMESTIC LIKE PRODUCT AND INDUSTRY

### A. Domestic Like Product

In making its determination under section 751(c), the Commission defines the “domestic like product” and the “industry.”<sup>16</sup> The Act defines the “domestic like product” as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.”<sup>17</sup>

In its final results of the expedited sunset review it conducted with respect to subject imports from Brazil, Commerce defined the imported merchandise within the scope of the antidumping orders as “FCOJ from Brazil.”<sup>18</sup> As Commerce explained in its original determination, FCOJ is “in a highly concentrated form for transport and further processing, sometimes referred to as frozen concentrated orange juice for manufacturing . . . .” (“FCOJM”).<sup>19</sup>

A majority of Commissioners participating in the original determination found the domestic like product to be FCOJM, as did all Commissioners participating in the first five-year review.<sup>20</sup> The domestic interested parties that responded to the notice of institution indicated that the Commission should define the domestic like product in the same way here, while Respondents and Dreyfus have taken no position.

While the Commission may revisit its original like product determination if appropriate circumstances exist,<sup>21</sup> reviewing the record here and considering the limited arguments of the parties, we see no basis for departing from the domestic like product definition the Commission used in the original investigation and first five-year review. There is no evidence in the record of these reviews that supports revisiting the definition of the domestic like product. Accordingly, we continue to define a single domestic like product, FCOJM, coextensive with the scope definition.

---

<sup>15</sup> On November 16, 2004, the domestic interested parties sent a similar letter asking Commerce to revisit its determination as to the likelihood of sales at less than fair value. Commerce responded that it was unable to modify or revisit that determination. Letter from Joseph A. Spetrini to Matthew T. McGrath, November 22, 2004.

<sup>16</sup> 19 U.S.C. § 1677(4)(A).

<sup>17</sup> 19 U.S.C. § 1677(10). See Nippon Steel Corp. v. United States, 19 CIT 450, 455 (1995); Timken Co. v. United States, 913 F. Supp. 580, 584 (Ct. Int’l Trade 1996); Torrington Co. v. United States, 747 F. Supp. 744, 748-49 (Ct. Int’l Trade 1990), aff’d, 938 F.2d 1278 (Fed. Cir. 1991). See also S. Rep. No. 249, 96<sup>th</sup> Cong., 1<sup>st</sup> Sess. 90-91 (1979).

<sup>18</sup> 69 Fed. Reg. 54117, 54118 (Sept. 7, 2004).

<sup>19</sup> 52 Fed. Reg. 8324, 8326 (March 17, 1987). This statement served to clarify that the scope does not include FCOJ for retail, which is a less-concentrated, downstream product made from FCOJM. Although subsequent notices issued by Commerce did not contain the clarifying statement, we continue to understand the scope to include FCOJM only. The record contains no evidence of a notice of a change in the scope or an anti-circumvention action to broaden the scope. Moreover, FCOJM has accounted for virtually all imports of FCOJ during the original investigation, the first five-year review, and the current review. Compare First Review at 4 n.18.

<sup>20</sup> Original Determination at 7, 84-87; First Review at 4.

<sup>21</sup> 63 Fed. Reg. at 30602 (June 5, 1998).

## **B. Domestic Industry and Related Parties**

Section 771(4)(A) of the Act defines the relevant domestic industry as the “producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.”<sup>22</sup> In light of our definition of the domestic like product, two domestic industry issues arise in these five-year reviews. The first concerns whether growers of round oranges should be included in the domestic industry pursuant to the statutory grower/processor provision codified at section 771(4)(E) of the Act. The second concerns whether appropriate circumstances exist to exclude an extractor/processor pursuant to the statutory related parties provision.

### **1. Grower/Processor Provision**

In cases involving processed agricultural products, section 771(4)(E) of the Act authorizes the Commission to include growers within the domestic industry producing the processed agricultural product if the processed agricultural product is produced from the growers’ raw agricultural product<sup>23</sup> through a single continuous line of production, and there is a substantial coincidence of economic interest between the growers and processors based upon relevant economic factors.<sup>24</sup> Under the Act, the processed product is considered to be processed from the raw product in a single continuous line of production if the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product, and the processed agricultural product is produced substantially or completely from the raw product.<sup>25</sup>

In both the original investigation and first five-year review, a majority of participating Commissioners concluded that growers of round oranges should be included in the domestic industry pursuant to the statutory grower/processor provision. They found the single continuous line of production requirement satisfied, based on evidence that: (1) a substantial proportion of round oranges grown in the United States is devoted to the production of FCOJM; (2) a substantial proportion of FCOJM is made from round oranges; and (3) there was a substantial coincidence of economic interest between growers of round oranges and extractor/processors.<sup>26</sup>

In this five-year review, however, the record indicates that the proportion of round oranges devoted to the production of FCOJM has fallen to between 48.6 percent and 57.5 percent, depending on the crop year in question.<sup>27</sup> Given that only about half of round oranges are currently devoted to the

---

<sup>22</sup> 19 U.S.C. § 1677(4)(A). In defining the domestic industry, the Commission’s general practice has been to include in the industry producers of all domestic production of the like product, whether toll-produced, captively consumed, or sold in the domestic merchant market, provided that adequate production-related activity is conducted in the United States. See United States Steel Group v. United States, 873 F. Supp. 673, 682-83 (Ct. Int’l Trade 1994), aff’d, 96 F.3d 1352 (Fed. Cir. 1996).

<sup>23</sup> “Raw agricultural product” is defined as any farm or fishery product. 19 U.S.C. § 1677(4)(E)(iv).

<sup>24</sup> 19 U.S.C. § 1677(4)(E)(i).

<sup>25</sup> 19 U.S.C. § 1677(4)(E)(ii).

<sup>26</sup> Original Determination at 10-16, 36-40, 48-51, and 88-90; First Review at 5.

<sup>27</sup> In the original investigation, three Commissioners noted that 73 percent of round oranges were processed, and two of them found further that the “vast majority” of processed oranges were processed into FCOJM. Original Determination at 11 and 50. In the first five-year review, which was conducted on an expedited basis, the record did not indicate the percentage of round oranges devoted to the production of FCOJM. The Commission found that a “high proportion of round oranges are processed into FCOJM.” First Review at 5. See First Review at I-7 and I-9.

(continued...)

production of FCOJM, we find that the raw agricultural product is not “substantially or completely” devoted to the production of the processed agricultural product.<sup>28</sup> On that basis, we find that the continuous line of production test is not satisfied, and determine not to include growers of round oranges in the domestic industry.

## 2. Related Parties

We next determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Act. This provision of the statute allows the Commission, if appropriate circumstances exist, to exclude from the domestic industry producers that are related to an exporter or importer of subject merchandise or which are themselves importers.<sup>29</sup> Exclusion of such a producer is within the Commission’s discretion based upon the facts presented in each case.<sup>30</sup> The purpose of the provision is to exclude domestic producers that substantially benefit from their relationships with foreign exporters.<sup>31</sup>

The record indicates that one domestic producer, Dreyfus, imported subject merchandise from Brazil during the period of review. We must consequently determine whether appropriate circumstances exist to exclude the company from the domestic industry pursuant to the related parties provision.<sup>32</sup>

Dreyfus is the \*\*\* U.S. producer of FCOJM, accounting for \*\*\* percent of total industry production in crop year 2003.<sup>33</sup> The ratio of Dreyfus’ imports of subject merchandise to its domestic production declined over the period of review, from \*\*\* percent in crop year 1999, to \*\*\* percent in crop

---

<sup>27</sup> (...continued)

The record in the current review is more detailed in this respect than the records in the original determination and the first five-year review. That the proportion of round oranges devoted to the production of FCOJM is now lower than previously is likely due to the growing domestic production of not-from-concentrate orange juice, which is not a product in the scope of this review or in the definition of the domestic like product. See CR at II-6 and PR at II-4 (noting trend in consumer preferences away from FCOJM and toward not-from-concentrate orange juice).

<sup>28</sup> While the legislative history indicates that the term “substantially or completely devoted” does not imply a fixed percentage (S. Rep. No. 71, 100<sup>th</sup> Cong., 1<sup>st</sup> Sess. at 109 (June 11, 1987)), the Commission found the standard not satisfied where “approximately one half” of the raw agricultural product was devoted to the production of the processed agricultural product. Certain Frozen Fish Fillets from Vietnam, Inv. No. 731-TA-1012 (Final), USITC Pub. 3617 (Aug. 2003) at 8.

<sup>29</sup> 19 U.S.C. § 1677(4)(B).

<sup>30</sup> Sandvik AB v. United States, 721 F. Supp. 1322, 1331-32 (Ct. Int’l Trade 1989), aff’d without opinion, 904 F.2d 46 (Fed. Cir. 1990); Empire Plow Co. v. United States, 675 F. Supp. 1348, 1352 (Ct. Int’l Trade 1987). The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude the related parties include: (1) the percentage of domestic production attributable to the importing producer; (2) the reason the U.S. producer has decided to import the product subject to investigation, *i.e.*, whether the firm benefits from the LTFV sales or subsidies or whether the firm must import in order to enable it to continue production and compete in the U.S. market; and (3) the position of the related producers vis-a-vis the rest of the industry, *i.e.*, whether inclusion or exclusion of the related party will skew the data for the rest of the industry. See, *e.g.*, Torrington Co. v. United States, 790 F. Supp. 1161, 1168 (Ct. Int’l Trade 1992), aff’d without opinion, 991 F.2d 809 (Fed. Cir. 1993). The Commission has also considered the ratio of import shipments to U.S. production for related producers and whether the primary interests of the related producers lie in domestic production or in importation. See, *e.g.*, Melamine Institutional Dinnerware from China, Indonesia, and Taiwan, Inv. Nos. 731-TA-741-743 (Final), USITC Pub. 3016 (Feb. 1997) at 14, n.81.

<sup>31</sup> USEC, Inc. v. United States, 132 F. Supp.2d 1, 12 (Ct. Int’l Trade 2001).

<sup>32</sup> No party submitted argument as to whether appropriate circumstances exist to exclude Dreyfus.

<sup>33</sup> CR/PR at Table III-5.

year 2000, \*\*\* percent in crop year 2001, \*\*\* percent in crop year 2002, \*\*\* percent in crop year 2003, and finally to \*\*\* percent in crop year 2004.<sup>34</sup> Dreyfus states that \*\*\*.<sup>35</sup> Dreyfus' operating income as a ratio to net sales is similar to that of other domestic producers, \*\*\*.<sup>36</sup> Accordingly, it does not appear that Dreyfus derived a significant financial benefit from its importations of the subject merchandise. Moreover, Dreyfus is the \*\*\*. Based on the record in this review, we conclude that appropriate circumstances do not exist to exclude Dreyfus from the domestic industry pursuant to the related parties provision.

Accordingly, we define a single domestic industry consisting of all U.S. producers of FCOJM.

### **III. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF MATERIAL INJURY IF THE ANTIDUMPING ORDER IS REVOKED**

#### **A. Legal Standard In A Five-Year Review**

In a five-year review conducted under section 751(c) of the Act, Commerce will revoke an antidumping order unless: (1) it makes a determination that dumping is likely to continue or recur, and (2) the Commission makes a determination that revocation of the antidumping order “would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.”<sup>37</sup> The SAA states that “under the likelihood standard, the Commission will engage in a counter-factual analysis; it must decide the likely impact in the reasonably foreseeable future of an important change in the status quo – the revocation or termination of a proceeding and the elimination of its restraining effects on volumes and prices of imports.”<sup>38</sup> Thus, the likelihood standard is prospective in nature.<sup>39</sup>

---

<sup>34</sup> Figures derived from \*\*\*.

<sup>35</sup> \*\*\*.

<sup>36</sup> CR and PR at Table III-12.

<sup>37</sup> 19 U.S.C. § 1675a(a).

<sup>38</sup> SAA, H.R. Rep. No. 103-316, vol. I, at 883-84 (1994). The SAA states that “[t]he likelihood of injury standard applies regardless of the nature of the Commission’s original determination (material injury, threat of material injury, or material retardation of an industry). Likewise, the standard applies to suspended investigations that were never completed.” *Id.* at 883.

<sup>39</sup> While the SAA states that “a separate determination regarding current material injury is not necessary,” it indicates that “the Commission may consider relevant factors such as current and likely continued depressed shipment levels and current and likely continued [sic] prices for the domestic like product in the U.S. market in making its determination of the likelihood of continuation or recurrence of material injury if the order is revoked.” SAA at 884.

The U.S. Court of International Trade has found that “likely,” as used in the sunset review provisions of the Act, means “probable,” and the Commission applies that standard in five-year reviews.<sup>40</sup>

41 42 43

The statute states that “the Commission shall consider that the effects of revocation or termination may not be imminent, but may manifest themselves only over a longer period of time.”<sup>44</sup> According to the SAA, a “‘reasonably foreseeable time’ will vary from case-to-case, but normally will exceed the ‘imminent’ timeframe applicable in a threat of injury analysis [in antidumping investigations].”<sup>45 46</sup>

Although the standard in a five-year review is not the same as the standard applied in an original antidumping investigation, it contains some of the same fundamental elements. The statute provides that the Commission is to “consider the likely volume, price effect, and impact of imports of the subject

---

<sup>40</sup> See NMB Singapore Ltd. v. United States, 288 F. Supp. 2d 1306, 1352 (Ct. Int’l Trade 2003) (“‘likely’ means probable within the context of 19 U.S.C. § 1675(c) and 19 U.S.C. § 1675a(a)"); Nippon Steel Corp. v. United States, Slip Op. 02-153 at 7-8 (Ct. Int’l Trade Dec. 24, 2002) (same); Usinor Industeel, S.A. v. United States, Slip Op. 02-152 at 4 n.3 & 5-6 n.6 (Ct. Int’l Trade Dec. 20, 2002) (“more likely than not” standard is “consistent with the court’s opinion”; “the court has not interpreted ‘likely’ to imply any particular degree of ‘certainty’”); Indorama Chemicals (Thailand) Ltd. v. United States, Slip Op. 02-105 at 20 (Ct. Int’l Trade Sept. 4, 2002) (“standard is based on a likelihood of continuation or recurrence of injury, not a certainty”); Usinor v. United States, Slip Op. 02-70 at 43-44 (Ct. Int’l Trade July 19, 2002) (“‘likely’ is tantamount to ‘probable,’ not merely ‘possible’”).

<sup>41</sup> Commissioner Hillman interprets the statute as setting out a standard of whether it is “more likely than not” that material injury would continue or recur upon revocation. She assumes that this is the type of meaning of “probable” that the Court intended when the Court concluded that “‘likely’ means “probable.” See Separate Views of Vice Chairman Jennifer A. Hillman Regarding the Interpretation of the Term “Likely”, in Certain Carbon Steel Products from Australia, Belgium, Brazil, Canada, Finland, France, Germany, Japan, Korea, Mexico, the Netherlands, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom (Views on Remand), Invs. Nos. AA1921-197 (Review), 701-TA-231, 319-320, 322, 325-328, 340, 342, and 348-350 (Review), and 731-TA-573-576, 578, 582-587, 604, 607-608, 612, and 614-618 (Review) (Remand), USITC Pub. 3526 (July 2002) at 30-31.

<sup>42</sup> Vice Chairman Okun and Commissioner Pearson refer to their dissenting views in Pressure Sensitive Plastic Tape from Italy, Inv. No. AA1921-167 (Second Review), USITC Pub. 3698 at 15-17 (June 2004).

<sup>43</sup> Commissioner Lane notes that, consistent with her views in Pressure Sensitive Plastic Tape from Italy, USITC Pub. 3698 at 24, she does not concur with the U.S. Court of International Trade’s interpretation of “likely” but she will apply the Court’s standard in this review and all subsequent reviews until either Congress clarifies the meaning or the U.S. Court of Appeals for the Federal Circuit addresses this issue.

<sup>44</sup> 19 U.S.C. § 1675a(a)(5).

<sup>45</sup> SAA at 887. Among the factors that the Commission should consider in this regard are “the fungibility or differentiation within the product in question, the level of substitutability between the imported and domestic products, the channels of distribution used, the methods of contracting (such as spot sales or long-term contracts), and lead times for delivery of goods, as well as other factors that may only manifest themselves in the longer term, such as planned investment and the shifting of production facilities.” Id.

<sup>46</sup> In analyzing what constitutes a reasonably foreseeable time, Chairman Koplán examines all the current and likely conditions of competition in the relevant industry. He defines “reasonably foreseeable time” as the length of time it is likely to take for the market to adjust to a revocation or termination. In making this assessment, he considers all factors that may accelerate or delay the market adjustment process including any lags in response by foreign producers, importers, consumers, domestic producers, or others due to: lead times; methods of contracting; the need to establish channels of distribution; product differentiation; and any other factors that may only manifest themselves in the longer term. In other words, this analysis seeks to define “reasonably foreseeable time” by reference to current and likely conditions of competition, but also seeks to avoid unwarranted speculation that may occur in predicting events into the more distant future.

merchandise on the industry if the orders are revoked or the suspended investigation is terminated.”<sup>47</sup> It directs the Commission to take into account its prior injury determination, whether any improvement in the state of the industry is related to the order or the suspension agreement under review, whether the industry is vulnerable to material injury if the orders are revoked or the suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C. § 1675(a)(4).<sup>48</sup>

For the reasons stated below, we determine that revocation of the antidumping order on FCOJM from Brazil would not be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

## **B. Conditions of Competition**

In evaluating the likely impact of the subject imports on the domestic industry, the statute directs the Commission to consider all relevant economic factors “within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”<sup>49</sup> The following conditions of competition in the FCOJM market are relevant to our determination.

FCOJM is a commodity product. In the original investigation and first review, the Commission found that subject and domestic FCOJM were generally fungible and substitutable, and that competition was largely on the basis of price.<sup>50</sup> During the present review, most reporting purchasers, importers, and extractor/processors likewise indicated that subject and domestic FCOJM are always or frequently interchangeable.<sup>51</sup> The Commission also received testimony from Respondents and Dreyfus that FCOJM from Brazil is blended with domestically produced FCOJM in order to satisfy certain specifications.<sup>52</sup>

The industry has become progressively concentrated both numerically and geographically. The number of firms that extract juice from oranges and process it into FCOJM has declined from 33 in crop year 1986, to 27 in crop year 1999, and to approximately 19 in crop year 2004.<sup>53</sup> Florida accounted for an increasing share of those firms, with non-Florida firms numbering at least four during the crop years 1983 to 1986, one in 1999, and one or none at present.<sup>54 55</sup>

As during the original investigation and first review, the Commission is unable to calculate U.S. apparent consumption, because producers blend domestic and imported FCOJM at various points in the production process.<sup>56</sup> The Commission has instead examined the total available FCOJM from domestic

---

<sup>47</sup> 19 U.S.C. § 1675a(a)(1).

<sup>48</sup> 19 U.S.C. § 1675a(a)(1). Commerce has not issued a duty absorption finding with respect to the order on FCOJM. CR at I-9, PR at I-8. The statute further provides that the presence or absence of any factor that the Commission is required to consider shall not necessarily give decisive guidance with respect to the Commission’s determination. 19 U.S.C. § 1675a(a)(5). While the Commission must consider all factors, no one factor is necessarily dispositive. SAA at 886.

<sup>49</sup> 19 U.S.C. § 1675a(a)(4).

<sup>50</sup> First Review at 7; Original Determination at 6 & n.17, 45, 67-68, 101, and R-15 to R-16.

<sup>51</sup> CR and PR at Table II-4. See CR at II-13 to II-14, PR at II-9 to II-10.

<sup>52</sup> Tr. at 14-15, 34-35 (Freeman), 79-80 (Scabbia).

<sup>53</sup> CR at I-17 to I-18, PR at I-14 to I-15.

<sup>54</sup> CR at I-17, PR at I-14 to I-15, and producer questionnaire responses.

<sup>55</sup> While all domestic extractor/processors were believed to be U.S.-owned in the past, at least two are now Brazilian-owned, and other foreign interests own shares of other domestic producers. CR at I-18, PR at I-15.

<sup>56</sup> CR at I-18, PR at I-15.

production, imports, and carryover stock.<sup>57</sup> Total available FCOJM ranged from 1.2 billion to 1.3 billion single strength equivalent (“SSE”) gallons per year during crop years 1983-86, and it has ranged from 1.4 billion to 1.6 billion SSE gallons during crop years 1997 through 2004.<sup>58</sup>

While total available FCOJM has remained relatively constant, the share accounted for by domestic production<sup>59</sup> has fluctuated substantially. That share ranged from 37.0 percent to 53.6 percent during the crop years prior to the entry of the order.<sup>60</sup> It increased to 69.5 percent and 63.7 percent during crop years 1997 and 1998, respectively, and then fell to a range of 44.8 percent to 55.4 percent during crop years 1999 through 2004.<sup>61</sup>

Domestic production likely will account for a smaller share of total available FCOJM in coming years, as a result of three hurricanes that crossed Florida in 2004. The storms caused losses to the current crop, as well as longer-term damage to orange trees.<sup>62</sup> The U.S. Department of Agriculture estimates that Florida orange production for crop year 2005 may fall by approximately one-fourth compared to crop year 2004.<sup>63</sup>

Non-subject imports and carryover stock also represent important components of supply. The share of total available FCOJM represented by non-subject imports, most of which are from Brazil, fluctuated from year to year. Nevertheless, non-subject imports have accounted for \*\*\* share of total available FCOJM in recent years (\*\*\*) percent to (\*\*\*) percent) \*\*\* prior to the order (\*\*\*) percent to (\*\*\*) percent).<sup>64</sup> The share of total available FCOJM represented by carryover stock ranged from between 12.5 percent and 17.5 percent during crop years 1984-86 and 1997-98, but it increased substantially to between 26.6 percent to 36.2 percent per crop year during crop years 1999-2004.<sup>65 66 67</sup>

---

<sup>57</sup> CR at I-18 to I-19, PR at I-15.

<sup>58</sup> CR and PR at Table I-2.

<sup>59</sup> We have used public reports on Florida production as a reasonable proxy for total domestic production. The record contains no indication that significant amounts of FCOJM is produced outside of Florida.

<sup>60</sup> CR and PR at Table I-2.

<sup>61</sup> CR and PR at Table I-2.

<sup>62</sup> CR at III-10, PR at III-8.

<sup>63</sup> CR at III-10, PR at III-8.

<sup>64</sup> CR and PR at Table I-2.

<sup>65</sup> CR and PR at Table I-2.

<sup>66</sup> As mentioned previously, on December 27, 2004, members of the domestic industry filed an antidumping petition on Certain Orange Juice from Brazil, which encompasses all imports of not-from-concentrate orange juice from Brazil as well as imports of FCOJM produced in Brazil by producers that are not subject to the order currently under review. 70 Fed. Reg. 3510, 3510-11 (Jan. 25, 2005). Dreyfus argued that the Commission should consider the pendency of the new investigation in its review of the order here. In particular, Dreyfus argued that if the new investigation were to result in an order against not-from-concentrate orange juice and certain FCOJM, and if the current order were revoked, then Dreyfus would be disadvantaged vis-à-vis other domestic producers of FCOJM. Tr. at 9-15 (Freeman). The Commission notes the pendency of the investigation of Certain Orange Juice from Brazil, but it considers speculation as to the outcome of that investigation to be inappropriate. Further, even if the Commission were to speculate that an order would be issued on the imports subject to the newer investigation, and even if the record of the instant review showed a future "disadvantage" to Dreyfus vis-à-vis other U.S. producers of FCOJM, the Commission is tasked by the statute to determine whether the revocation of the existing order on FCOJM from Brazil would be likely to lead to continuation or recurrence of material injury to the industry as a whole, not individual producers. Moreover, as noted above, Dreyfus, while a large U.S. producer, still accounts for \*\*\* of domestic production of FCOJM.

<sup>67</sup> As noted previously, the domestic interested parties that filed a response to the notice of institution

(continued...)

The Commission noted in the first review that the record did not establish what share of Brazilian production was accounted for by the producers subject to the order.<sup>68</sup> In the absence of contrary evidence, the Commission concluded that the producers still covered by the order accounted for a significant share of Brazilian production, and that the order continued to act as a significant restraint on subject imports.<sup>69</sup> In the present review, Respondents estimate that producers still covered by the order account for less than 20 percent of Brazilian processing capacity, while Dreyfus puts that figure at 38 percent.<sup>70 71</sup>

### C. Likely Volume of Subject Imports

In evaluating the likely volume of imports of subject merchandise if the antidumping order is revoked, the Commission is directed to consider whether the likely volume of imports would be significant either in absolute terms or relative to production or consumption in the United States.<sup>72</sup> In doing so, the Commission must consider “all relevant economic factors,” including four enumerated factors: (1) any likely increase in production capacity or existing unused production capacity in the exporting country; (2) existing inventories of the subject merchandise, or likely increases in inventories; (3) the existence of barriers to the importation of the subject merchandise into countries other than the United States; and (4) the potential for product shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.<sup>73</sup>

Prior to the entry of the order, the quantity of subject imports from Brazil ranged from \*\*\* to \*\*\* million SSE gallons during crop years 1983 to 1986.<sup>74</sup> During the first five-year review, the volume of subject imports was not known, but the total volume of FCOJM from Brazil was 156 million SSE and 193

---

<sup>67</sup> (...continued)

subsequently withdrew their support for continuation of the order, leaving non-party Dreyfus as the sole domestic producer in support of continuation of the order. Dreyfus accounted for about \*\*\* percent of domestic production of FCOJM in crop year 2003. CR and PR at Table III-5. Respondents argued that the Commission has treated a lack of domestic industry interest in the continuation of an order as “strong evidence” that the industry “is not vulnerable to subject imports.” Posthearing brief of Respondents at 9. Dreyfus contended that the present case is unlike the past determinations cited by Respondents, because here the order is supported by Dreyfus, the \*\*\* domestic producer. Posthearing submission of Dreyfus at 2. We address the relevance of these facts in our analysis of the likely impact of subject imports on the domestic industry if the order is revoked.

<sup>68</sup> First Review at 10.

<sup>69</sup> First Review at 10.

<sup>70</sup> Final Comments of Respondents at 4, Posthearing submission of Dreyfus at Attachment 1 at 1.

<sup>71</sup> A general duty rate of 7.85 cents per liter (about 30 cents per single strength equivalent gallon) applies to FCOJM imports from Brazil and most other countries. The rate is somewhat lower than in the years considered in the original investigation. The general rate of duty was 9.25 cents per liter during the years covered in the original investigation, 8.32 cents in 1998, and 8.08 cents in 1999. Original Determination at R-16; First Review at I-5 n.14. The general duty rate became 7.85 cents per liter (29.72 cents per SSE gallon) in 2000 and will continue at that rate for the foreseeable future. Presidential Proclamation 6763 (Dec. 23, 1994) 3 CFR, 1994 Comp., pp. 150, 590 (also published at 60 Fed. Reg. 1007, 1451 (Jan. 4, 1995)); Schedule XX—United States of America, annexed to the Marrakesh Protocol to the General Agreements of Tariffs and Trade 1994; CR at I-12 n.22, PR at I-11 n.22. For Mexico, as a NAFTA country, the general duty rate is 4.625 cents per liter. CR at I-12 n.22, PR at I-11 n.22. While the general duty rate for various other countries is zero, appreciable duty-free imports were received only from Costa Rica and Belize. Tr. at 47 (Freeman). See CR at II-4, PR at II-3.

<sup>72</sup> 19 U.S.C. § 1675a(a)(2).

<sup>73</sup> 19 U.S.C. § 1675a(a)(2)(A-D).

<sup>74</sup> CR and PR at Table I-2.

million SSE gallons in crop years 1997 and 1998, respectively, which is lower than the volume of subject imports prior to the order.<sup>75</sup> Data gathered in the present review indicate that the volume of subject imports ranged from only \*\*\* million SSE gallons in crop years 1999 through 2004.<sup>76</sup> The share of total available FCOJM accounted for by subject imports fell from a range of 17.2 percent to 27.8 percent in the crop years prior to the order, to a range of \*\*\* percent to \*\*\* percent during crop years 1999 through 2004.<sup>77</sup>

In the first five-year review, the Commission recognized that the order had been revoked with respect to various producers of FCOJM in Brazil. Lacking contrary evidence, the Commission inferred that the producers still subject to the order accounted for a significant portion of Brazilian production.<sup>78</sup> On that basis, the Commission concluded that the order continued to impose a restraint on the export of subject merchandise to the United States.<sup>79</sup>

The record in the current (full) review is more developed in several important respects than it was in the first (expedited) review. During the first review, the record showed the total volume of FCOJM imports from Brazil, but did not divide the total between subject and non-subject. In the current review, it is established that the volume of subject imports is \*\*\* lower than prior to the order, and also that the volume of non-subject imports is higher than prior to the order.<sup>80</sup>

A second unknown factor during the first review was the proportion of Brazilian FCOJM production accounted for by the foreign producers still subject to the order.<sup>81</sup> In the present review, Respondents estimated that producers still subject to the order accounted for less than 20 percent of Brazilian FCOJM production, while Dreyfus provided an estimate of 38 percent.<sup>82</sup> The difference in the estimates is explained in part by the fact that Dreyfus incorrectly included the estimated production of Montecitrus Industria e Comercio Limitada, for which the order was revoked,<sup>83</sup> while Respondents incorrectly excluded the estimated production of COINBRA-Frutesp, which is subject to the order.<sup>84</sup> In sum, while the share of Brazilian FCOJM production accounted for by producers still subject to the order is not insubstantial, it appears to be in the range of 20 percent to 38 percent.<sup>85</sup>

The projected decline in the Florida orange crop due to adverse weather suggests that domestic production of FCOJM will be lower than in recent years. While we would expect that a decline in domestic production would create an increased need to supply FCOJM from other sources, we do not conclude that, if the order were revoked, the likely volume of subject imports from Brazil would be

---

<sup>75</sup> CR and PR at Table I-2.

<sup>76</sup> CR and PR at Table I-2.

<sup>77</sup> CR and PR at Table I-2.

<sup>78</sup> First Review at 10.

<sup>79</sup> First Review at 10.

<sup>80</sup> CR and PR at Table I-2.

<sup>81</sup> See First Review at 10.

<sup>82</sup> Final comments of Respondents at 4, posthearing submission of Dreyfus at Attachment 1 at 1.

<sup>83</sup> 70 Fed. Reg. 7233, 7234 (Feb. 11, 2005)(order revoked as to Montecitrus).

<sup>84</sup> 70 Fed. Reg. 3904 (Jan. 27, 2005) (COINBRA-Frutesp covered by order). Commerce has initiated a changed circumstances review to determine whether COINBRA-Frutesp is the successor-in-interest to a company as to which the order was revoked. 70 Fed. Reg. 3904 (Jan. 27, 2005), 70 Fed. Reg. 7233, 7234 (Feb. 11, 2005). We treat its production as subject to the order given its current status. In any event, a change in its status would not affect our review of the present order.

<sup>85</sup> We find that the production capacity of foreign producers is a function of daily processing capacity and the supply of oranges in a given year. Respondents indicated that a typical orange crop in Brazil will permit 180 days of processing per year. Prehearing brief of Respondents at 3, Tr. at 77-78 (Scabbia).

significant, or significantly higher than at present. As a preliminary matter, we note that even if the production of FCOJM falls in crop year 2005 by the same percentage as orange production is projected to fall (27 percent according to a U.S. Department of Agriculture estimate), domestic production of FCOJM would still be higher than most of the years prior to the entry of the order.<sup>86</sup> We note also that demand for FCOJM is reportedly declining.<sup>87</sup>

More importantly, alternative sources other than subject imports are in greater supply now than prior to the order. Since crop year 2001, carryover stocks have consistently accounted for more than 30 percent of total available FCOJM, whereas prior to the order they accounted for only 14.5 percent to 17.0 percent.<sup>88</sup> Non-subject imports are also present in higher quantities in recent years than prior to the order, given that the order has been revoked as to several Brazilian producers and an increase in import volumes from third countries.<sup>89</sup> Non-subject import volumes are now \*\*\* higher than subject import volumes, and producers of non-subject imports are now known to account for the majority of FCOJM production capacity in Brazil.

The producers of subject imports, on the other hand, report that they have made substantial investments in third country markets, and have not sought entry into the U.S. market.<sup>90</sup> We give substantial weight to evidence, uncontradicted on this record, that both growth in consumption and prices for FCOJM are higher in those third-country markets than in the United States.<sup>91</sup> In the absence of contrary evidence, we conclude that these higher prices provide an incentive for subject producers to continue to ship the bulk of their production to third country markets, including to fulfill existing contractual obligations and to maintain market shares, rather than shifting to the lower-priced U.S. market.

On the basis of the foregoing, we find that the likely volume of subject imports would not be significant if the order were revoked.

#### **D. Likely Price Effects of the Subject Imports**

In evaluating the likely price effects of subject imports if the antidumping order is revoked, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to domestic like products and whether the subject imports are likely to enter the

---

<sup>86</sup> The USDA estimates that orange production will be 27 percent lower in crop year 2005 than in crop year 2004. CR at III-10 and PR at III-8. Assuming a like 27-percent drop in FCOJM production, the volume of FCOJM production in crop year 2005 would be 637 million SSE gallons. Figure derived from CR and PR at Table I-2. Domestic FCOJM production was 685 million SSE gallons in crop year 1983, 490 million SSE gallons in crop year 1984, 478 million SSE gallons in crop year 1985, and 535 million SSE gallons in crop year 1986. CR and PR at Table I-2.

<sup>87</sup> CR at II-6, PR at II-4, Tr. at 59-61 (Freeman).

<sup>88</sup> CR and PR at Table I-2.

<sup>89</sup> While non-subject imports have declined as a share of total available FCOJM, the reduction is due to an increase in domestic production and carryover stocks.

<sup>90</sup> Tr. at 76-79, 84-85 (Scabbia).

<sup>91</sup> Tr. at 59-61 (U.S. demand falling) (Freeman); 77 (decline in U.S. demand, growth in demand in third country markets) (Scabbia); 97-99 (growing demand in Europe) (Scabbia); posthearing brief of Respondents at 2 (prices higher in third country markets); Tr. at 52-53 (U.S. price lower than world price at present and in recent past) (Freeman).

United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.<sup>92</sup>

In the original investigation, three Commissioners found that FCOJM imports from Brazil undersold the domestic like product during months in which the price of the domestic product fell.<sup>93</sup> Two Commissioners noted also that adverse price effects of subject imports coincided with those increased volumes.<sup>94</sup> One Commissioner concluded that the subject imports exerted a “significant downward pressure on domestic prices,”<sup>95</sup> while two others concluded that significant price depression and price suppressing effects would continue into the future.<sup>96</sup>

In the first five-year review, there was little pricing data for the U.S. market.<sup>97</sup> The Commission noted that the average unit value of Brazilian FCOJM imports was lower in crop years 1997 and 1998 than prior to the entry of the order. Noting that FCOJM is a commodity product that trades largely on the basis of price, the Commission concluded that, based on the limited record in the first review, if the order were revoked the likely significant volume of subject imports would lead to significant price underselling and price depression.

In the current review, Respondents argued that the likely volume of subject imports is too small to lead to an adverse impact on prices of domestic FCOJM.<sup>98</sup> As noted previously, various domestic producers indicated that they do not support continuation of the order, which by reasonable inference indicates that they do not anticipate a significant adverse effect on the price of domestic FCOJM if the order is revoked. Even \*\*\*.”<sup>99</sup> In sum, no party or non-party argued that revocation of the order would be likely to lead to significant adverse effects on prices for domestic FCOJM.

There is a lack of data with respect to prices for subject imports in recent years.<sup>100</sup> Prices for non-subject FCOJM from Brazil were generally lower than U.S. prices for sales by bulk tanker shipment, and generally higher than U.S. prices for sales by 55-gallon drum. Price comparisons are not available for non-subject imports from countries other than Brazil. On this record, we conclude that the pricing data on non-subject imports from Brazil does not allow us to draw inferences with respect to prices for the subject imports.

In evaluating the likely price effects of subject imports if the order were revoked, a central consideration is our finding that, upon revocation of the order, the likely volume of subject imports would not be significant. The volume of subject imports is currently very small in relation to total available FCOJM, and we do not find that revocation of the order would likely lead to a significant increase in that volume. We also consider that no party or non-party has argued that revocation will likely lead to a significant adverse affect on prices for domestic FCOJM. Given the small likely volume of subject imports, and the general consensus of the parties and Dreyfus as to no likely price effects, we conclude

---

<sup>92</sup> 19 U.S.C. § 1675a(a)(3). The SAA states that “[c]onsistent with its practice in investigations, in considering the likely price effects of imports in the event of revocation and termination, the Commission may rely on circumstantial, as well as direct, evidence of the adverse effects of unfairly traded imports on domestic prices.” SAA at 886.

<sup>93</sup> Original Determination at 27 and 45-46.

<sup>94</sup> Original Determination at 27.

<sup>95</sup> Original Determination at 45.

<sup>96</sup> Original Determination at 27.

<sup>97</sup> First Review at 11.

<sup>98</sup> Posthearing brief of Respondents at 5.

<sup>99</sup> \*\*\* at 19.

<sup>100</sup> CR and PR at V-4.

that revocation of the order would not be likely to lead to significant price underselling, price depression, or price suppression with respect to domestic FCOJM.

### **E. Likely Impact of Subject Imports**

In evaluating the likely impact of imports of subject merchandise if the antidumping order is revoked, the Commission is directed to consider all relevant economic factors that are likely to have a bearing on the state of the industry in the United States, including but not limited to: (1) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity; (2) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment; and (3) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.<sup>101</sup> All relevant economic factors are to be considered within the context of the business cycle and the conditions of competition that are distinctive to the industry.<sup>102</sup> As instructed by the statute, we have considered the extent to which any improvement in the state of the domestic industry is related to the orders at issue and whether the industry is vulnerable to material injury if the orders are revoked.<sup>103</sup>

In the original determination, one Commissioner found that the domestic industry was materially injured by reason of increased volumes of subject FCOJM that were gaining an increasing share of the U.S. market.<sup>104</sup> He found that the subject merchandise placed a significant downward pressure on domestic prices, evidenced by a strong correlation between the price of the domestic product and the subject merchandise, the latter appearing to lead both to upward and downward trends in domestic prices.<sup>105</sup> He also found that purchasers reported that prices of Brazilian FCOJM were lower than prices of the domestic product in 1984 and 1986, and that the difference in price took on additional importance in a price-sensitive market.<sup>106</sup>

Two Commissioners found in the original determination that the domestic industry was threatened with material injury by reason of increasing volumes of low-priced subject FCOJM that were gaining an increasing share of the market in which the domestic product directly competed.<sup>107</sup> They noted increases in the capacity of the Brazilian processors and in the number of orange trees in Brazil, which

---

<sup>101</sup> 19 U.S.C. § 1675a(a)(4).

<sup>102</sup> 19 U.S.C. § 1675a(a)(4). Section 752(a)(6) of the Act states that “the Commission may consider the magnitude of the margin of dumping” in making its determination in a five-year review. 19 U.S.C. § 1675a(a)(6). The statute defines the “magnitude of the margin of dumping” to be used by the Commission in five-year reviews as “the dumping margin or margins determined by the administering authority under section 1675a(c)(3) of this title.” 19 U.S.C. § 1677(35)(C)(iv). See also SAA at 887. In its final results of expedited sunset reviews, Commerce determined a likely dumping margin of 15.98 percent ad valorem for Citrovita, and 1.96 percent ad valorem for all other Brazilian producer/exporters. 69 Fed. Reg. 54117, 54118 (Sept. 7, 2004).

<sup>103</sup> The SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked, the Commission “considers, in addition to imports, other factors that may be contributing to overall injury. While these factors, in some cases, may account for the injury to the domestic industry, they may also demonstrate that an industry is facing difficulties from a variety of sources and is vulnerable to dumped or subsidized imports.” SAA at 885.

<sup>104</sup> Original Determination at 44-46.

<sup>105</sup> Original Determination at 45.

<sup>106</sup> Original Determination at 45-46.

<sup>107</sup> Original Determination at 25.

they found indicated an ability to further increase production in the imminent future.<sup>108</sup> They also found that the subject merchandise had caused in part observed price declines; these declines coincided with increased volumes of subject imports.<sup>109</sup> They noted further the export orientation of the Brazilian industry.<sup>110</sup> These factors formed the basis for their determination that the domestic industry was threatened with material injury by reason of the subject merchandise.<sup>111</sup>

In the first five-year review, the Commission found that the domestic industry's share of total available FCOJM increased as subject imports exited the market.<sup>112</sup> It found that the commodity nature of the product enabled the domestic industry to replace subject imports and regain domestic market share.<sup>113</sup> The Commission considered it likely that any future increase in the market share of subject imports would be largely at the expense of the domestic industry.<sup>114</sup> The Commission explained further that if the order is revoked, the likely volume of subject imports would be significant and that these imports would have significant adverse price effects.<sup>115</sup> The Commission concluded that given the substitutable nature of the product and subject imports' ability to compete directly with the domestic product for the same end uses, a significant volume of low-priced subject imports would likely have a significant adverse impact on the production, shipment, sales, and revenue levels of the domestic industry.<sup>116</sup> It concluded, in the absence of contrary evidence or argument, that subject imports would be likely to have a significant adverse impact on the domestic industry within a reasonably foreseeable time if the antidumping duty order is revoked.<sup>117</sup>

In the present five-year review, we note that the domestic industry's production of FCOJM is, on average, higher than during the original investigation, but lower than during the crop years considered during the first five-year review.<sup>118</sup> Similarly, the domestic industry's share of total available FCOJM is currently higher than during the original investigation, but not as high as during the crop years examined in the first five-year review.<sup>119</sup> The domestic industry showed better financial results in recent years than

---

<sup>108</sup> Original Determination at 26.

<sup>109</sup> Original Determination at 27.

<sup>110</sup> Original Determination at 30.

<sup>111</sup> Original Determination at 30.

<sup>112</sup> First Review at 12.

<sup>113</sup> First Review at 12.

<sup>114</sup> First Review at 12.

<sup>115</sup> First Review at 13.

<sup>116</sup> First Review at 13.

<sup>117</sup> First Review at 13.

<sup>118</sup> Prior to the entry of the order, Florida production was 685 million SSE gallons in crop year 1983, but was lower at 490 million SSE gallons in crop year 1984, 478 million SSE gallons in crop year 1985, and 535 million SSE gallons in crop year 1986. In recent years, Florida production was 860 million SSE gallons in crop year 2002, 627 million SSE gallons in crop year 2003, and 873 million SSE gallons in crop year 2004. CR and PR at Table I-2. As noted previously, we use Florida production as a reasonable proxy for domestic production.

<sup>119</sup> Prior to the entry of the order, the share of total available FCOJM accounted for by domestic production was 53.6 percent in crop year 1983, 40.9 percent in crop year 1984, 37.0 percent in crop year 1985, and 41.9 percent in crop year 1986. In recent years, the domestic share was 55.4 percent in crop year 2002, 44.8 percent in crop year 2003, and 55.4 percent in crop year 2004. CR and PR at Table I-2.

during the original investigation, although it generally alternated between profitability and losses in the crop years in both periods.<sup>120</sup>

We do not find the domestic industry to be in a vulnerable state. The limited financial and other data provided by the domestic industry data do not suggest vulnerability.<sup>121</sup> Moreover, as noted previously, the domestic producers that responded to the notice of institution withdrew their support for continuation of the order, stating that “the order in its current form no longer serves its intended purpose of offsetting dumping margins and eliminating injury to the domestic industry.”<sup>122</sup> Several other domestic producers declined to respond to Commission questionnaires, indicating that they “have no further interest in continuation of the antidumping order.”<sup>123</sup> Although one domestic producer (Dreyfus) supported continuation of the order, it accounts for a minority of domestic production and its reasoning as to how revocation could lead to the continuation or recurrence of material injury to the domestic industry was conditional and speculative.<sup>124</sup>

Based on our finding that, upon revocation of the order, the likely volume of subject imports would not be significant, and that subject imports are not likely to have significant adverse effects on the price of the domestic FCOJM, we find that subject imports are also not likely to have a significant adverse impact on the domestic industry. Our view is consistent with the general view expressed by various domestic producers, as explained above.

## CONCLUSION

For the foregoing reasons, we determine that revocation of the antidumping duty order covering FCOJM from Brazil would not be likely to lead to continuation or recurrence of material injury to the domestic FCOJM industry within a reasonably foreseeable time.

---

<sup>120</sup> CR and PR at Table I-2.

<sup>121</sup> As noted above, both domestic production of FCOJM and the share of total available FCOJM held by domestic producers generally are higher in recent years than prior to the entry of the order. CR and PR at Table I-2. The domestic industry generated operating income in two out of the last three crop years. CR and PR at Table I-2.

<sup>122</sup> November 17, 2004 letter from Matthew T. McGrath to the Commission. These producers estimated that they accounted for approximately \*\*\* percent of domestic FCOJM production in crop year 2003. Domestic interested party response to notice of institution at 25.

<sup>123</sup> See producer questionnaire responses of \*\*\*.

<sup>124</sup> In response to questions, a representative of Dreyfus indicated to the Commission that, in Dreyfus' view, revocation of the order would lead to material injury only if the ongoing investigation into Certain Orange Juice from Brazil, Inv. No. 731-TA-1089 were to result in an antidumping duty order. Tr. at 72-73 (Freeman). Dreyfus concedes, therefore, that unless the ongoing investigation results in a new order, revocation of the existing order under review here would not be likely to lead to continuation or recurrence of material injury to the domestic industry. As noted previously, we consider speculation as to the outcome of the ongoing investigation to be inappropriate.

## **PART I: INTRODUCTION AND OVERVIEW**

### **BACKGROUND**

On April 1, 2004, the International Trade Commission (“Commission”) gave notice, pursuant to section 751(c) of the Tariff Act of 1930 (the Act), that it had instituted a review to determine whether revocation of the antidumping duty order on frozen concentrated orange juice<sup>1</sup> (“FCOJM”) from Brazil would likely lead to the continuation or recurrence of material injury to a domestic industry within a reasonably foreseeable time. On July 6, 2004, the Commission found that both the domestic and respondent interested party group responses to its notice of institution were adequate, and determined that it would conduct a full review pursuant to section 751(c)(5) of the Act.<sup>2</sup> Information relating to the background and schedule of the review is presented in table I-1.<sup>3</sup>

### **STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT**

Section 751(c) of the Act requires Commerce and the Commission to conduct a review no later than five years after the issuance of an antidumping or countervailing duty order or the suspension of an investigation to determine whether revocation of the order or termination of the suspended investigation “would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.”

---

<sup>1</sup> A complete description of the product subject to investigation is presented in *The Subject Product* section of this part of the report.

<sup>2</sup> On November 16, 2004, domestic interested parties Florida Citrus Mutual (“FCM”), A. Duda & Sons, Inc. (“Duda”) (d/b/a Citrus Belle), Citrus World, Inc., and Peace River Citrus Products, Inc. (“Peace River”) (collectively, the “Petitioners”) informed the Department of Commerce (“Commerce”) that they amended their position and no longer had an interest in the continuation of the antidumping order, and urged Commerce to modify its final expedited determination and revoke the antidumping duty order. On November 17, 2004, petitioners notified the Commission of their amended position and withdrawal of interest in the full five-year review. On November 22, 2004, Commerce denied petitioners’ request to revisit or modify the final determination, citing lack of statutory or regulatory authority. Commerce also denied petitioners’ request to revoke the order pursuant to section 751(c)(3)(A) of the Act.

<sup>3</sup> The Commission’s notice of institution, notice to conduct a full review, scheduling notice, and statement on adequacy appear in app. A and may also be found at the Commission’s web site (internet address [www.usitc.gov](http://www.usitc.gov)). Commissioners’ votes on whether to conduct an expedited or full review may also be found at the web site.

**Table I-1**

**FCOJM: Chronology of investigation No. 731-TA-326**

<b>Effective date</b>	<b>Action</b>	<b>Federal Register citation</b>
May 5, 1987	Commerce's antidumping duty order	52 FR 16426
August 5, 1999	Commerce's continuation of antidumping duty order after first five-year review	64 FR 42660
April 1, 2004	Commission's institution of second five-year review	69 FR 17230
July 6, 2004	Commission's decision to conduct a full review	69 FR 44060, July 23, 2004
July 6, 2004	Commission's scheduling of the review	69 FR 51711, August 20, 2004
September 7, 2004	Commerce's final results of expedited review	69 FR 54117
January 27, 2005	Commerce's initiation of changed circumstance review <sup>1</sup>	70 FR 3904
February 1, 2005	Commission's hearing <sup>2</sup>	N.A.
March 15, 2005	Commission's vote	N.A.
March 28, 2005	Commission's determination and views sent to Commerce	N.A.

<sup>1</sup> "According to Louis Dreyfus, this action is necessary because on March 18, 2004, U.S. Customs and Border Protection (CBP) informed Louis Dreyfus that entries of FCOJ manufactured by COINBRA-Frutesp are, in fact, subject to the antidumping duty order on FCOJ, and CBP is currently requiring the payment of cash deposits on such merchandise. Louis Dreyfus asserts that the CBP had not required cash deposits on COINBRA-Frutesp's exports prior to that time." 70 FR 3904 (January 27, 2005).  
<sup>2</sup> A list of witnesses appearing at the hearing is presented in app. B.

Source: Cited *Federal Register* notices.

Section 752(a) of the Act provides that in making its determination of likelihood of continuation or recurrence of material injury--

- (1) *IN GENERAL.-- . . . the Commission shall determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission shall consider the likely volume, price effect, and impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated. The Commission shall take into account--*
- (A) *its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted,*
  - (B) *whether any improvement in the state of the industry is related to the order or the suspension agreement,*
  - (C) *whether the industry is vulnerable to material injury if the order is revoked or the suspension agreement is terminated, and*
  - (D) *in an antidumping proceeding . . . , (Commerce's findings) regarding duty absorption . . .*
- (2) *VOLUME.--In evaluating the likely volume of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether the likely volume of imports of the subject merchandise would be significant if the order is revoked or the suspended investigation is*

*terminated, either in absolute terms or relative to production or consumption in the United States. In so doing, the Commission shall consider all relevant economic factors, including--*

- (A) any likely increase in production capacity or existing unused production capacity in the exporting country,*
  - (B) existing inventories of the subject merchandise, or likely increases in inventories,*
  - (C) the existence of barriers to the importation of such merchandise into countries other than the United States, and*
  - (D) the potential for product-shifting if production facilities in the foreign country, which can be used to produce the subject merchandise, are currently being used to produce other products.*
- (3) PRICE.--In evaluating the likely price effects of imports of the subject merchandise if the order is revoked or the suspended investigation is terminated, the Commission shall consider whether--*
- (A) there is likely to be significant price underselling by imports of the subject merchandise as compared to domestic like products, and*
  - (B) imports of the subject merchandise are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of domestic like products.*
- (4) IMPACT ON THE INDUSTRY.--In evaluating the likely impact of imports of the subject merchandise on the industry if the order is revoked or the suspended investigation is terminated, the Commission shall consider all relevant economic factors which are likely to have a bearing on the state of the industry in the United States, including, but not limited to--*
- (A) likely declines in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,*
  - (B) likely negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and*
  - (C) likely negative effects on the existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the domestic like product.*

*The Commission shall evaluate all such relevant economic factors . . . within the context of the business cycle and the conditions of competition that are distinctive to the affected industry.*

Section 752(a)(6) of the Act states further that in making its determination, “the Commission may consider the magnitude of the margin of dumping or the magnitude of the net countervailable subsidy.”

Information relating to the original investigation, the first five-year review, and injury determinations is presented in Part I. Information on conditions of competition and other relevant economic factors is presented in Part II. Part III contains information on the condition of the U.S. industry, including the financial experience of U.S. producers. Information on the likely volume and price effects of imports is presented in Parts IV and V, respectively.

## SUMMARY OF DATA

A summary of data collected in this review is presented in appendix C. As no useable data were reported by U.S. growers, U.S. industry data are based on questionnaire responses of seven extractor/processors that accounted for approximately 78 percent of U.S. production of FCOJM during the 2003/04 season. U.S. import data are based on official statistics of Commerce and U.S. Customs and Border Protection (“Customs”).<sup>4</sup> Available comparative data from the original investigation, the first five-year review, and the second five-year review are presented in table I-2. Responses by U.S. extractors/processors, importers, and purchasers of FCOJM and producers of FCOJM in Brazil to a series of questions concerning the significance of the existing antidumping duty order and the likely effects of revocation are presented in appendix D.

### THE ORIGINAL INVESTIGATION AND FIRST FIVE-YEAR REVIEW

On May 9, 1986, a petition was filed with Commerce and the Commission alleging that an industry in the United States was materially injured by reason of dumped imports of FCOJM from Brazil.<sup>5</sup> On March 17, 1987, Commerce made a final affirmative dumping determination, with margins as follows: Sucocitrico Cutrale, S.A. (“Sucocitrico Cutrale”), excluded; Citrosuco Paulista, S.A. (“Citrosuco”) and all others, 1.96 percent *ad valorem*.<sup>6</sup> The Commission transmitted to Commerce its final affirmative injury determination on April 22, 1987 and Commerce issued an antidumping duty order on May 5, 1987.<sup>7</sup>

Subsequently, the Commission’s determination was appealed to the U.S. Court of International Trade and remanded to the Commission for further consideration with respect to reevaluation of the evidence concerning certain fair value inventories in Brazil and a reconsideration of inventories in the United States. After reevaluation of the evidence concerning fair value inventories, the Commission again determined that an industry in the United States was materially injured, or threatened with material injury, by reason of imports of FCOJM from Brazil that were being sold at less than fair value (“LTFV”).<sup>8</sup>

The Commission instituted the first five-year review on December 2, 1998, and determined on March 5, 1999, that it would conduct an expedited review.<sup>9</sup> On April 7, 1999, Commerce made its determination that the revocation of the antidumping duty order on FCOJM from Brazil would be likely to lead to continuation or recurrence of dumping at a rate of 1.96 percent.<sup>10</sup> On May 21, 1999, the Commission determined that revocation of the antidumping duty order on FCOJM from Brazil would be likely to lead to continuation or recurrence of material injury to the domestic industry and Commerce published notice of the continuation of the antidumping duty order on August 5, 1999.<sup>11</sup> The review

---

<sup>4</sup> Importers’ questionnaire responses accounted for 74.8 percent of imports of FCOJM from Brazil in the 2003/04 (October to September) season.

<sup>5</sup> The petition was filed by FCM, a voluntary cooperative marketing association of growers of citrus fruit.

<sup>6</sup> 52 FR 8324, March 17, 1987 and 52 FR 16426, May 5, 1987.

<sup>7</sup> 52 FR 15566, April 29, 1987 and 52 FR 16426, May 5, 1987.

<sup>8</sup> *Frozen Concentrated Orange Juice from Brazil*, Staff Report, 731-TA-326 (Review) p. I-5, April 16, 1999. *See also Frozen Concentrated Orange Juice from Brazil, Views on Remand in Investigation No. 731-TA-326 (Final)*, USITC Publication 2154, February 1989.

<sup>9</sup> 63 FR 66572, December 2, 1998; and 64 FR 12351, March 12, 1999.

<sup>10</sup> 64 FR 16901, April 7, 1999.

<sup>11</sup> 64 FR 27806, May 21, 1999 and 64 FR 42660, August 5, 1999.

Table I-2

FCOJM: Summary data from the original investigation, first five-year review, and second five-year review, crop years 1983-86, 1997-2004, and fiscal years 1983-86 and 1997-2004

(Quantity=million gallons single strength equivalent; value=million dollars; unit values, unit labor costs, and unit financial data are per gallon)

Item	Crop year (December-November)				Crop year (October-September)							
	1983	1984	1985	1986	1997	1998	1999	2000	2001	2002	2003	2004
Total available FCOJM quantity	1,278	1,196	1,295	1,276	1,405	1,608	1,399	1,580	1,483	1,552	1,400	1,576
Florida production share <sup>1</sup>	53.6	40.9	37.0	41.9	69.5	63.7	45.4	52.6	52.9	55.4	44.8	55.4
Carryover stock share	16.9	14.5	17.0	15.3	12.5	17.5	29.9	26.6	30.4	33.1	36.2	31.5
Importer's share: <sup>1</sup> Brazil (subject) <sup>1</sup>	***	***	***	***	(2)	(2)	***	***	***	***	***	***
Brazil (nonsubject) <sup>1</sup>	***	***	***	***	(2)	(2)	***	***	***	***	***	***
Total Brazil <sup>1</sup>	27.3	42.6	44.6	39.2	11.1	12.0	18.6	14.6	11.0	6.8	14.8	9.1
All other countries <sup>1</sup>	2.2	2.0	1.4	3.6	6.8	6.7	6.1	6.2	5.7	4.7	4.2	4.1
Total imports <sup>1</sup>	29.5	44.6	46.1	42.8	17.9	18.8	24.7	20.8	16.8	11.5	19.0	13.1
Florida production quantity	685	490	478	535	977	1,025	636	831	784	860	627	873
Carryover stock quantity	216	173	220	195	176	281	419	421	451	513	507	496
U.S. imports from-- Brazil (subject): Quantity	***	***	***	***	(2)	(2)	***	***	***	***	***	***
Value	***	***	***	***	(2)	(2)	***	***	***	***	***	***
Unit value	***	***	***	***	(2)	(2)	***	***	***	***	***	***
Brazil (nonsubject): Quantity	***	***	***	***	(2)	(2)	***	***	***	***	***	***
Value	***	***	***	***	(2)	(2)	***	***	***	***	***	***
Unit value	***	***	***	***	(2)	(2)	***	***	***	***	***	***
All other countries: Quantity	28	24	19	46	96	108	85	98	85	73	59	64
Value	33	35	30	48	96	122	99	109	101	100	76	54
Unit value	\$1.18	\$1.49	\$1.64	\$1.04	\$1.00	\$1.13	\$1.17	\$1.10	\$1.19	\$1.36	\$1.29	\$0.85
Total all countries: Quantity	377	534	597	546	252	302	345	329	249	178	266	207
Value	463	777	969	622	268	326	386	321	239	190	283	182
Unit value	\$1.23	\$1.46	\$1.62	\$1.14	\$1.06	\$1.08	\$1.12	\$0.98	\$0.96	\$1.07	\$1.06	\$0.88

Table continued on next page.

**Table I-2--Continued**

**FCOJM: Summary data from the original investigation, first five-year review, and second five-year review, crop years 1983-86, 1997-2004, and fiscal years 1983-86 and 1997-2004**

(Quantity=million gallons single strength equivalent; value=million dollars; unit values, unit labor costs, and unit financial data are per gallon)

Item	Crop year (December-November)				Crop year (October-September)							
	1983	1984	1985	1986	1997	1998	1999	2000	2001	2002	2003	2004
U.S. processors <sup>1</sup> -- Capacity quantity <sup>3</sup>	(2)	(2)	(2)	(2)	(2)	(2)	623	699	699	784	784	784
Production quantity <sup>3</sup>	646 <sup>(4)</sup>	406 <sup>(4)</sup>	450 <sup>(4)</sup>	475 <sup>(4)</sup>	(2)	(2)	396	519	479	646	501	659
Capacity utilization <sup>13</sup>	(2)	(2)	(2)	(2)	(2)	(2)	63.6	74.3	68.6	82.3	63.9	84.0
U.S. shipments: Quantity	284	231	210	231	(2)	(2)	596	664	643	744	639	695
Value	(2)	(2)	(2)	(2)	(2)	(2)	551	585	527	655	564	528
Unit value	(2)	(2)	(2)	(2)	(2)	(2)	0.93	0.88	0.82	0.88	0.88	0.76
Processor ending inventory quantity	172	178	175	144	(2)	(2)	163	191	164	135	137	181
Inventories/total shipments <sup>1</sup>	(2)	(2)	(2)	(2)	(2)	(2)	***	***	***	***	***	***
Production workers	1,378	1,209	1,211	1,151	(2)	(2)	877	861	942	984	964	1,010
Hours worked (1,000 hours)	1,988	1,781	1,775	1,611	(2)	(2)	1,978	2,093	2,090	2,483	2,207	2,100
Wages paid (1,000 dollars)	12,600	12,300	12,900	12,800	(2)	(2)	22,845	24,169	25,414	31,277	28,188	26,711
Hourly wages	\$6.33	\$6.91	\$7.27	\$7.95	(2)	(2)	\$11.55	\$11.55	\$12.16	\$12.60	\$12.77	\$12.72
Productivity (gallons per hour)	(2)	(2)	(2)	(2)	(2)	(2)	176.1	209.6	191.5	198.5	161.7	232.3

Table continued on next page.

**Table I-2--Continued**

**FCOJM: Summary data from the original investigation, first five-year review, and second five-year review, crop years 1983-86, 1997-2004, and fiscal years 1983-86 and 1997-2004**

(Quantity=million gallons single strength equivalent; value=million dollars; unit values, unit labor costs, and unit financial data are per gallon)

Item	Fiscal year											
	1983	1984	1985	1986	1997	1998	1999	2000	2001	2002	2003	2004
Net sales: Quantity	(2)	(2)	(2)	(2)	(2)	(2)	375.6	364.1	421.4	545.7	424.8	502.0
Value	127.4	107.0	91.4	73.9	(2)	(2)	419.5	389.4	376.7	547.4	445.9	462.9
Average unit value	(2)	(2)	(2)	(2)	(2)	(2)	1.12	1.07	0.89	1.00	1.05	0.92
Cost of goods sold	126.5	99.6	96.7	70.3	(2)	(2)	394.9	392.8	368.4	514.9	423.5	452.9
Gross profit or (loss)	0.9	7.4	(5.3)	3.5	(2)	(2)	24.6	(3.4)	8.3	32.5	22.3	10.0
Operating income or (loss)	(2.1)	4.0	(9.4)	(0.11)	(2)	(2)	12.5	(15.7)	(4.1)	15.3	7.2	(6.0)
Unit cost of goods sold	(2)	(2)	(2)	(2)	(2)	(2)	1.05	1.08	0.87	0.94	1.00	0.90
Unit operating income or (loss)	(2)	(2)	(2)	(2)	(2)	(2)	0.03	(0.04)	(0.01)	0.03	0.02	(0.01)
Cost of goods sold/sales <sup>1</sup>	99.2	93.1	105.8	95.2	(2)	(2)	394.9	392.8	368.4	514.9	423.5	452.9
Operating income or (loss)/sales <sup>1</sup>	(1.6)	3.7	(10.3)	0.1	(2)	(2)	12.5	(15.7)	(4.1)	15.3	7.2	(6.0)

<sup>1</sup> In percent.

<sup>2</sup> Not available.

<sup>3</sup> Extractor/processor data for 1998/99-2003/04 are compiled from extractor questionnaire responses. Companies reported processing approximately 80 percent of all Florida oranges processed.

<sup>4</sup> Reporting companies processed 82 percent of all U.S. oranges processed.

Note 1.-- From 1983 to 1986 the crop year is from December to November (i.e. crop year 1983 is for the time period December 1, 1982 to November 30, 1983). From 1997 to 2004 the crop year is from October to September (i.e. crop year 1997 is for the time period from October 1996 to September 1997).

Note 2.--Because of rounding, figures may not add to the totals shown.

Source: Compiled from *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Review), USITC Publication 3195, May 1999; data submitted in response to Commission questionnaires; and official Commerce statistics.

covered imports from all manufacturers and exporters of FCOJM from Brazil,<sup>12</sup> other than imports produced by Sucocitrico Cutrale, which was excluded from the order.<sup>13</sup> Subsequent revocations/exclusions from the order included: Cargill Citrus Ltd. (“Cargill Agricola”), Citrosuco,<sup>14</sup> Coopercitrus Industrial Frutesp S.A. (“Frutesp”),<sup>15</sup> Frutropic,<sup>16</sup> and Montecitrus Trading S.A. (“Montecitrus”).<sup>17</sup>

### COMMERCE’S FINAL RESULTS OF EXPEDITED REVIEW

On September 7, 2004, Commerce determined that revocation of the antidumping duty order on FCOJM from Brazil would likely lead to continuation or recurrence of dumping. The weighted-average dumping margins, as reported by Commerce, that would occur if the antidumping duty order were to be revoked are as follows: Citrovita (15.98 percent *ad valorem*) and all others (1.96 percent *ad valorem*).<sup>18</sup> Commerce has not issued a duty absorption determination with respect to this order.

### COMMERCE’S ADMINISTRATIVE REVIEWS

Commerce has conducted 12 administrative reviews of the antidumping duty order on FCOJM from Brazil, as shown in table I-3.

---

<sup>12</sup> In crop year 2003/04, subject imports were \*\*\* percent of the share of total available FCOJM, nonsubject imports were \*\*\* percent of total available FCOJM. See Table I-2.

<sup>13</sup> 52 FR 16426, May 5, 1987.

<sup>14</sup> 56 FR 52510, October 21, 1991.

<sup>15</sup> 56 FR 52510, October 21, 1991. In 1993, Louis Dreyfus purchased the shares and assets of Frutesp, and the following year Frutesp changed its name to COINBRA-Frutesp. Commerce initiated a changed circumstances review to determine whether COINBRA-Frutesp is the successor-in-interest to Frutesp for purposes of determining antidumping duty liability with respect to imports of FCOJ from Brazil produced and exported by COINBRA-Frutesp. 70 FR 3904, January 19, 2005.

<sup>16</sup> 59 FR 53137, October 21, 1994.

<sup>17</sup> On December 27, 2004, domestic parties FCM, Duda, Citrus World, Peace River, and Southern Garden Citrus Processing Corp. (“Southern Gardens”) filed an antidumping petition on certain orange juice from Brazil (Inv. No. 731-A-1089 (Preliminary)). The scope of that investigation includes FCOJM produced by the manufacturers/exporters in Brazil that are not covered by the existing antidumping duty order on FCOJM from Brazil.

<sup>18</sup> *Frozen Concentrated Orange Juice From Brazil; Final Results of the Expedited Sunset Review of the Antidumping Order*, 69 FR 54117, September 7, 2004.

**Table I-3**  
**FCOJM: Commerce's administrative reviews, 1987-2004**

<b>Period of review</b>	<b>Date results published</b>	<b>Margin (percent)</b>
April 29, 1987 to April 30, 1988	June 29, 1990 (55 FR 26721)	Citrosuco ..... 0.00 Branco Peres Citrus S.A. .... 0.00 Citrovale S.A. .... 0.00 Citro Mojiana Ltda. .... 0.00 Montecitrus Trading S.A. .... 0.00 Coopercitrus Industrial Frutesp S.A. .... 0.01 Cargill Citrus Ltda. .... 0.07 Frutropic S.A. .... 0.34 CTM (formerly Citropectina) ..... 1.96 Quimicas Unidas S.A. .... 1.96 All others ..... 0.00
May 1, 1988 to April 30, 1989	November 14, 1990 (55 FR 47502)	Cargill Citrus Ltda. .... 0.00 Coopercitrus Industrial Frutesp S.A. .... 0.00 Citrosuco Paulista S.A. .... 0.06
May 1, 1989 to April 30, 1990	October 21, 1991 (56 FR 52510)	Citrosuco Paulista S.A. .... 0.03 Coopercitrus Industrial Frutesp S.A. .... 0.04 Frutropic S.A. .... 0.06
May 1, 1990 to April 30, 1991	April 14, 1992 (57 FR 12910)	Frutropic S.A. .... 0.00
May 1, 1991 to April 30, 1992	October 21, 1994 (59 FR 53137)	Branco Peres Citrus S.A. .... 0.03 All others ..... 1.96
May 1, 1992 to April 30, 1993	February 7, 1997 (62 FR 5798)	CTM (formerly Citropectina) ..... 0.98 Branco Peres Citrus ..... 2.52
May 1, 1993 to April 30, 1994	May 12, 1998 (63 FR 26145)	CTM (formerly Citropectina) ..... 0.00 Branco Peres Citrus ..... 0.18
May 1, 1995 to April 30, 1996	May 30, 1997 (62 FR 29328)	Branco Peres Citrus S.A. .... 0.00
May 1, 1997 to April 30, 1998	August 11, 1999 (64 FR 43650)	Branco Peres Citrus ..... 39.18 Citrovita Agro Industrial S.A./ Cambuhy Industrial Ltda./ Cambuhy Citrus Comerciale Exportador Ltda. .... 63.55
May 1, 1998 to April 30, 1999	November 7, 2000 (65 FR 66691) <sup>1</sup>	Citrovita Agro Industrial S.A./ Cambuhy Industrial Ltda./ Cambuhy Citrus Comerciale Exportador Ltda. .... 14.77
May 1, 1999 to April 30, 2000	October 5, 2001 (66 FR 51008)	Citrovita Agro Industrial S.A./ Cambuhy Industrial Ltda./ Cambuhy Citrus Comerciale Exportador Ltda. .... 15.98
May 1, 2000 to April 30, 2001	June 14, 2002 (67 FR 40913)	Branco Peres Citrus ..... 0.00
<p><sup>1</sup> The November 7, 2000 (65 FR 66691) notice is the amended final determination for the period May 1, 1998 to April 30, 1999. The original determination was published on October 11, 2000 (65 FR 60406).</p> <p>Note.--No reviews were conducted in 1994-95, 1996-97, 2001-02, and 2002-03.</p> <p>Source: Cited <i>Federal Register</i> notices.</p>		

**DISTRIBUTION OF CONTINUED DUMPING AND SUBSIDY  
OFFSET FUNDS TO AFFECTED DOMESTIC PRODUCERS**

Since September 21, 2001, qualified U.S. producers of FCOJM have been eligible to receive disbursements from Customs under the Continued Dumping and Subsidy Offset Act of 2000 (“CDSOA”), also known as the Byrd Amendment.<sup>19</sup> Table I-4 presents CDSOA claims and disbursements for federal fiscal years 2002-04.

**Table I-4  
FCOJM: CDSOA claims and disbursements, by firms, and clearing account amounts, Federal fiscal years 2002-04<sup>1</sup>**

Item	2002	2003	2004
	<b>Value (dollars)</b>		
Amount of claim filed: <sup>2</sup>			
A. Duda & Sons, Inc.	75,817,395	(³)	75,603,013
Citrus World	277,335,313	276,551,117	276,551,003
LD Citrus, Inc. (successor to Caulkins Indiantown Citrus)	62,553,000	(³)	(⁴)
Total	415,705,708	276,551,117	352,154,016
Amount disbursed: <sup>5</sup>			
A. Duda & Sons, Inc.	214,382	(³)	27,822
Citrus World	784,196	114	101,773
LD Citrus, Inc. (successor to Caulkins Indiantown Citrus)	176,875	(³)	(³)
Total	1,175,453	114	129,595
Amount in clearing account <sup>6</sup>	1,112,075	1,097,764	1,023,975
<sup>1</sup> No funds relating to this order were disbursed during FY 2001. <sup>2</sup> Qualifying expenditures incurred by domestic producers since the issuance of an order, as presented in Section I of the CDSOA <i>Annual Reports</i> . <sup>3</sup> None reported. <sup>4</sup> Certifications have been received by Customs, but not validated. <sup>5</sup> As presented in Section I of Customs' CDSOA Annual Reports. <sup>6</sup> Amount of antidumping duty cash deposits and bonds on all unliquidated anti-dumping duty entries as of October 1, as presented in Section III of Custom's CDSOA <i>Annual Reports</i> .			
Source: U.S. Customs and Border Protection's CDSOA <i>Annual Reports</i> . Retrieved at <a href="http://www.cbp.gov/xp/cgov/import/add_cvd/">www.cbp.gov/xp/cgov/import/add_cvd/</a> .			

<sup>19</sup> 19 CFR 159.64(g).

## THE SUBJECT PRODUCT

The imported product subject to the antidumping order under review, as defined by Commerce in the original investigation is, “frozen concentrated orange juice (FCOJ) in a highly concentrated form for transport and further processing, sometimes referred to as frozen concentrated orange juice for manufacturing (FCOJM).”<sup>20</sup> The scope remained unchanged in the first five-year review, although Commerce clarified that pulpwash, a by-product of FCOJM which is composed of water-extracted soluble orange solids, is outside the scope of the order.<sup>21</sup> Frozen concentrated orange juice is currently classified under Harmonized Tariff Schedule (“HTSUS”) subheading 2009.11.00.<sup>22 23</sup>

There are three primary types of oranges: specialty oranges, sour/bitter oranges, and round oranges. Ninety-two percent of FCOJM is processed from round oranges (*see* figure I-1). Other types of specialty oranges, such as tangerines, may be processed into orange juice. However, according to Florida Citrus Code Standards, any juice that contains more than ten percent volume from specialty oranges cannot be labeled as orange juice and must be marketed as mixed citrus juice, beverage base, or other non-orange juice product.

The manufacturing process for FCOJM can be separated into two phases. The first is growing and harvesting of oranges and the second is extracting juice from the oranges and concentrating the fresh juice. After FCOJM is produced it can be re-manufactured by reconstitutors. To reconstitute FCOJM, water and essences are added to FCOJM and the reconstituted juice is packaged and sold for retail.<sup>24</sup> These three phases are usually conducted by separate firms or individuals, although it is not uncommon for large extractors to own groves or reconstitute and package FCOJM. Further detail on the extracting and reconstituting phase are provided in the following text.

There are approximately 19 extractor/processor corporations and cooperatives in Florida.<sup>25</sup> At the processing plant, the oranges are inspected; random samples are taken to test for Brix level,<sup>26</sup> color, juice yields, etc.; and the fruit is stored. Figure I-2 presents a graphic presentation of FCOJM processing steps.

---

<sup>20</sup> 52 FR 8326, March 17, 1987.

<sup>21</sup> 64 FR 16902, n. 1, April 7, 1999.

<sup>22</sup> In the HTSUS, the volume (i.e., liter or gallon) of FCOJM, is on a single strength equivalent (“SSE”) basis. SSE is the volume of single strength juice, with a concentration level between 9 to 19 degrees Brix, that can be reconstituted from concentrated orange juice. The Brix level is a measurement of the sugar content expressed in percent by weight of solids. The normal trade relations rate of duty for subheading 2009.11.00 is 7.85 cents per liter (29.72 cents per SSE gallon). For NAFTA-eligible goods of Mexico the tariff for quota FCOJM is 4.625 cents per liter (17.51 cents per SSE gallon) and the over-TRQ rate is 4.717 cents per liter (17.86 cents per SSE gallon) for all other FCOJM.

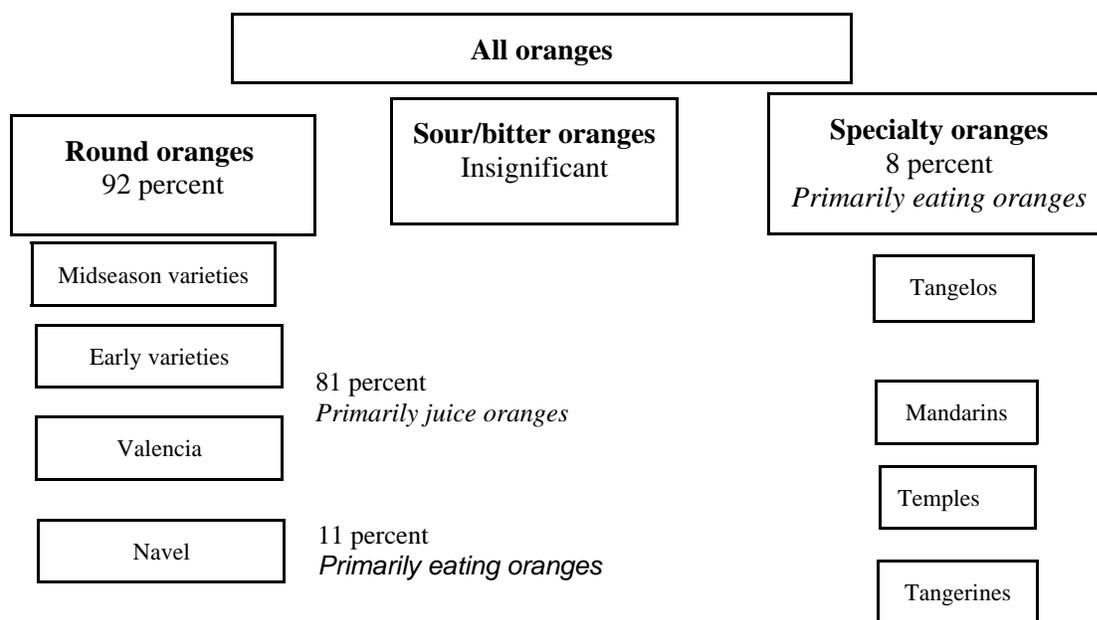
<sup>23</sup> Processors that both import and export FCOJ are eligible for duty drawback on imports that are reprocessed and subsequently exported. “If both imported merchandise and any other merchandise of the same kind and quality are used to manufacture articles, some of which are exported or destroyed before use, then drawback not exceeding 99 percent of the duty which was paid on the imported merchandise may be payable on the exported/destroyed articles. It is immaterial whether the actual imported merchandise or the domestic merchandise of the same kind and quality was used in the exported/destroyed articles. This provision in the Code makes it possible for firms to obtain drawback without the expense of maintaining separate inventories for dutiable and other merchandise (Section 1313(b)).” Retrieved at [www.customs.gov](http://www.customs.gov).

<sup>24</sup> Reconstitutors are not considered to be part of the domestic production of FCOJM.

<sup>25</sup> Florida Citrus Processors Association Statistical Summary 2000-01.

<sup>26</sup> Brix, as used in the citrus industry, is a measure of the total soluble solids in the juice or concentrate. These soluble solids are primarily sugars; sucrose, fructose, and glucose. Citric acid and minerals in the juice also contribute to the soluble solids. Brix is reported as “degrees Brix” and is equivalent to percentage. For example, a juice which is 12 degrees Brix has 12 percent total soluble solids.

**Figure I-1**  
**Oranges: Types and varieties of product grown in U.S. and share of total production**



Source: Compiled from official statistics of the U.S. Department of Agriculture.

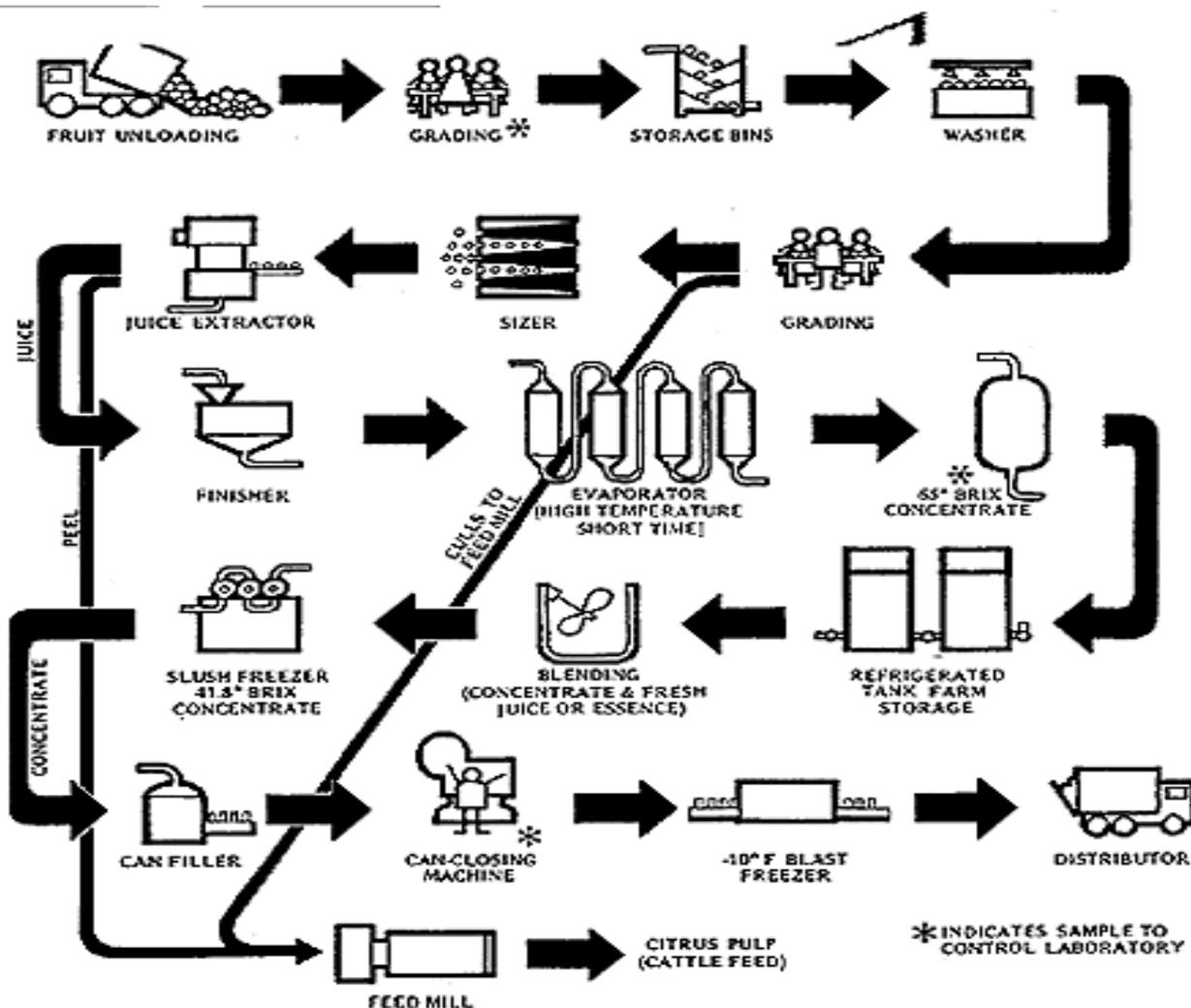
When sufficient fruit is available, the oranges are washed and sized before the juice is extracted and filtered from the seeds, pulp, and peel.<sup>27</sup> The juice is heated to inactivate the natural enzymes present in the juice, then the juice is concentrated in a high vacuum evaporator. The resulting juice soluble solids (Brix) are approximately 11.8 degrees, and in this phase the orange juice is referred to as single strength orange juice. The orange juice is then concentrated to FCOJM by evaporating water until a Brix level of approximately 65 degrees is achieved, at which point the FCOJM will represent less than 15 percent of its pre-concentrated volume.<sup>28</sup> This concentrate is then cooled until partially frozen, tested for quality characteristics, and placed in storage or transportation vessels.<sup>29</sup> As FCOJM is the most condensed orange juice concentrate, its reduced volume and weight make it the most cost effective product to store and transport.

<sup>27</sup> At this point in the extracting process, oranges may be blended to manipulate the final characteristics of the orange juice. Orange juice is not always blended, but when blending is preferred to provide optimal quality and quantity, it can be done in the extracting or reconstituting phase. Blending for quality may involve both domestic and imported juice, and is based on characteristics such as color and sweetness. Blending for quantity involves supplementing domestic orange juice with imported orange juice. *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Review), USITC Publication 3195, May 1999, p. I-6.

<sup>28</sup> FCOJM is defined as frozen concentrate with a Brix level higher than 51 degrees. However, most commonly FCOJM is concentrated to 65 degrees. It is also possible to concentrate orange juice into frozen concentrate at lower Brix levels. The two other categories of frozen concentrate are: frozen concentrated orange juice for retail ("FCOJR") which is concentrated to 40-50 degrees Brix and will represent 25 percent of its pre-concentrated volume, and all others ("FCOJM-other") which is concentrated to 20-39 degrees Brix. FCOJM-other is a concentration level that is virtually never used for storing or shipping FCOJM; FCOJM is the principal product that is utilized in storage and transportation. *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Final), USITC Publication 1970, April 1987, p. R-12.

<sup>29</sup> FCOJM is usually transported in 55-gallon drums or bulk storage tanks.

Figure I-2  
FCOJM: Processing steps



Source: "Frozen Concentrated Orange Juice from Florida Oranges," University of Florida, IFAS Extension, retrieved at <http://edis.ifas.ufl.edu>.

FCOJM is sold to dairies and other processors, who reconstitute and package FCOJM for retail into either single strength juice ("SSOJ") or FCOJR. Reconstituting, which does not require extraction or concentration equipment, is generally accomplished closer to the marketplace in order to reduce transportation costs by avoiding the cost of shipping water. FCOJM is reconstituted in a mixing tank by adding water, as well as oil and essences that were lost during the evaporation process.

In the first five-year review, reported improvements in production included: the invention of microsprinkler irrigation and innovative new production methods, such as high-density planting which permits maximum utilization of the available grove acreage. Additionally, the imposition of the antidumping order and changes in the U.S. tax code reportedly gave investors increased confidence and incentive to invest in planting new groves south of the freezing zones in Florida. The ability of the U.S. industry to expand further, however, was reportedly limited by the amount of land suitable for planting,

availability and cost of labor, costs of irrigation and cultivation, and difficulties obtaining credit.<sup>30</sup> In this second five-year review, questionnaire respondents did not indicate any improvements to production.

## DOMESTIC LIKE PRODUCT ISSUES

In its original determination, three of the five sitting Commissioners found the appropriate domestic like product to be FCOJM and the relevant domestic industry to consist of the U.S. extractors of orange juice that produce FCOJM and U.S. growers of round oranges.<sup>31</sup> In the first five-year review, the Commission found that the definition of the domestic like product remained unchanged from that in the original determination. The petitioner supports the existing definition of the domestic like product.<sup>32</sup> The respondent did not comment on the definition of the domestic like product in their response to the notice of institution.

## U.S. MARKET PARTICIPANTS

### U.S. Producers

The Commission has previously defined producers of FCOJM as growers and extractor/processors of round oranges, and it specifically excluded reconstitutors from the definition of the domestic producers.<sup>33</sup> Since the original investigation and the first five-year review both the amount of acreage utilized for growing oranges for FCOJM and the number of producers (both growers and extractor/processors) has decreased.

Consistent with the original investigation, U.S. round orange growers are almost exclusively located in Florida, California, Arizona, and Texas. As of 2004, Florida had 74 percent of total U.S. orange bearing acres.<sup>34</sup> In 1987, the number of growers in Florida was estimated to be over 10,000. At the time of the first five-year review, it was estimated there were at least 11,000 growers in Florida.<sup>35</sup> Currently, the number of growers in Florida is estimated to be under 11,000.<sup>36</sup>

The number of extractor/processor firms in Florida declined from 36 to 29 from the end of the crop years in 1983 to 1987; during the original investigation there were also at least four California extractor/processor firms. In 1999, at the time of the first five-year review, there were 26 extractor/processor firms in Florida and one in California.

---

<sup>30</sup> *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Review), USITC Publication 3195, May 1999, p. I-6.

<sup>31</sup> *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Final), USITC Pub. 1970, April 1987, pp. 3, 31, 47, and 77. One Commissioner found the domestic like product to include FCOJM and FCOJR and one Commissioner found the domestic like product to include FCOJM, FCOJR, and single strength orange juice.

<sup>32</sup> Petitioner's response to the notice of institution, May 21, 2004, p. 32.

<sup>33</sup> "The domestic industry includes the extractors which extract orange juice from oranges and process it into FCOJM, since such extractors produce the like product. The domestic industry, however, does not include reconstitutors, since they further process FCOJM but do not manufacture FCOJM . . . . We also determine that the growers of round oranges are included within the definition of the domestic industry." USITC Publication 3195, May 1999, pp. 10 and 16.

<sup>34</sup> See Part III at table III-3.

<sup>35</sup> *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Review), USITC Publication 3195, May 1999, p. I-7.

<sup>36</sup> This estimation is based on responses to Commission questionnaires. The Commission sent grower questionnaires to 550 persons and firms, selected by random sample from the Florida Citrus Mutual's membership list. Approximately 65 of the questionnaires were returned with notes that indicated the recipient never was or currently is not a grower of oranges (i.e. the grove had been sold and/or redeveloped, the owner was deceased, or the individual never grew oranges).

During the period of investigation for the first review, several of these extractor/processors held relationships with Brazilian orange-processing firms: Alcoma Packing Co. (owned by Citrosuco), Berry Citrus Products (owned by Cargill), Cargill Citro-America, Cutrale Citrus Juice USA, and Winter Garden Citrus (owned by Louis Dreyfus Co., which also owns Coopercitrus, a Brazilian FCOJM producer).<sup>37</sup>

Currently, there are approximately 19 domestic extractor/processor firms. Of the six foreign extractor/processor questionnaire responses, four reported affiliations with firms that produce FCOJM in the United States: COINBRA Frutesp (manufacturing operations in Florida, owned by Louis Dreyfus Citrus Inc.), Cargill Agricola (Cargill Juice North America USA), Citrus Products Inc. (Cutrale Citrus Juices USA Inc.), and Fischer S/A Agroindustria, or Citrosuco Paulista (Citrosuco North America, Inc.).

The most significant trend over the past two decades may be the decline in the percentage of processors that are local Florida companies. At least two processors are Brazilian-owned companies and there are Japanese, French, and Canadian interests in a number of other processors. Anecdotal accounts suggest that attempts to vertically integrate growing and processing operations have not been particularly successful.<sup>38</sup>

### **U.S. Importers**

During the original investigation, the largest quantities of FCOJM imports from Brazil were imported by three major companies (Citrus Products, Juice Farms, and Cargill) and by the largest Florida processors (Coca Cola Foods, Tropicana, Citrus Hill, and Lykes Pasco). Small processors and large reconstitutors were also reported to import FCOJM.<sup>39</sup> During the review period the largest importers of FCOJM from Brazil include \*\*\*.

### **TOTAL AVAILABLE FCOJM AND MARKET SHARES**

Due to the blending of domestic and imported orange juice throughout the production process, apparent U.S. consumption was not derived during the original investigation or the first five-year review, but rather total available FCOJM was calculated. In this second five-year review, we will employ the same methodology adopted in the two earlier reports, and will derive total available FCOJM by adding production from Florida crops, imports, and carryover stock. Table I-5 presents total available FCOJM for the review period.

Florida production of FCOJM has fluctuated over the period of investigation for the second review, ranging between 44.8 and 55.4 percent of total available FCOJM annually. Total imports as a share of total available FCOJM have decreased from 24.7 percent in 1989/99 to 13.1 percent in 2003/04, although imports share rose to 19.0 percent in 2002/03. Subject imports, however, have decreased both absolutely and as a percentage of total available FCOJM from \*\*\* percent in 1998/99 to \*\*\* percent in 2003/04, except for a brief increase in 1999/00. Domestic carryover stock has increased by 18.5 percent from 419 million gallons SSE in 1998/99 to 496 million gallons SSE in 2003/04; however the rate of increase was not continuous, carryover stock rose from 1998/99 to 2001/02 by 22.4 percent, but then decreased by 3.3 percent from 2001/02 to 2003/04.

---

<sup>37</sup> *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Review), USITC Publication 3195, May 1999, p. I-7.

<sup>38</sup> Staff telephone interview with \*\*\*.

<sup>39</sup> *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Final), USITC Publication 1970 April 1987, p. R-26. See also *Frozen Concentrated Orange Juice from Brazil*, Investigation No. 731-TA-326 (Review), USITC Publication 3195, May 1999, pp. I-10 to I-11.

Table I-5

**FCOJM: Domestic production, U.S. imports, and total available FCOJM, crop years 1998/99-2003/04**

Item	Crop year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
<b>Quantity (million gallons SSE)</b>						
Florida production	636	831	784	860	627	873
Carryover stock	419	421	451	513	507	496
U.S. imports from--						
Brazil (subject) <sup>1</sup>	***	***	***	***	***	***
Brazil (non-subject)	***	***	***	***	***	***
Total Brazil	260	230	163	105	207	143
All other countries	85	98	85	73	59	64
Total imports	345	329	249	178	266	207
Total available FCOJM	1,399	1,580	1,483	1,552	1,400	1,576
<b>Share of total available FCOJM (percent)</b>						
Florida production	45.4	52.6	52.9	55.4	44.8	55.4
Carryover stock	29.9	26.6	30.4	33.1	36.2	31.5
U.S. imports from--						
Brazil (subject) <sup>1</sup>	***	***	***	***	***	***
Brazil (non-subject)	***	***	***	***	***	***
Total Brazil	18.6	14.6	11.0	6.8	14.8	9.1
All other countries	6.1	6.2	5.7	4.7	4.2	4.1
Total imports	24.7	20.8	16.8	11.5	19.0	13.1
<p><sup>1</sup> Data for subject imports from Brazil are not available for October-December 1998, therefore data for crop year 1998/99 only presents January-September 1999 imports.</p> <p>Note.—Crop year is from October-September.</p> <p>Source: Florida Citrus Processors Association Statistical Summary 2003-04; USDA, Economic Research Services; official Commerce statistics; and proprietary Customs data.</p>						

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

### **U.S. MARKET SEGMENTS**

Frozen concentrated orange juice is sold to dairy processors, retail and food service outlets, producers of various food products, commodity businesses, and reconstitutors and repackers for use in such end products as FCOJR, reconstituted orange juice, ready-to-serve orange juice, multi-fruit juice blends, and baby food. Certain firms sell nationally, whereas others concentrate on their local markets. FCOJM is sold in bulk tanker shipments or in 55-gallon drums.

### **U.S. CHANNELS OF DISTRIBUTION**

Fifteen purchasers<sup>1</sup> responded to the purchaser questionnaire.<sup>2</sup> Five purchasers were distributors, five were reconstitutor/repackers, four were both reconstitutor/repackers and distributors, and one did not provide the information needed to classify it. One importer noted that it does not directly re-sell produced or imported FCOJM but rather uses the FCOJM as a raw material to produce a variety of finished goods in various packages and container sizes to sell in the U.S. market and to export.<sup>3</sup>

### **SUPPLY AND DEMAND CONSIDERATIONS**

#### **U.S. Supply**

##### **Domestic Production**

Most purchasers, importers, and extractor/processors of FCOJM cited the string of hurricanes that took place in August and September 2004 for an anticipated reduction in crop size and price increases in 2004/05 due to high levels of crop destruction during the hurricanes.<sup>4</sup> However, domestic producers may benefit from preferences that promote U.S. demand for their products.<sup>5</sup> Based on available information, staff believes that U.S. FCOJM producers are likely to respond to changes in demand with moderate changes in shipments of U.S.-produced FCOJM to the U.S. market. Factors contributing to the moderate responsiveness of supply are inventory levels and available unused industry capacity.

---

<sup>1</sup> \*\*\*.

<sup>2</sup> All but one of these firms answered the question on whether the purchasers were reconstitutors/repackers, distributors, or other. Two firms indicated other and described activities consistent with being a distributor and thus were classified as distributors. One firm answered reconstitutor/repacker, distributor, and other, indicating other activities included retail, wholesale, export, and blending.

<sup>3</sup> \*\*\*.

<sup>4</sup> USDA's Florida Agricultural Statistics Service has forecast 168 million boxes for all Florida oranges in 2004-2005, compared with 242 million boxes in 2003-2004 and 203 million boxes in 2002-2003.

<sup>5</sup> Ten of the 15 responding purchasers reported either they or their customers specifically order FCOJM from one country in particular over other possible sources of supply, and seven of those ten reported reasons having to do with buy American, 100-percent Florida, or product of Florida preferences and/or labeling.

### ***Industry capacity***

U.S. extractor/processors' reported capacity utilization for FCOJM increased from 63.6 to 84.0 percent from crop years 1998/99 to 2003/04.<sup>6</sup> This level of capacity utilization indicates that U.S. extractor/processors of FCOJM have some available capacity with which they could increase production of FCOJM in the event of a price change, assuming additional oranges are available for processing. However, the production of FCOJM is largely dependent on the supply of oranges, which is expected to be lower at least in crop year 2004/05 due to damage from the August and September 2004 hurricanes, which would tend to moderate the supply response. Juice processors purchase approximately 95 percent of Florida fresh orange production.

U.S. extractor/processors of FCOJM were asked about factors affecting supply since 1999. Three extractor/processors reported there were no changes in factors affecting supply, and three reported the hurricanes of 2004 as significant factors affecting supply. One extractor/processor also cited higher costs of fuel and labor as factors affecting the supply of FCOJM since 1999.

### ***Alternative markets***

Domestic extractor/processors' exports rose between 1999 and 2004 but remained a small share of their total shipments of FCOJM. Export shipments rose to 9.0 percent of total shipments in 2003/04, and this relatively low level of exports during the period indicates that domestic producers may be somewhat constrained in their ability to shift shipments between the United States and other markets in response to price changes. Three of the seven extractor/processors indicated that sales could be shifted from the U.S. market to alternative markets if drawback duties<sup>7</sup> were available. One extractor/processor responded that it would be difficult to shift sales due to a lack of distribution infrastructure, and one reported that sales could not be shifted due to lower-priced foreign competition. One extractor/processor added that the Florida industry will export significant quantities either when Brazil has a poor crop or when there are niche markets that place a premium on the quality of the Florida product.

U.S. total orange juice exports grew in the 1990s, but not-from-concentrate orange juice ("NFCOJ"), rather than FCOJ, was responsible for the majority of the increase. Due to its proximity to U.S. producing areas, Canada is the likely destination for NFCOJ exports from the United States.<sup>8</sup>

### ***Inventory levels***

Moderate inventories relative to total shipments indicates that U.S. producers are able to use inventories as a means to respond to changes in demand. Inventories decreased slightly from \*\*\* percent of U.S. extractor/processors' total shipments in 1998/99 to \*\*\* percent in 2003/04.<sup>9</sup>

### ***Production alternatives***

Some extractor/processors reported they can use the same equipment and machinery and/or the same production and related workers employed that are used to make FCOJM to produce NFC/single

---

<sup>6</sup> See table III-6.

<sup>7</sup> U.S. Customs and Border Protection defines duty drawback as a refund of duty paid on imported merchandise that is linked to an exportation (or destruction) of an article.

<sup>8</sup> *U.S. Agriculture and the Free Trade Area of the Americas*, AER-827, Economic Research Service/USDA, March 2004.

<sup>9</sup> See table III-9.

strength orange juice, as well as other types of juices, such as grapefruit and frozen concentrate grapefruit juice.

### **Subject Imports**

In 2003/04, subject imports from Brazil were \*\*\* percent of total U.S. imports, which was a decrease from 1998/99. Together, Brazil, Mexico, Costa Rica, and Belize<sup>10</sup> account for over 95 percent of U.S. total orange juice imports.<sup>11</sup> Due to the ease of shipping internationally, the majority of U.S. orange juice imports is FCOJM. Based on available information, suppliers of subject imports of FCOJM from Brazil would have the potential to respond to changes in demand with relatively large changes in the quantity shipped to the U.S. market. Supply responsiveness is increased by some excess capacity, ample alternate markets, and a large percentage of inventories as a share of total shipments. On the other hand, potential constraints on supply responsiveness include the availability of oranges and existing supply commitments to third-country markets.

### **Industry capacity**

Reported Brazilian subject capacity increased from \*\*\* pounds in 1999 to \*\*\* pounds in 2003.<sup>12</sup> Capacity utilization rates, however, were higher in 1999, at \*\*\* percent, than in 2003, at \*\*\* percent. These data indicate that subject Brazilian suppliers of FCOJM have some excess capacity with which they could increase production of FCOJM in the event of a price change.

### **Alternative markets**

Brazil is the world's largest exporter of FCOJM. Data on all Brazilian suppliers' shipments of FCOJM indicate that exports to the European Union were over 10 times larger than exports to the United States in 2003. The questionnaire response from the Brazilian suppliers subject to the order indicates exports of \*\*\* pounds to the U.S. market in 2003, down from \*\*\* pounds in 1999.<sup>13</sup> Projected exports to the U.S. market are \*\*\* than in 2003. These suppliers had significant exports to other markets, especially the European Union, and thus have the ability to shift some exports to the U.S. market.

### **Inventory levels**

Data on the inventory levels of foreign producers of the subject product indicate that inventories of subject product as a share of total shipments decreased from \*\*\* percent in 1999 to \*\*\* percent in 2003. These data indicate that foreign producers of the subject product have the ability to use inventories as a means of increasing shipments of FCOJM to the U.S. market from year to year.

---

<sup>10</sup> Mexico, Costa Rica, and Belize are competitive in the U.S. market due in part to preferential free trade agreements (the North American Free Trade Agreement and the Caribbean Basin Initiative).

<sup>11</sup> *U.S. Agriculture and the Free Trade Area of the Americas*, AER-827, Economic Research Service/USDA, March 2004.

<sup>12</sup> See table IV-5 and discussion of subject Brazilian capacity and capacity utilization in hearing transcript, pp. 109-114, (Scabbia and Greenwald).

<sup>13</sup> See table IV-5.

### ***Production alternatives***

In addition to other types of juices, not-from-concentrate orange juice can be processed using the same equipment and machinery.

### **U.S. Demand**

Based on available information, FCOJM consumers are likely to respond to changes in the price of FCOJM with small changes in their purchases of FCOJM. One contributing factor to the moderate to low responsiveness of demand is that FCOJM accounts for a wide range of the total cost of the various end products in which FCOJM is used and price changes for FCOJM will likely have a moderate effect on consumption.

### **Demand Characteristics**

U.S. demand for FCOJM depends on the level of demand for downstream products using FCOJM. FCOJM is used in FCOJR, ready-to-serve orange juice, reconstituted orange juice, and baby food, as well as a dispensed product for use in food-service applications and an ingredient in multi-juice fruit blends. Two importers responded that there has been an increase in the number of products that use FCOJM as an ingredient, including less-than-100-percent juices. One noted that the two largest marketers of orange juice are the two largest producers of soft drinks, and they will continue to develop and introduce new products. One purchaser cited the recent launch of new products designed to target adherents of the popular low-carbohydrate diets.

When asked if demand had changed since 1999, ten purchasers reported that demand had decreased; three firms reported that it had increased; one firm reported that it was unchanged; and one firm did not answer. The main reasons purchasers reported for decreased demand were the popularity of diets such as Atkins and South Beach, which promote low-carbohydrate foods, and the trend in consumer preferences away from FCOJ toward NFC and less-than-100-percent juices.<sup>14</sup> All six responding importers reported that demand had decreased between 1999 and 2004, and three of the six expect it to decrease further in the future, also citing the low-carbohydrate diets and increasing popularity of NFC juices. The other three importers reported that they expect no change in the future. Five of the seven responding extractor/processors reported that they expect continued future demand decreases.

### **Substitute Products**

Nine of the 15 responding purchasers<sup>15</sup> reported that there are no substitutes for FCOJM. Three reported that NFCOJ was a substitute; other substitutes reported included fruit drinks or pulp wash, soda, flavored water, reconstituted orange juice, and other fruit juices. Five of the seven extractor/processors and four importers who responded to the question said there are substitutes for FCOJM, including NFCOJ, reconstituted orange juice, other fruit juices and concentrates, less-than-100-percent juice, multi-fruit blends, soda, and flavored water. Two extractor/processors and one importer said there are no substitutes for FCOJM.

---

<sup>14</sup> According to USDA's Economic Research Service ("Consolidated Markets, Brand Competition, and Orange Juice Prices," June 2002, p.6), chilled orange juice first outsold FCOJ in 1990, and the gap has consistently widened since that time.

<sup>15</sup> Five of the nine purchasers reported no substitutes for FCOJM; the other four reported unknown or not applicable.

Twelve of the 15 purchasers do not anticipate any changes in the substitutability of other products for FCOJM in the future, whereas two cited continued “share of stomach” competition from the substitutes cited previously. Two importers and three extractor/processors also responded that they anticipate continued competition between FCOJM and the listed substitutes. One importer suggested that it has recently been reported that bottled water consumption now surpasses milk consumption in the United States, which reflects equally on the sales of FCOJM.

### **Cost Share**

Price changes for FCOJM will likely have a moderate effect on consumption because FCOJM accounts for a wide range of the total cost of the various end products in which FCOJM is used. Purchasers also were asked to provide information on the cost share of FCOJM relative to the end products in which it is used. Reported cost shares varied widely due to the wide range of end products; for FCOJ products, the reported cost share was generally higher, and for multi-juice blends and less-than-100 percent juices, the cost share was generally lower. Nine purchasers provided such information and the cost share ranged from approximately 2 percent for an orange juice/pineapple juice blend to 100 percent for single-strength orange juice. One extractor/processor reported the cost share ranged from 2 percent for FCOJ in 12-ounce cans to 78 percent for reconstituted single-strength juices, and one extractor/processor reported the cost share ranged from 33 percent for shelf-stable juice to 87 percent for bulk juice. The other extractor/processors and the five importers were not able to respond to the cost share question or provided unusable answers.

## **SUBSTITUTABILITY ISSUES**

The degree of substitution between domestic and imported FCOJM depends upon such factors as relative prices, quality, and conditions of sale (e.g., price discounts/rebates, lead times between order and delivery dates, payment terms, product services, etc.). Based on available data, staff believes that while there may be some differences between domestic and imported FCOJM,<sup>16</sup> there is a relatively high degree of substitution between the FCOJM from the United States and from Brazil and other import sources.

### **Factors Affecting Purchasing Decisions**

Purchasers were asked to identify the three major factors considered by their firm in deciding from whom to purchase FCOJM (table II-1). Price was the most commonly cited factor overall. Nine of the 15 responding firms reported that quality was the most important factor, and four responding firms reported that price was the most important factor. The next most commonly cited factor was availability. Other factors reported by more than one firm were flavor, food safety and security compliance, and product consistency.

Purchasers were asked what factors determined the quality of FCOJM. Factors mentioned included true and fresh flavor, acid ratio, degrees Brix, color, pulp ratio, flavor, and the USDA score.

Purchasers were asked if they always, usually, sometimes, or never purchased the lowest priced FCOJM. Nine purchasers reported sometimes purchasing the lowest priced product and five usually purchased the lowest priced product; the other responding purchaser did not answer the question. Purchasers were also asked if they purchased FCOJM from one source although a comparable product

---

<sup>16</sup> See hearing transcript, pp. 15 and 35-36, (Freeman), and pp. 82-83, (Scabbia), for comments on the need for blending Florida and Brazilian FCOJM.

**Table II-1****FCOJM: Most important factors in selecting a supplier, as reported by purchasers**

Factor	First	Second	Third
Quality	9	5	0
Price	4	5	6
Availability	1	2	3
Flavor	1	1	0
Food safety and security compliance	0	1	2
Product consistency	0	0	2
Other	0	1	2

Note: Other category includes service, available credit, and reliability of delivery.

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

was available at a lower price from another source. Nine purchasers responded, reporting reasons why they purchased from a source that might be more expensive. Reasons provided included reliability of supply, approved supplier, packaging that included a “product of Florida” label, quality, price, service, contractual commitments, and customer acceptance.

In rating the importance of 15 factors in their purchasing decisions (table II-2), all 15 responding purchasers rated availability as very important; 14 reported that price, product consistency, quality meets industry standard, and reliability of supply were very important; and 9 reported that delivery time was very important.

Purchasers were asked for a country-by-country comparison on the same 15 factors (table II-3). Nine purchasers completed this comparison for the United States and Brazil, and four of them said the products were comparable in all categories. For the U.S. product compared to the Brazilian product, some reported that the U.S. product was superior to the Brazilian product in delivery time, reliability of supply, quality exceeds industry standards, technical support/service, and lower U.S. transportation costs; the Brazilian product was reported to be superior to the U.S. product for lower price and quality meets industry standards.

Purchasers were asked if certain grades, types, or sizes of FCOJM were available from only a single source. Twelve of the 15 responding purchasers reported that they were not while three purchasers reported certain grades, types, or sizes were only available from a single source. One purchaser cited Brazil as the only viable source for a low viscosity/high color product, and one reported that at certain times of the year, some sources may be able to provide some quality specifications that domestic producers cannot.

Purchasers were asked if they required certification or prequalification for FCOJM. All of the 15 responding purchasers required certification/prequalification. Fourteen required it for all their purchases and one firm reported it depended on the purpose and product. Ten purchasers reported requiring food safety and security inspections, seven reported requiring product samples, and five cited onsite inspections or plant visits. Responding firms reported that it takes generally two to four weeks to certify a supplier.<sup>17</sup>

---

<sup>17</sup> \*\*\* reported a certification time of 3 months.

**Table II-2**

**FCOJM: Importance of purchase factors, as reported by purchasers**

Factor	Very important	Somewhat important	Not important
	<i>Number of firms responding</i>		
Product availability	15	0	0
Lower price	14	1	0
Product consistency	14	1	0
Quality meets industry standards	14	1	0
Reliability of supply	14	1	0
Delivery time	9	6	0
Technical support/service	7	5	3
Delivery terms	6	9	0
Lower U.S. transportation costs	6	8	1
Quality exceeds industry standards	6	5	3
Discounts offered	5	7	3
Product range	4	7	4
Extension of credit	3	7	5
Packaging	3	6	4
Minimum quantity requirements	3	5	7

Note: Not all purchasers responded for each factor.

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

All 15 purchasers reported factors they considered in qualifying a new supplier. Factors considered primarily included price, quality, and reliability. Other factors cited were food availability, safety requirements, kosher certification, type of oranges used, and financial stability. The time required to qualify a new supplier was reported by eight purchasers and ranged from five or six hours to three months.

Purchasers were asked if any suppliers had failed to qualify their product or lost their approved status. Five of the 15 responding firms reported that suppliers had failed to qualify. \*\*\* were cited as firms that had fail to qualify, along with unspecified firms from Mexico and Honduras.

Purchasers were asked a number of questions about whether their purchasing patterns for FCOJM from subject and nonsubject sources had changed since 1999. Five of the 15 responding purchasers reported that they had purchased FCOJM from Brazil before 1999; four of these reported changing their purchase patterns for reasons other than the antidumping duty order and one reported no

**Table II-3**

**FCOJM: Comparisons of product by source country, as reported by purchasers**

Factor	U.S. vs Brazil		
	S	C	I
	<i>Number of firms responding</i>		
Product availability	0	9	0
Delivery terms	0	9	0
Delivery time	1	8	0
Discounts offered	0	9	0
Extension of credit	0	9	0
Lower price	0	7	2
Minimum quantity requirements	0	9	0
Packaging	0	9	0
Product consistency	0	9	0
Quality meets industry standards	0	8	1
Quality exceeds industry standards	1	7	0
Product range	0	8	0
Reliability of supply	2	7	0
Technical support/service	1	8	0
Lower U.S. transportation costs	1	8	0
Note: S=first listed country's product is superior; C=both countries' products are comparable; I=first listed country's product is inferior. Source: Compiled from data submitted in response to Commission questionnaires.			

change in purchases from Brazil.<sup>18</sup> When asked about purchases from nonsubject countries, seven purchasers reported that they did not purchase from nonsubject countries before or after the order; four reported that their purchases from nonsubject countries were essentially unchanged; and four changed their purchases from nonsubject countries for reasons other than the order. One purchaser reported that a drought in Mexico in 2003 and 2004 caused them to contract with a Brazilian supplier until conditions returned to normal.

<sup>18</sup> \*\*\*.

Purchasers were asked how frequently they and their customers purchased FCOJM from specific producers and from specific countries. Their responses are summarized in the following tabulation:

Factor	Always	Usually	Sometimes	Never
Purchaser makes decision based on producer	4	3	4	3
Purchaser's customer makes decision based on producer	0	1	7	5
Purchaser makes decision based on country	3	5	3	4
Purchaser's customer makes decision based on country	2	4	6	2

Twelve of the 15 responding purchasers contacted one to five suppliers before making a purchase, with one contacting more than five suppliers and two not giving an exact number. Eight purchasers reported that they had changed suppliers in the last six years and six reported that they had not. One purchaser did not answer the question directly but reported that it is regularly in the market trading with multiple suppliers.

### Lead Times

Lead times for the U.S. extractor/processors ranged from 1 to 30 days regardless of whether sales were from inventory or produced to order. Two extractor/processors sold all product from inventory, while two sold all product made to order. One extractor/processor reported an even split, and two reported selling more from inventory. Importers reported lead times that ranged from one to seven days. Importers' lead times from inventories had a similar range to those of U.S. extractor/processors, but one importer's lead time from made to order was much longer.<sup>19</sup>

### Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Extractor/processors, importers, and purchasers were asked to report how frequently FCOJM from different countries was used in the same applications (table II-4). If purchasers reported that products from different countries were not always used in the same application, they were asked to explain why. No purchasers reported reasons for differences. Generally, extractor/processors, importers, and purchasers reported that FCOJM from the United States and from other countries is frequently interchangeable. No one reported that the two products are never interchangeable. One importer specified that FCOJM produced in countries other than the United States or Brazil is sometimes not interchangeable due to potential quality concerns. Another importer reported that lumping all FCOJM into one single category ignores a number of realities that significantly affect the FCOJM marketplace.<sup>20</sup> One extractor/processor reported that factors that limit interchangeable use include quantity, price, and availability. One extractor/processor reported that FCOJM from the United States, Brazil, and other

---

<sup>19</sup> \*\*\*.

<sup>20</sup> \*\*\* reported that domestically produced FCOJM lacks the necessary color, and in order to qualify as commercial grade, domestically produced FCOJM needs to be blended with a higher color product, most of which is sourced from Brazil. According to \*\*\*, another factor affecting interchangeability is that domestically produced FCOJM has too high of a viscosity to adequately function in most food dispenser operations, and as a result, the lower viscosity product available from Brazil is required to blend with domestically produced product in order to allow the latter to function in dispensers. \*\*\* reported that finally, Brazilian and domestically produced products are not interchangeable because the former carries duty drawback rights that are sine qua non for exporting domestically produced product.

countries is interchangeable, but certain customers require only U.S. or Florida products for country-of-origin labeling.

**Table II-4**

**FCOJM: U.S. purchasers', importers', and extractor/processors' perceived degree of interchangeability of products produced in the United States and other countries<sup>1</sup>**

Country comparison	U.S. purchasers					U.S. importers <sup>2</sup>					U.S. extractor/processors				
	A	F	S	N	0	A	F	S	N	0	A	F	S	N	0
U.S. vs. Brazil	1	8	1	0	2	1	3	1	0	1	1	3	2	0	0
U.S. vs. Nonsubject	0	4	2	0	4	1	4	1	0	0	0	4	2	0	0
Brazil vs. Nonsubject	0	4	2	0	4	1	3	1	0	1	0	3	1	0	2

<sup>1</sup> Purchasers, importers, and extractors/processors were asked if FCOJM produced in the United States and in other countries is used interchangeably.

<sup>2</sup> Importers were asked to discuss the interchangeability of Brazilian subject and Brazilian nonsubject products. The majority said the products were frequently or sometimes interchangeable.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

Extractor/processors and importers were asked to assess how often differences other than price were significant in sales of FCOJM from the United States, Brazil, and other countries (table II-5). One extractor/processor reported that factors that impart advantages to the United States include the transportation network and technical support.

**Table II-5**

**FCOJM: U.S. importers' and extractor/processors' perceived degree of significance of differences other than price of product produced in the United States and other countries<sup>1</sup>**

Country comparison	U.S. importers <sup>2</sup>					U.S. extractor/processors				
	A	F	S	N	0	A	F	S	N	0
U.S. vs. Brazil	1	1	2	2	0	1	2	2	1	0
U.S. vs. Nonsubject	1	0	3	2	0	1	1	2	1	1
Brazil vs. Nonsubject	1	0	2	2	1	1	1	1	1	2

<sup>1</sup> Importers and extractor/processors were asked if differences other than price between FCOJM produced in the United States and in other countries are a significant factor in their sales of the products.

<sup>2</sup> Importers were asked to discuss the differences between Brazilian subject and Brazilian nonsubject products. The majority said differences other than price are sometimes a significant factor in their sales of the products.

Note: "A" = Always, "F" = Frequently, "S" = Sometimes, "N" = Never, and "0" = No familiarity.

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

## ELASTICITY ESTIMATES

### U.S. Supply Elasticity

The domestic supply elasticity for FCOJM measures the sensitivity of the quantity supplied by U.S. producers to changes in the U.S. market price of FCOJM. The elasticity of domestic supply depends on several factors including the level of excess capacity, the ease with which producers can alter capacity, producers' ability to shift to production of other products, the existence of inventories, and the availability of alternate markets for U.S.-produced FCOJM. Earlier analysis of these factors indicates that the U.S. industry is likely to be able to somewhat increase or decrease shipments to the U.S. market; an estimate in the range of 2 to 4 is suggested.

### U.S. Demand Elasticity

The U.S. demand elasticity for FCOJM measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of FCOJM. This estimate depends on factors discussed earlier such as the existence, availability, and commercial viability of substitute products, as well as the component share of FCOJM in the production of any downstream products. Based on the available information, the aggregate demand for FCOJM is likely to be in a range of -0.3 to -0.5.<sup>21</sup>

### Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products.<sup>22</sup> Product differentiation, in turn, depends upon such factors as quality and conditions of sale. Based on available information, the elasticity of substitution between domestic and subject FCOJM is likely to be in the range of 4 to 6.

---

<sup>21</sup> See *U.S. Agriculture and the Free Trade Area of the Americas*, AER-827, Economic Research Service/USDA, Appendix 5-1, March 2004. The model used specified elasticities for orange juice in general, both FCOJ and not-from-concentrate. The suggested demand elasticity was -0.4, which was found to be consistent with recent literature. The suggested supply elasticity was 0.3 to 0.5 in the short run due to properties of orange production rather than FCOJ production. The suggested elasticity of substitution between FCOJM from the United States and other countries was 5.

<sup>22</sup> The substitution elasticity measures the responsiveness of the relative U.S. consumption levels of the subject imports and the domestic like products to changes in their relative prices. This reflects how easily purchasers switch from the U.S. product to the subject products (or vice versa) when prices change.

## PART III: CONDITION OF THE U.S. INDUSTRY

### U.S. GROWERS

There are approximately 11,000 orange growers in the state of Florida and the Commission sent approximately 550 questionnaires to a random sample of Florida orange growers.<sup>1</sup> No useable questionnaire responses were received from the growers.<sup>2</sup> Table III-1 presents a list of the largest orange growers (greater than 250 bearing acres) in Florida, and table III-2 presents a list of the largest packers of oranges in Florida.

**Table III-1**  
**Oranges: Largest growers in Florida, 2004**

\* \* \* \* \*

### U.S. Bearing Acreage, Production, Inventories, and Shipments

As the data in table III-3 illustrate, approximately three-quarters of the total domestic orange bearing acreage is concentrated in Florida; and Florida growers account for a slightly higher percentage, between 66.0 and 82.5 percent, of the total quantity of domestically harvested oranges over the review period. Although the total amount of bearing acreage has decreased by 8.5 percent, from the 1998/99 to the 2003/04 season, Florida's share of the domestic total has remained relatively constant and the quantity of oranges produced has increased over the review period.

While Florida growers produced more oranges per acre in the 2003/04 season than in the 1998/99 season, productivity fluctuated somewhat during the interim years. As the data in table III-3 illustrate, annual fluctuations in yields have been common over the past two decades. The lowest yield per acre between 1998/99 and 2003/04 came in the first crop year, 1998/99; this was the lowest yield per acre since 1989/90. Therefore, it is useful to view the fluctuations in productivity for the period of investigation within a larger time frame.

There are a variety of factors that affect the yield, including: age of the trees, weather, and technological innovations. Orange trees typically bear fruit between 4 and 12 years after planting. Data on the quantity of trees by age was collected in the original investigation, but due to the low response rate from grower questionnaire recipients, current data are not available.

In the first five-year review, reported improvements in production included the invention of microsprinkler irrigation and innovative production methods, such as high-density planting which permits maximum utilization of the available grove acreage. However, no such improvements were identified in questionnaire responses in this second five-year review.

---

<sup>1</sup> The random sampling was generated from an electronic listing of the 11,000 members of the Florida Citrus Mutual provided to the Commission by counsel for domestic interested parties.

<sup>2</sup> In an apparent form response, members of FCM responded to the Commission that they "have no further interest in continuation of the antidumping order" and "(i)n light of the time and expense necessary for us to respond to this questionnaire, with no possibility of an outcome of benefit to U.S. growers, I respectfully decline to respond at this time. I am also prepared to respond immediately to any questionnaire(s) and/or request(s) for information in connection with a new antidumping investigation, since the U.S. citrus industry is being injured by dumped imports, which are not covered by the current order." See submissions of C.W. Harrison and "Growers not responding".

**Table III-2**  
**Oranges: Top packers of Florida oranges, August 1, 2004 through December 19, 2004**

<b>Grower</b>	<b>Shipments (4/5 bushel boxes)</b>	<b>Share of total (percent)</b>
Dundee Citrus Growers Assn.	663,507	15.8
Lake Placid Groves LLC	318,512	7.6
Haines City Citrus Growers Assn.	284,311	6.7
A. Duda & Sons Inc.	219,881	5.2
Heller Bros Packing Corp.	214,638	5.1
Emerald Packing Co. Inc.	182,686	4.3
Waverly Growers Coop.	148,121	3.5
Hunt Bros Coop.	139,813	3.3
Citrus Country Groves of FL Inc.	137,256	3.3
Green River Packing Inc.-East	134,982	3.2
Ben Hill Griffin Inc.	129,795	3.1
Winter Garden CGA	122,085	2.9
Conoley Citrus Packers Inc.	109,583	2.6
Rio Citrus	102,532	2.4
Egan Pickett Ft. Pierce	99,181	2.4
Sunbrite Citrus Inc.	95,036	2.3
Harbor Island Citrus Inc.	94,248	2.2
The packers of Indian River Ltd.	69,312	1.6
Peace River Packing Co.	66,874	1.6
H & S Citrus Inc.	65,383	1.6
Natural Sun Inc.	64,037	1.5
Sunsational Citrus Inc.	60,524	1.4
Minton Sun Inc.	58,033	1.4
Orange Ring	57,786	1.4
Sun Treasure Packing LLC	57,359	1.4
Oslo Citrus Growers Association	56,797	1.3
John Stephens Inc.	53,278	1.3
James Fruit Co. Inc.	52,550	1.2
Growers less than 50,000 boxes (27 firms)	359,546	8.5
<b>Total</b>	<b>4,217,646</b>	<b>100.0</b>

Source: Florida Department of Agriculture and Consumer Services, retrieved at [www.doacs.state.fl.us/fruits/reports/top25.txt](http://www.doacs.state.fl.us/fruits/reports/top25.txt).

Table III-3

Oranges: Bearing acreage, production, yield, and shares of production by utilization, by state, crop years 1982/83 to 1985/86, and 1992/93 to 2003/04

Item	Crop year (December-November)					Crop year (October-September)										
	1983	1984	1985	1986	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Bearing acreage (1,000 acres)																
Florida	536.8	474.2	420.1	367.6	375.4	510.8	562.8	594.8	624.9	609.2	612.6	602.1	605.0	586.9	587.6	564.8
California	177.4	177.1	175.3	174.6	172.9	185.0	191.0	196.0	200.0	202.2	203.5	199.0	198.0	195.0	189.5	182.0
Texas	24.0	24.3	11.4	8.3	10.3	5.5	7.0	7.9	8.7	9.5	9.3	9.3	9.3	9.3	8.8	8.8
Arizona	12.6	12.6	10.9	11.0	10.9	10.6	10.4	10.1	10.0	9.1	6.9	6.2	6.4	6.4	5.8	5.8
Total U.S.	750.8	688.2	617.7	561.5	569.5	711.9	771.2	808.8	843.6	830.0	832.3	816.6	818.7	797.6	791.7	761.4
Total oranges produced (million boxes)																
Florida	139.6	116.7	103.9	119.2	186.6	174.4	205.4	203.3	226.2	244.0	186.0	233.0	223.3	230.0	203.0	242.0
California	63.4	40.4	43.7	44.9	66.8	63.6	61.0	58.0	64.0	74.0	36.0	64.0	59.0	51.5	62.0	52.0
Texas	5.4	2.4	0.0	0.3	0.5	0.6	1.1	0.9	1.4	1.5	1.4	1.7	2.2	1.7	1.6	1.7
Arizona	3.2	1.5	2.1	1.9	1.9	1.9	1.1	1.7	1.0	1.0	1.2	1.1	0.9	0.5	0.5	0.5
Total U.S.	211.6	161.0	149.7	166.9	255.8	240.5	268.5	263.9	292.6	320.5	224.6	299.8	285.4	283.8	267.0	296.1
Fresh oranges (million boxes)																
Florida	10.3	7.6	6.7	9.0	10.7	9.9	10.5	10.0	10.7	11.2	10.9	9.4	9.6	9.4	9.7	9.7
California	36.0	31.3	33.7	36.3	49.1	46.1	43.5	44.5	51.5	60.5	19.5	43.7	50.0	44.3	49.8	44.8
Texas	3.2	1.3	0.0	0.2	0.4	0.5	0.7	0.8	1.0	1.1	1.1	1.3	1.3	1.4	1.1	1.2
Arizona	2.2	1.2	1.3	1.4	1.5	1.5	1.0	1.3	0.9	0.9	0.9	0.8	0.7	0.5	0.4	0.4
Total U.S.	51.7	41.4	41.7	46.9	61.8	58.0	55.7	56.5	64.1	73.7	32.4	55.2	61.6	55.5	61.0	56.0
Processed oranges (million boxes)																
Florida	129.3	109.1	97.2	110.1	175.9	164.5	194.9	193.3	215.5	232.8	175.1	223.6	213.7	220.6	193.3	232.3
California	27.4	9.2	10.0	9.2	17.7	17.5	17.5	13.5	12.5	13.5	16.5	20.3	9.0	7.3	12.2	7.2
Texas	2.2	1.0	0.0	0.1	0.1	0.0	0.3	0.2	0.5	0.4	0.3	0.4	1.0	0.3	0.4	0.5
Arizona	0.1	0.3	0.4	0.3	0.4	0.4	0.1	0.4	0.1	0.1	0.2	0.3	0.2	0.1	0.1	0.1
Total U.S.	159.0	119.6	107.6	119.7	194.0	182.4	212.8	207.4	228.5	246.8	192.2	244.6	223.8	228.3	206.0	240.1

Table continued on next page.

Table III-3--Continued

Oranges: Bearing acreage, production, yield, and shares of production by utilization, by state, crop years 1982/83 to 1985/86, and 1992/93 to 2003/04

Item	Crop year (December-November)					Crop year (October-September)										
	1983	1984	1985	1986	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Yield (boxes per acre)																
Florida	260.1	246.1	247.3	324.3	497.1	341.4	365.0	341.8	362.0	400.5	303.6	387.0	369.1	391.9	345.5	428.5
California	357.4	228.1	249.3	257.2	386.4	343.8	319.4	295.9	320.0	366.0	176.9	321.6	298.0	264.1	327.2	285.7
Texas	133.3	57.6	149.1	204.8	148.5	109.1	157.1	113.9	160.9	159.9	150.5	182.8	236.6	182.8	181.8	193.2
Arizona	428.6	190.5	0.0	27.3	174.3	179.2	105.8	168.3	100.0	109.9	173.9	177.4	140.6	78.1	86.2	86.2
Average U.S.	281.8	233.8	241.7	295.8	449.2	337.8	348.2	326.3	346.9	386.2	269.8	367.1	348.6	355.8	337.3	388.9
Share of total U.S. produced fresh oranges (percent)																
Fresh:																
Florida	19.9	18.4	16.1	19.2	17.4	17.1	18.8	17.6	16.7	15.2	33.5	17.0	15.6	16.9	15.9	17.3
California	69.6	75.6	80.8	77.4	79.5	79.5	78.1	78.7	80.4	82.0	60.2	79.2	81.1	79.8	81.6	80.0
Texas	6.2	3.1	0.0	0.4	0.7	0.9	1.3	1.4	1.5	1.5	3.5	2.3	2.1	2.5	1.8	2.1
Arizona	4.3	2.9	3.1	3.0	2.4	2.6	1.8	2.2	1.5	1.2	2.8	1.5	1.2	0.8	0.7	0.7
Total U.S.	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of total U.S. processed oranges (percent)																
Processed:																
Florida	81.3	91.2	90.3	92.0	90.7	90.2	91.6	93.2	94.3	94.3	91.1	91.4	95.5	96.6	93.8	96.8
California	17.2	7.7	9.3	7.7	9.1	9.6	8.2	6.5	5.5	5.5	8.6	8.3	4.0	3.2	5.9	3.0
Texas	1.4	0.8	0.0	0.1	0.0	0.0	0.2	0.1	0.2	0.2	0.2	0.2	0.4	0.2	0.2	0.2
Arizona	0.1	0.3	0.4	0.3	0.2	0.2	0.0	0.2	0.0	0.0	0.1	0.1	0.1	0.0	0.0	0.0
Total U.S.	100.0	100.0	100.0	100.1	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Share of total oranges produced (percent)																
Total:																
Florida	66.0	72.5	69.6	71.8	73.0	72.5	76.5	77.0	77.3	76.1	82.8	77.7	78.2	81.1	76.0	81.7
California	30.0	25.1	29.3	27.0	26.1	26.5	22.7	22.0	21.9	23.1	16.0	21.4	20.7	18.1	23.2	17.6
Texas	1.5	0.9	0.0	0.2	0.2	0.2	0.4	0.4	0.5	0.5	0.6	0.6	0.8	0.6	0.6	0.6
Arizona	2.6	1.5	1.1	1.0	0.7	0.8	0.4	0.6	0.3	0.3	0.5	0.4	0.3	0.2	0.2	0.2
Total U.S.	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: Table I-1, USITC Publication 3195, May 1999; and *Citrus Fruits*, 1987, 1992, 1995, 1998, 2001, and 2004 summaries, USDA, National Agricultural Statistics Service.

As of 2003, Florida's production of round oranges accounted for approximately 98 percent of oranges used in the production of FCOJM in the United States.<sup>3</sup> As indicated in table III-4, approximately half, 49 to 58 percent, of Florida grown round oranges were used to manufacture FCOJM between crop years 1998/99 and 2003/04.

**Table III-4**  
**Round oranges: Utilization of Florida product, crop years 1998/99 to 2003/04**

Item	Crop year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04 <sup>1</sup>
	<b>Quantity (1,000 90-pound boxes)</b>					
Fresh	8,600	6,900	6,700	6,900	6,300	6,400
FCOJM	93,700	129,500	120,500	132,200	98,700	145,600
Chilled orange juice (COJ)	80,100	90,100	89,600	85,900	92,500	94,000
Non-certified	2,200	2,500	3,000	2,500	3,400	3,000
Other <sup>2</sup>	1,400	4,000	3,500	2,500	2,100	3,000
Total	186,000	233,000	223,300	230,000	203,000	252,000
FCOJM share of total (percent)	50.4	55.6	54.0	57.5	48.6	57.8
<sup>1</sup> Data for the 2003/04 season are based on forecasted estimates. <sup>2</sup> Includes CSSOJ, blends, and utilization by non-FCPA members.						
Source: "Florida Citrus Outlook 2003-04 Season", Florida Department of Citrus, p. 19, October 29, 2003.						

Growers may choose to sell their fruit through a cooperative, through a participation plan, or in the cash market. Growers that are members of a cooperative deliver all their fruit to a cooperative-owned processing plant, where it is processed and marketed. The members receive the net proceeds after the sale of the FCOJM, allocated according to the number of boxes of oranges delivered by each member and the pounds of solids in each member's oranges. In addition to processing and marketing, most cooperatives provide grove care, maintenance, and harvesting services for their members.<sup>4</sup>

Under a "full participation plan" a non-member of a cooperative agrees to deliver all his fruit to a cooperative or corporate processors. The grower's return is determined by an agreed-upon formula based on the final selling price of the FCOJM. This type of arrangement provides the grower with the security of a "home" for their fruit, and also allows them the freedom to search for the best deal available each year. Additionally, the cooperative or processor may provide the grower with grove-care services, but does not usually harvest the fruit. Under a "partial participation plan" the grower may be guaranteed a "floor-price" for the round oranges delivered.<sup>5</sup>

<sup>3</sup> In the 2002/03 season, Florida produced 627 of the 639 million gallons of SSE produced in the United States.

<sup>4</sup> *Frozen Concentrated Orange Juice*, USITC Publication 1970, April 1987. *Frozen Concentrated Orange Juice*, USITC Publication 3195, May 1999.

<sup>5</sup> Ibid.

Cash-market sales may be made directly to a processor or to an intermediate handler called a bird dog. A bird dog locates fruit for processors, buys it on the tree, harvests it with his own crew, and delivers the fruit to the processing plant. Purchases may be on a bulk basis, in which all the fruit in the grove is sold for an agreed-upon price, or the fruit may be bought at a set price per box or per pound of solids. Growers on the cash market can seek the highest offer for their fruit, but are subjected to price fluctuations. Also, they have no set “home” for their fruit, and can expect neither assistance in harvesting nor a “home” for their fruit after a freeze.<sup>6</sup>

In the original investigation, it was reported that historically approximately 80 percent of the fruit had been handled by cooperatives or in participation plans and 20 percent sold in the cash market; however, as of the 1984/85 crop year, approximately 50 percent of harvest in Florida was sold in the cash market.<sup>7</sup> Currently, approximately two-thirds to three-quarters of Florida oranges are sold under long-term full participation plans of three, five, or ten year contracts. The remainder of fruit is sold through short-term contracts or into the spot market.<sup>8</sup>

### **U.S. EXTRACTOR/PROCESSORS**

The Commission sent extractor/processor questionnaires to 39 firms and received seven responses, representing 80 percent of the FCOJM produced in the United States in 2002/03.<sup>9</sup> However, the questionnaire of one firm, \*\*\* was incomplete as the firm was unable to distinguish between subject and nonsubject products beyond the production level. The Commission sent 550 grower questionnaires and received seven responses, representing 0.13 percent of total orange bearing acreage in Florida. Table III-5 presents the list of responding U.S. extractor/processors, with each company’s production location(s), production, and share of U.S. production in 2002/03.

#### **U.S. Extractor/Processors’ Capacity, Production, and Capacity Utilization**

Data on U.S. processors’ capacity, production, and capacity utilization are presented in table III-6. The production data are compiled from responses from seven responding extractor/processors, which represent approximately 80 percent of Florida production of FCOJM by quantity for the 2002/03 crop year.

---

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Staff telephone interview with \*\*\*, December 22, 2004.

<sup>9</sup> The Florida Citrus Processors Association Statistical Summary for 2000-01 reported 19 citrus extractor/processors in Florida.

**Table III-5**

**FCOJM: U.S. extractor/processors, locations, and shares of Florida production for the 2002/03 crop year**

Firm	Production locations	Production (1,000 PS)	Share of production (percent)
Responding extractor/processors:			
Cargill Juice North America, Inc. <sup>1</sup> ("Cargill")	Frostproof, FL Fr. Pierce, FL Avon Park, FL	***	***
Citrosuco North America, Inc. <sup>2</sup> ("Citrosuco NA")	Lake Wales, FL	***	***
Citrus World	Lake Wales, FL	***	***
Cutrale Citrus Juices USA, Inc. <sup>3</sup> ("Cutrale")	Auburndale, FL Leesburg, FL	***	***
A. Duda & Sons, Inc.	LaBelle, FL	***	***
Holly Hill Fruit Products Co., Inc. ("Holly Hill")	Davenport, FL	***	***
Louis Dreyfus Citrus, Inc. <sup>4</sup> ("Louis Dreyfus")	Winter Garden FL	***	***
Subtotal responding extractors		500,894	79.9
Nonresponding extractor/processors:			
Florida's Natural Growers, a division of Citrus World, Inc.	Lake Wales, FL	(5)	(5)
Juice Bowl Products, Inc.	Lakeland, FL	(5)	(5)
Ocean Spray Cranberries, Inc.	Vero Beach, FL	(5)	(5)
Pasco Beverage Company, Inc.	Dade City, FL	(5)	(5)
Peace River Citrus Products	Vero Beach, FL	(5)	(5)
Silver Springs Citrus	Howey-in-the-Hills, FL	(5)	(5)
Southern Gardens Citrus Processing	Clewiston, FL	(5)	(5)
Tropicana Products, Inc.	Bradenton, FL	(5)	(5)
Subtotal non-responding extractors		126,106	20.1
Industry Total <sup>6</sup>		627,000	100.0
<p><sup>1</sup> Cargill Juice North America, Inc. is wholly owned by Cargill, Inc. ***.</p> <p><sup>2</sup> Citrosuco North America, Inc. is wholly owned by Citrosuco Europe. ***.</p> <p><sup>3</sup> Cutrale Citrus Juices USA, Inc. is wholly owned by Cutrale North America. ***.</p> <p><sup>4</sup> Louis Dreyfus Citrus, Inc. is wholly owned by Louis Dreyfus Citrus S.A.. ***.</p> <p><sup>5</sup> Not available.</p> <p><sup>6</sup> Total Florida production as reported by the Florida Citrus Processors' Association (see table I-5). The conversion factor for pounds solid at 11.5 degrees Brix is 1.001 per SSE gallon. Florida Department of Citrus, Citrus Reference Book, p. 40, May 2004.</p> <p>Source: Compiled from data submitted in response to Commission questionnaires.</p>			

**Table III-6**

**FCOJM: U.S. extractor/processors' capacity, production, and capacity utilization 1998/99-2003/04**

Item	Crop year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
	<b>Quantity (1,000 pounds solid)</b>					
Capacity	623,100	699,350	699,350	784,350	784,350	784,350
Production	396,125	519,377	479,409	645,697	500,894	658,832
Capacity utilization ( <i>percent</i> ) <sup>1</sup>	63.6	74.3	68.6	82.3	63.9	84.0
<sup>1</sup> Capacity utilization does not reflect production totals shown.						
Source: Compiled from data submitted in response to Commission questionnaires.						

The primary constraints on processing are the seasonal availability of oranges and the size and quality of the harvests. In addition, EPA regulations on such issues as water usage limit production.<sup>10</sup> Citrus disease and inclement weather can both significantly impact the quality and quantity of oranges for the manufacturing of FCOJM. Freezes have not dramatically impacted yields in recent years; there has not been a major freeze in the Florida citrus belt since 1989.<sup>11</sup> However, there has been notable damage from three hurricanes that struck the Florida citrus belt in the fall of 2004. In addition to immediate wind and rain damage from the hurricanes, long-term root damage to orange trees from flooding remains a main concern within the orange industry. As of November 2004, USDA estimates Florida orange production for 2004/05 will decline 27 percent from 2003/04. If realized, it would be the smallest crop since 1993/94.<sup>12</sup>

\*\*\* of the five responding U.S. extractor/processors, \*\*\*. For further discussion of tolling please refer to the section “Financial condition of U.S. industry.”

**U.S. Extractor/Processors' Domestic Shipments, Company Transfers, and Export Shipments**

Data on extractor/processors' shipments of FCOJM are provided in table III-7. The \*\*\* of U.S. shipments were commercial shipments and these shipments \*\*\* unit value per pound in each year examined. Export shipments commanded the second highest unit value per pound in each year examined, although the unit value \*\*\* from \$\*\*\* in 1998/99 to \$\*\*\* in 2003/04. The data in table III-7 are compiled in response to Commission questionnaires, and reported exports are reported for crop years.

---

<sup>10</sup> “U.S. production is limited to between six and eight months. During this period, the company can process approximately \*\*\* boxes (about \*\*\* lbs. solid) per day. However, there are other limitations arising out of certain EPA issues, such as water usage and dryer hours of operation, that effectively limit the throughput to approximately \*\*\* boxes (approximately \*\*\* lbs. solid) per crop season.” Louis Dreyfus Citrus Inc., Extractor/processor questionnaire response, question II-6, p. 6.

<sup>11</sup> Significant Florida citrus belt freeze dates occurred in 1957, 1962, 1971, 1977, 1981, 1982, 1983, 1985, and 1989. “Citrus Reference Book”, Florida Department of Citrus, p. 38, May 2004. Florida growers became less susceptible to freezes not only because there were fewer freezes, but also because growers began to move into the warmer southern regions of the state in the 1990s.

<sup>12</sup> “Fruit and Tree Nuts Outlook”, USDA, p. 7, November 23, 2004. Retrieved at [www.ers.usda.gov](http://www.ers.usda.gov).

Table III-7

## FCOJM: U.S. extractor/processors' shipments, crop years 1998/99-2003/04

Item	Crop year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
	<b>Quantity (1,000 pounds solid equivalent)</b>					
Commercial shipments	509,788	520,385	522,118	664,625	536,384	584,328
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	595,748	633,615	642,931	743,796	638,618	695,334
Export shipments	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***
	<b>Value (\$1,000)</b>					
Commercial shipments	433,928	405,216	375,800	544,050	432,905	401,425
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	551,417	585,279	526,686	655,302	564,105	527,645
Export shipments	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***
	<b>Unit value (per pound)</b>					
Commercial shipments	\$0.85	\$0.78	\$0.72	\$0.82	\$0.81	\$0.69
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	0.93	0.88	0.82	0.88	0.88	0.76
Export shipments	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***
	<b>Share of total quantity (percent)</b>					
Commercial shipments	***	***	***	***	***	***
Internal consumption	***	***	***	***	***	***
Transfers to related firms	***	***	***	***	***	***
U.S. shipments	***	***	***	***	***	***
Export shipments	***	***	***	***	***	***
Total shipments	***	***	***	***	***	***
Source: Compiled from data submitted in response to Commission questionnaires.						

As seen from the data presented in table III-8, the top three major markets for U.S. FCOJM between 1999 and 2004 were the Netherlands, Japan, and Belgium. The unit value of FCOJM fluctuated greatly over the period reviewed; among the top three export markets the price ranged from \$0.79 per gallon to \$1.69 per gallon SSE. The average price per gallon dipped from \$1.79 in 2001 to \$1.15 in 2002, and then rose to \$1.90 in 2003.

**Table III-8**

**FCOJM: U.S. exports by principal markets, 1999-2003, January-September 2003-04**

Item	Year					January-September	
	1999	2000	2001	2002	2003	2003	2004
<b>Quantity (1,000 gallons)</b>							
Netherlands	14,165	31,493	27,736	71,107	17,347	9,579	16,071
Japan	17,894	10,935	12,137	10,542	5,553	4,451	5,304
Belgium	18,711	9,268	2,950	13,087	5,721	2,207	3,536
Other	25,098	18,240	15,156	25,471	23,537	19,231	18,689
Total	75,868	69,936	57,980	120,208	52,157	35,468	43,600
<b>Value (1,000 dollars)</b>							
Netherlands	20,215	46,541	46,917	56,340	27,564	15,812	20,685
Japan	27,961	18,100	13,221	13,644	8,656	6,946	7,053
Belgium	26,692	14,393	4,185	12,966	4,894	2,343	5,435
Other	61,199	42,253	39,687	55,155	57,796	46,606	34,883
Total	136,067	121,287	104,011	138,103	98,910	71,706	68,056
<b>Unit value (per gallon)</b>							
Netherlands	\$1.43	\$1.48	\$1.69	\$0.79	\$1.59	\$1.65	\$1.29
Japan	1.56	1.66	1.09	1.29	1.56	1.56	1.33
Belgium	1.43	1.55	1.42	0.99	0.86	1.06	1.54
Other	2.44	2.32	2.62	2.17	2.46	2.42	1.87
Average	1.79	1.73	1.79	1.15	1.90	2.02	1.56
<p>Note: The top three markets for U.S. exports are included in this table. Canada and Korea also imported notable quantities of U.S. FCOJM.</p> <p>Source: Compiled from official statistics of the U.S. Department of Commerce.</p>							

### U.S. Extractor/Processors' Inventories

Data on U.S. extractor/processors' end-of-period inventories for the seven reporting firms are provided in table III-9. Inventories \*\*\* over the period under review. The ratio of inventories to production \*\*\* percent in 1989/99 to \*\*\* percent in 2003/04, \*\*\* 2001/02. The ratio of inventories to U.S. shipments and total shipments \*\*\* over the period of review, however they \*\*\* percent respectively.

**Table III-9****FCOJM: U.S. extractor/processors' end-of-period inventories, crop years 1998/99-2003/04**

\* \* \* \* \*

**U.S. Extractor/Processors' Employment, Wages, and Productivity**

Data on U.S. extractor/processor labor costs and productivity are provided in table III-10. The number of workers increased over the period examined, with the exception of decreases in PRWs in 1999/00 and 2002/03. The number of hours worked and productivity fluctuated throughout the period of review.

**Table III-10****FCOJM: U.S. extractor/processors' average number of production and related workers, hours worked, wages paid to such employees, and hourly wages, productivity, and unit labor costs, crop years 1998/99-2003/04**

Item	Crop year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
PRWs ( <i>number</i> )	877	861	942	984	964	1,010
Hours worked ( <i>1,000</i> )	1,978	2,093	2,090	2,483	2,207	2,100
Wages paid ( <i>\$1,000</i> )	22,845	24,169	25,414	31,277	28,188	26,711
Hourly wages	\$11.55	\$11.55	\$12.16	\$12.60	\$12.77	\$12.72
Productivity ( <i>pounds solids equivalent per hour</i> )	176.1	209.6	191.5	198.5	161.7	232.3
Unit labor costs ( <i>per pound</i> )	\$0.07	\$0.06	\$0.06	\$0.06	\$0.08	\$0.05
Source: Compiled from data submitted in response to Commission questionnaires.						

# FINANCIAL CONDITION OF THE U.S. INDUSTRY

## Background

Eight domestic firms<sup>13</sup> provided useable financial results of their toll and non-toll operations processing FCOJM. These firms are believed to account for approximately 80 percent of the domestic industry's processing volume during 2004. \*\*\* was the \*\*\* to report internal transfers of FCOJM and \*\*\* was the \*\*\* to report internal consumption. Since the quantity and value of the transfers and internal consumption combined accounted for approximately \*\*\* percent of the total quantity and value every period, respectively, they are not being presented separately.<sup>14</sup>

## Operations of U.S. FCOJM processors

In addition to the non-toll processing operations of domestic processors (whereby the processor owns or procures oranges or orange solids, processes them into FCOJM, and then sells the FCOJM to other unrelated parties), there is a considerable amount of toll processing done by the domestic industry. In toll processing, the firm that owns the oranges or orange solids (the tollee) arranges for an unrelated processor (the toller) to process the oranges or orange solids for a fee, and then the tollee arranges for the final sale of the FCOJM to another party. Processors can be (and are) both non-toll processors and toll processors.

Based upon questionnaire responses, toll processing accounted for between approximately \*\*\* percent of the total quantity of FCOJM processed from fiscal year 1999 to fiscal year 2004, and approximately \*\*\* percent during the January-September 2004 time period. Since \*\*\* toll processed for \*\*\* and since none \*\*\* provided revenue and cost data relating to the sale of the processed FCOJM to another party, the revenues and costs associated with \*\*\* toll processing are included in the aggregate income-and-loss data for the U.S. processors. If they were not, the revenues and costs associated with the processing and sale of a large quantity of FCOJM would not be captured anywhere in the data.

Aggregate income-and-loss data for processors on their FCOJM processing operations (both non-toll and toll) are presented in table III-11. The financial results of the processors vascillated from 1999 to 2004. Sales quantities (40 percent increase) and values (14 percent increase) both trended irregularly higher, peaking in 2002. Operating income, on the other hand, trended irregularly lower from 1999 to 2004. It also peaked in 2002, but not before turning negative in 2000. The average unit values ("AUVs") for both sales and cost of goods sold ("COGS") declined in unison, decreasing by \$0.16 and \$0.15 per pounds solid, respectively (approximately 19 percent).

Virtually all of the domestic industry's financial metrics were stronger during January-September 2004 compared to January-September 2003. Sales quantities and values increased while COGS

---

<sup>13</sup> The producers and their fiscal year ends are as follows: \*\*\*.

<sup>14</sup> \*\*\* extractor/processors, \*\*\*, provided revised financial data regarding increased quantities and values of internally consumed FCOJM. These increases have in turn resulted in increased total sales quantities and values for the FCOJM extractor/processors in the aggregate, \*\*\* in operating income. Revised results of extractor/processors on their toll and non-toll processing operations are presented below:

\* \* \* \* \*

The net effect of these revisions on the aggregate results of the extractor/processors' operations is \*\*\*. Sales quantities increased by about \*\*\* percent each period, sales values increased by about \*\*\* percent, and operating income \*\*\*. As a result, the ratio of operating income to net sales \*\*\*, and is \*\*\* the original ratios. The effect of \*\*\* revised data on other tables in the staff report (namely tables III-12, III-14, III-15, and III-17) is \*\*\*.

Table III-11

FCOJM: Results of extractor/processors on their toll and non-toll processing operations,<sup>1</sup> fiscal years 1999-2004, January - September 2003, and January - September 2004

Item	Fiscal year						January-September	
	1999	2000	2001	2002	2003	2004	2003	2004
	<b>Quantity (1,000 pounds solids equivalents)</b>							
Net sales	514,371	628,469	695,464	808,304	648,589	719,336	539,680	619,783
	<b>Value (\$1,000)</b>							
Net sales	443,276	438,742	428,554	598,496	487,885	503,887	419,897	435,661
Cost of goods sold	415,950	438,668	407,623	546,986	450,176	473,875	404,061	400,662
Gross profit	27,326	74	20,931	51,510	37,709	30,012	15,836	34,999
SG&A expenses <sup>2</sup>	12,736	14,149	14,150	19,171	16,963	17,974	12,972	16,333
Operating income or (loss)	14,590	(14,075)	6,781	32,339	20,746	12,038	2,864	18,666
Other expense or (income), net	18,483	16,835	16,039	14,883	10,199	11,978	9,215	6,820
Net income or (loss)	(3,893)	(30,910)	(9,258)	17,456	10,547	60	(6,351)	11,846
Depreciation above	10,015	13,183	12,253	18,701	17,338	18,461	14,774	15,227
Cash flow	6,122	(17,727)	2,995	36,157	27,885	18,521	8,423	27,073
	<b>Unit value (dollars per pounds solid)</b>							
Net sales values	0.86	0.70	0.62	0.74	0.75	0.70	0.78	0.70
Cost of goods sold	0.81	0.70	0.59	0.68	0.69	0.66	0.75	0.65
Gross profit	0.05	( <sup>3</sup> )	0.03	0.06	0.06	0.04	0.03	0.06
SG&A expenses <sup>2</sup>	0.02	0.02	0.02	0.02	0.03	0.03	0.02	0.03
Operating income or (loss)	0.03	(0.02)	0.01	0.04	0.03	0.02	0.01	0.03
	<b>Ratio to net sales (percent)</b>							
Cost of goods sold	93.8	100.0	95.1	91.4	92.3	94.0	96.2	92.0
Gross profit	6.2	( <sup>4</sup> )	4.9	8.6	7.7	6.0	3.8	8.0
SG&A expenses <sup>2</sup>	2.9	3.2	3.3	3.2	3.5	3.6	3.1	3.7
Operating income or (loss)	3.3	(3.2)	1.6	5.4	4.3	2.4	0.7	4.3
	<b>Number of firms reporting</b>							
Data	8	8	8	8	8	8	8	8
Operating losses	***	***	***	***	***	5	5	5
<sup>1</sup> The processors are ***. <sup>2</sup> Selling, general, and administrative expenses. <sup>3</sup> Positive value but less than \$0.005. <sup>4</sup> Positive value but less than 0.05 percent.								
Source: Compiled from data submitted in response to Commission questionnaires.								

decreased, resulting in a large increase in operating income. Even though sales AUVs decreased by \$0.08 per pounds solid, COGS AUVs declined by an even wider margin (\$0.10 per pounds solid). As a result, the operating margin increased to 4.3 percent, as compared to 0.7 percent in the previous period.

Selected financial data are presented on a company-by-company basis in table III-12. \*\*\* and \*\*\*, producers heavily involved<sup>15</sup> in \*\*\*, generally posted the strongest operating results. \*\*\*, whose 2001 operating profits dwindled to an operating loss by 2004, posted strong results in the January to September 2004 time frame. The remaining \*\*\* companies all suffered declining profitability from 1999 through 2004, particularly from 2002 to 2004. All five of this latter group posted \*\*\* in the January to September 2004 time period.

**Table III-12**  
**FCOJM: Selected financial data of extractors/processors on their toll and non-toll processing operations, fiscal years 1999-2004, January - September 2003, and January - September 2004**

\*            \*            \*            \*            \*            \*            \*

Aggregate income-and-loss data for processors on their toll FCOJM processing operations are presented in table III-13. The results are in contrast to the combined toll and non-toll results contained in table III-11. Even though the quantity and value of the toll processing operations peaked in 2001, the absolute value of operating profits and the operating profit margin both increased almost steadily from period to period.

**Table III-13**  
**FCOJM: Results of extractor/processors on their toll processing operations, fiscal years 1999-2004, January - September 2003, and January - September 2004**

\*            \*            \*            \*            \*            \*            \*

Aggregate income-and-loss data for processors on their non-toll FCOJM processing operations are presented in table III-14. The results are consistent with the combined toll and non-toll results contained in table III-11 except that the absolute level of profitability is less, especially from 2002 on.

**Table III-14**  
**FCOJM: Results of extractor/processors on their non-toll processing operations, fiscal years 1999-2004, January - September 2003, and January - September 2004**

\*            \*            \*            \*            \*            \*            \*

The cost structures of the different groups (toll vs. non-toll) of processors are presented in table III-15. When combined with the data in tables III-13 and III-14, the differences between the different processors become evident. Using 2004 data as an example, the unit sales revenue reported by non-toll processors is \*\*\* per pounds solid, while the costs include the cost of the oranges or orange solids \*\*\* per pounds solid), the costs of processing (\*\*\* per pounds solid), and selling and administrative costs \*\*\* per pounds solid). These are in contrast to the financial results reported by toll processors, where the revenues are the processing fees (\*\*\* per pounds solid) while the costs are processing costs (\*\* per pounds solid) and SG&A expenses (\*\*\* per pounds solid).

---

<sup>15</sup> In the aggregate, toll processing accounted for approximately \*\*\* percent of the revenues of each of these \*\*\* companies from 1999 through 2004.

Table III-15

**FCOJM: Analysis of extractor/processor's cost of goods sold and tolling costs in their processing operations, fiscal years 1999-2004, January - September 2003, and January - September 2004**

Item	Fiscal year						January-September	
	1999	2000	2001	2002	2003	2004	2003	2004
<b>Unit value (dollars per 1,000 pounds solids equivalent)</b>								
All (non-toll and toll) extractor/processors:								
Raw materials	0.63	0.53	0.43	0.54	0.54	0.52	0.59	0.51
Processing costs <sup>1</sup>	0.18	0.17	0.15	0.14	0.16	0.14	0.15	0.14
Total	0.81	0.70	0.59	0.68	0.69	0.66	0.75	0.65
Non-toll extractor/processors:								
Raw materials	***	***	***	***	***	***	***	***
Processing costs <sup>1</sup>	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***
Toll extractor/processors:								
Raw materials	***	***	***	***	***	***	***	***
Processing costs <sup>1</sup>	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***
<b>Ratio to net sales (percent)</b>								
All (non-toll and toll) extractor/processors:								
Raw materials	73.3	75.7	70.0	72.5	71.6	74.4	76.5	72.7
Processing costs <sup>1</sup>	20.5	24.3	25.1	18.9	20.7	19.6	19.8	19.2
Total	93.8	100.0	95.1	91.4	92.3	94.0	96.2	92.0
Non-toll extractor/processors:								
Raw materials	***	***	***	***	***	***	***	***
Processing costs <sup>1</sup>	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***
Toll extractor/processors:								
Raw materials	***	***	***	***	***	***	***	***
Processing costs <sup>1</sup>	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***
<sup>1</sup> Direct labor and other factory costs (overhead) combined.								
Source: Compiled from data submitted in response to Commission questionnaires.								

The difference in unit revenues between toll and non-toll extractor/processors also illustrates the effect utilizing toller data (which was available) had upon the data in this review as opposed to utilizing tollee data (which was not available). If we assume the tolled FCOJM was sold at the same average unit price that the non-tolled FCOJM was sold for, the net sales values for the extractor/processors (as presented in table III-11) increase by between \$\*\*\* per full year period (increases of \*\*\* percent) and by approximately \$\*\*\* in the interim periods (\*\*\* percent). It is not possible to estimate the effect such increased sales values would have upon the extractor/processors' operating income, if any.

A variance analysis is not presented in this review. The variance analysis provides an assessment of changes in profitability as a result of changes in revenues, costs, and volume. The analysis is sensitive to revenue, cost, and volume changes due to the product mix, both within and between companies. Given the \*\*\* tolling operations of \*\*\* and the resulting differences in unit revenues and costs between \*\*\* companies and all other processors, a variance analysis may not accurately represent the actual revenue, cost, and volume changes in the industry.

### **Capital Expenditures and Research and Development Expenses**

Domestic FCOJM processors' capital expenditures and research and development ("R&D") expenses are presented in table III-16. \*\*\* had large expenditures in \*\*\*, \*\*\* had large expenditures in \*\*\*, and \*\*\* had \*\*\* expenditures during most periods.

\*\*\* was the \*\*\* to report R&D expenses.

**Table III-16**

**FCOJM: U.S. processors' capital expenditures and research and development expenses, fiscal years 1999-2004, January - September 2003, and January - September 2004**

\* \* \* \* \*

### **Assets and Return on Investment**

Data on domestic FCOJM processors' assets and their return on investment (defined as operating income divided by total assets) are presented in table III-17. The value of total assets increased almost steadily from 1999 to 2004 while the return on investment fluctuated with the increase or decrease in operating income.

**Table III-17**

**FCOJM: Value of assets and return on investments, fiscal years 1999-2004**

Item	Fiscal year					
	1999	2000	2001	2002	2003	2004
	<b>Value (\$1,000)</b>					
Assets:						
Current assets:						
Accounts receivable, net	37,506	39,399	44,985	62,246	48,931	53,262
Inventories (finished goods)	177,403	172,479	154,138	159,540	203,995	208,255
Inventories (raw materials)	87,294	72,398	76,140	70,599	122,039	84,599
Other	6,794	11,497	3,127	15,382	14,494	23,226
Total current assets	308,997	295,773	278,390	307,767	389,459	369,342
Non-current assets:						
Property, plant, and equipment:						
Original cost	181,341	190,889	229,097	264,513	254,161	294,140
Accumulated depreciation	64,916	71,860	91,982	106,717	115,165	140,517
Book value	116,425	119,029	137,115	157,796	138,996	153,623
Goodwill	191,627	198,193	218,627	273,606	249,963	245,773
Other	3,613	2,796	5,962	7,769	2,066	9,021
Total non-current assets	311,665	320,018	361,704	439,171	391,025	408,417
Total assets	620,662	615,791	640,094	746,938	780,484	777,759
Operating income/(loss)	***	***	***	***	***	***
	<b>Ratio of operating income to total assets (percent)</b>					
Return on investment	***	***	***	***	***	***
Note.- The above data excludes the *** data since ***.						
Source: Compiled from data submitted in response to Commission questionnaires.						



## PART IV: U.S. IMPORTS AND THE FOREIGN INDUSTRY

### U.S. IMPORTS

Data regarding U.S. imports of FCOJM are presented in table IV-1 and are compiled from official Commerce statistics and proprietary Customs data. Importer questionnaires were sent to 19 firms and seven firms responded, \*\*\*.<sup>1</sup> Of the seven responding firms, \*\*\* reported imports of subject FCOJM.<sup>2</sup> Therefore, in order to gather data on subject imports (other than \*\*\*), proprietary Customs data were sorted by manufacturer, subject manufacturers were identified,<sup>3</sup> and the quantity and value of the subject and nonsubject imports totaled.

These data reveal that approximately \*\*\* percent of the imports, by quantity, from Brazil during 2001 to 2003 were subject imports. This is similar to the data collected in the first five-year review, 1993-97, when less than five percent of the imports of FCOJM from Brazil in the period under review were subject imports.<sup>4</sup> Figure IV-1 graphically depicts U.S. imports of FCOJM from Brazil since 1984.

Total import quantity decreased by 40.1 percent between 1989/99 and 2003/04, although the quantity of imports rose between 2001/02 and 2002/03. The value of imports decreased from \$386 million in 1998/99 to \$182 million in 2003/04, but the value also rose between 2001/02 and 2002/03. The average unit value fluctuated over the period of review, but there was a decrease of 21.3 percent between the average unit value per gallon of \$1.12 in 1989/99 and \$0.88 in 2002/03.

---

<sup>1</sup> Importers' questionnaire responses accounted for 74.8 percent of imports of FCOJM from Brazil in the 2003/04 (October to September) season.

<sup>2</sup> According to proprietary customs data, \*\*\* imports subject merchandise from \*\*\*. The volume of \*\*\* imports of subject merchandise was \*\*\*.

<sup>3</sup> Subject manufacturers include: \*\*\*.

<sup>4</sup> USITC Publication 3195, May 1999.

**Table IV-1**  
**FCOJM: U.S. imports, by sources, crop years 1998/99-2003/04**

	Crop Year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
	<b>Quantity (1,000 gallons SSE)</b>					
Brazil (subject)	***	***	***	***	***	***
Brazil (nonsubject)	***	***	***	***	***	***
Brazil total	260,215	230,385	163,494	104,857	206,737	142,814
All other sources	84,681	98,367	85,154	73,468	59,196	63,836
Total imports	344,895	328,752	248,648	178,325	265,932	206,650
	<b>Value (1,000 dollars)<sup>1</sup></b>					
Brazil (subject)	***	***	***	***	***	***
Brazil (nonsubject)	***	***	***	***	***	***
Brazil total	286,694	212,061	137,697	90,340	206,467	127,937
All other sources	99,356	108,514	101,143	100,070	76,388	54,124
Total imports	386,049	320,576	238,840	190,410	282,855	182,061
	<b>Unit value (per gallon)</b>					
Brazil (subject)	\$***	\$***	\$***	\$***	\$***	\$***
Brazil (nonsubject)	***	***	***	***	***	***
Brazil average	1.10	0.92	0.84	0.86	1.00	0.90
All other sources	1.17	1.10	1.19	1.36	1.29	0.85
Import average	1.12	0.98	0.96	1.07	1.06	0.88
	<b>Share of quantity (percent)</b>					
Brazil (subject)	***	***	***	***	***	***
Brazil (nonsubject)	***	***	***	***	***	***
Brazil total	75.4	70.1	65.8	58.8	77.7	69.1
All other sources	24.6	29.9	34.2	41.2	22.3	30.9
	<b>Share of value (percent)</b>					
Brazil (subject)	***	***	***	***	***	***
Brazil (nonsubject)	***	***	***	***	***	***
Brazil total	74.3	66.2	57.7	47.4	73.0	70.3
All other sources	25.7	33.8	42.3	52.6	27.0	29.7
	<b>Ratio of imports to U.S. production (percent)</b>					
Brazil (subject)	***	***	***	***	***	***
Brazil (nonsubject)	***	***	***	***	***	***
Brazil total	41.0	27.8	20.9	12.2	33.0	16.4
All other sources	13.3	11.8	10.9	8.5	9.4	7.3

<sup>1</sup> Landed, duty-paid.

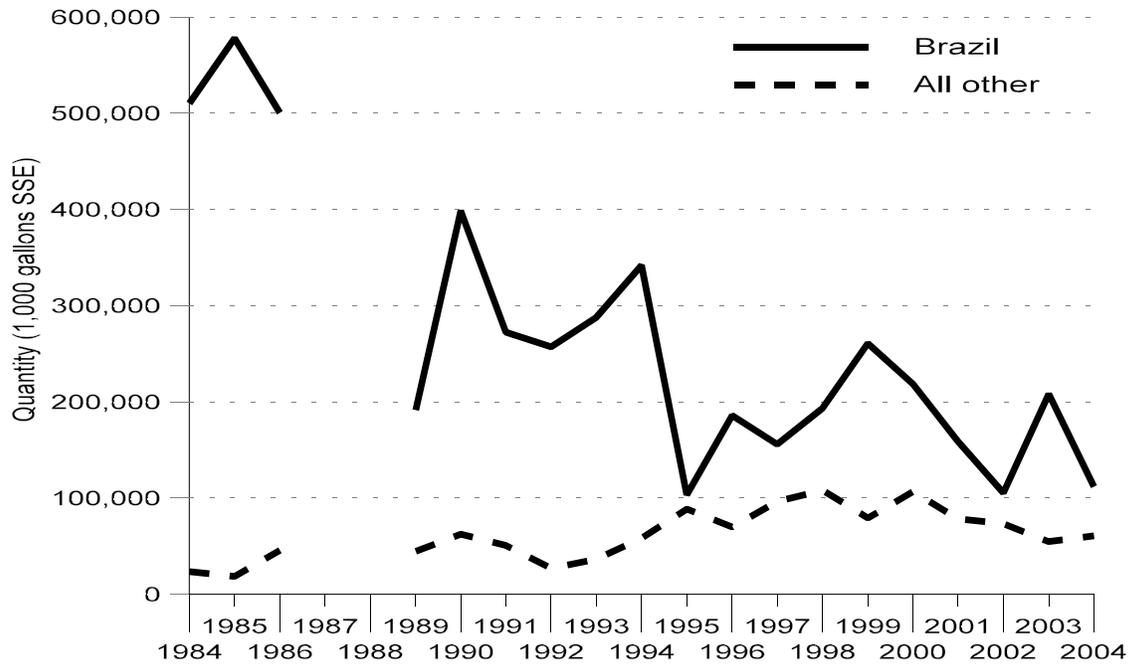
Note 1.-- Data are reported in crop years, October-September. Subject imports from Brazil not available for October-December 1998, therefore data for crop year 1998/99 only presents January-September 1999 imports.

Note 2.--Numbers may not add to totals shown due to rounding.

Note 3.-- Conversion factor: 1 liter = 0.2642 gallons

Source: Compiled from official Commerce statistics and proprietary Customs data.

**Figure IV-1**  
**FCOJM: U.S. imports from Brazil and all other sources, by quantity, crop years ended September 30, 1984–2004**



Note.--Data for years 1987-88 are not available.

Source: Official Commerce statistics and *Frozen Concentrated Orange Juice from Brazil*, Staff Report, 731-TA-326 (Final) Table 53, p. R-122, April 6, 1987. See also table IV-1.

### U.S. IMPORTERS' INVENTORIES

Data regarding U.S. importers' end-of-period inventories of imports are provided in table IV-2.<sup>5</sup> Inventory fluctuated over the period of review, but ended in 2004 with \*\*\* million gallons SSE, a \*\*\* percent increase over the end-of-period inventory in 1999. The ratio of inventory to imports \*\*\* from 2001/02 to 2002/03. The ratio of inventory to imports \*\*\* from \*\*\* percent in 1999 to \*\*\* percent in 2004. The ratio of inventory to U.S. shipments \*\*\* from \*\*\* percent in 1999 to \*\*\* percent in 2004, after \*\*\* at \*\*\* percent in 2001/02.

**Table IV-2**  
**FCOJM: U.S. importers' end-of-period inventory of nonsubject imports, 1999-2004**

\* \* \* \* \*

<sup>5</sup> All inventories are reported for nonsubject Brazil sources. \*\*\*.

## THE INDUSTRY IN BRAZIL

Brazil is the world's largest exporter of FCOJM. FCOJM is Brazil's sixth largest export commodity after jet airplanes, soybeans, beef, coffee, and sugar cane products. The state of Sao Paulo is home to 98 percent of Brazil's FCOJM production, including eleven processing plants.<sup>6</sup> The number of orange growers is currently between 10,000 and 15,000, down from an estimated 29,000 growers in the mid-90s. The exit of small and mid-sized growers from the industry is reportedly due to an inability of small growers to achieve the economies of scale necessary to implement technological improvements needed to overcome disease and weather stress. Even among remaining growers production is concentrated: approximately 20 percent of orange growers produce 80 percent of the total orange production.<sup>7</sup>

In the 2003/04 growing season Sao Paulo had an estimated 152 million bearing orange trees. Further data on productive Brazilian orange trees in the state of Sao Paulo are presented in table IV-3.

**Table IV-3**

**Oranges: Brazilian orange bearing trees, production, and utilization of oranges in the State of Sao Paulo, for crop years 1998/99-2003/04**

Item	Crop year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
Bearing trees (millions)	169	165	162	159	154	152
Oranges produced (million 90-pound boxes)	342	395	355	280	360	320
Oranges utilized for frozen concentrate:						
Quantity (million 90-pound boxes)	280	300	270	220	295	250
Share of total (percent)	82	76	76	79	82	78
Frozen concentrate production quantity (million gallons SSE)	1,610	1,824	1,588	1,327	1,769	1,462
Source: USDA Foreign Agricultural Service. Retrieved at <a href="http://www.fred.ifas.ufl.edu/citrus/pubs/ref/brazil.htm">www.fred.ifas.ufl.edu/citrus/pubs/ref/brazil.htm</a> .						

The largest processors in Brazil include Citrosuco, Citroita, Sucocitrico Cutrale, and Dreyfus. Cargill's Brazilian citrus operation was sold to Sucocitrico Cutrale and Citrosuco on July 12, 2004. By acquiring Cargill's processing plants, Sucocitrico Cutrale will increase its capacity from 70 million 90-pound boxes to approximately 90 million and Cutrale's capacity will increase to approximately 100 million 90-pound boxes.<sup>8</sup>

Since the first five-year review there have been some changes in crop management techniques, including greater use of fertilizer and chemicals.<sup>9</sup> Technological improvements have also evolved, such as

---

<sup>6</sup> Abecitrus', The Brazilian Association of Citrus Exporters, website. Retrieved at [www.arabbrazil.com/orange.htm](http://www.arabbrazil.com/orange.htm).

<sup>7</sup> "Brazil Citrus Annual 2003", USDA Foreign Agricultural Service GAIN Report, p. 10, December 17, 2003.

<sup>8</sup> "Report on Brazil", Citrus and Vegetable Magazine, October 2004.

<sup>9</sup> "Brazil Citrus Annual 2003", USDA Foreign Agricultural Service GAIN Report, p. 4, December 17, 2003.

the use of more efficient planting densities (380-400 trees/ha), increased use of irrigation,<sup>10</sup> and use of seedlings from protected nurseries to avoid the spread of disease.

Citrus disease has been a restraint on production of FCOJM in Brazil. In the 1980s, the disease Citrus Chlorosis Variegated (“CCV”) appeared in Brazil and caused losses to citrus production. CCV-affected trees ripen earlier and bear fruit that is smaller and firmer than fruit of healthy trees. In addition, the growth rate of affected tree slows, branches die back, and the canopy is thinned, but the tree survives. In 2001 another, more deadly citrus disease “citrus sudden death” was detected in Brazil. “Citrus sudden death” attacks Rangpur Lime, the dominant rootstock in the northern region of Sao Paulo. Since 2001, approximately 2.5 million orange trees, or two percent of Brazil’s total citrus crop, have been killed by the disease.<sup>11</sup> As a result, many growers are moving to the cooler and more humid southern region. However, growers that move south will have to face longer transportation routes to the processing plants in the northern region.

Other factors, in addition to disease, that affect the productivity level of Brazilian orange growers include weather and the previous year’s crop. The increase in orange production from 2002/03 to 2003/04 can be partially explained by orange trees that were “rested” from a smaller 2002/03 crop, late blossoming in 2002 contrasting to timely and full blossoming in 2003, and improved weather conditions in 2003/04.

As the tallied responses account for 61.1 percent of the Brazilian industry, publicly available industry data are provided in table IV-4. Between 1998/99 and 2003/04, Brazil exported 84 percent of its total supply of FCOJM.

**Table IV-4**  
**FCOJM: Brazil stocks, production, exports, and domestic consumption of FCOJM, crop year 1989/99 to 2003/04**

Item	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
	<b>Quantity (million SSE gallons)</b>					
Beginning stocks	331	418	486	370	212	337
Total production	1,665	1,912	1,683	1,375	1,904	1,535
Total supply	1,996	2,330	2,169	1,745	2,116	1,872
Exports	1,586	1,821	1,778	1,511	1,757	1,760
Domestic consumption	26	22	21	21	21	25
Ending stocks	418	486	370	212	337	87
Note.--Crop year is from July to June.						
Source: “Fruit and Tree Nuts Outlook”, USDA, Economic Research Service, November 23, 2004.						

<sup>10</sup> While increasing, irrigation of orange groves still represents less than 10 percent of the commercial orange grove area. Some studies show that only 15 percent of orange groves could be irrigated. Therefore, growers are moving from the northern part of Sao Paulo to the southern part of the state, where irrigation is not necessary. “Brazil Citrus Annual 2003”, USDA Foreign Agricultural Service GAIN Report, p. 10, December 17, 2003.

<sup>11</sup> “Brazil’s orange trees threatened”, Todd Benson, New York Times, Friday, May 28, 2004.

Data compiled from foreign producers' questionnaire responses on operations of subject FCOJM operations of manufacturers/exporters in Brazil are provided in table IV-5. The only subject foreign producer to respond to Commission questionnaires was \*\*\*. However, \*\*\*.<sup>12</sup>

**Table IV-5**

**FCOJM (subject): Brazil's reported production capacity, production, shipments, and inventories, 1999-2003, January-September 2003-04, and projected 2004-05**

\* \* \* \* \*

Between 1998/99 and 2003/04, Brazil exported 84 percent of its total supply of FCOJM. During the original investigation, from 1983-86, 24-63 percent of total Brazilian exports were sold to the United States. However, since the original order Brazil has diversified its export markets. At the time of the first five-year review, in calendar year 1997, the United States accounted for only 18 percent of Brazil's FCOJM exports.<sup>13</sup> Data on other major markets for Brazilian exports are listed in table IV-6.

**Table IV-6**

**FCOJM: Export markets for product from Brazil, 1998/99-2003/04**

Export market	Year					
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
	<b>Quantity (metric tons)</b>					
European Union	756,000	725,438	872,210	762,425	867,226	969,280
NAFTA	210,000	252,938	199,897	131,099	231,257	165,796
Asia	93,000	113,303	129,849	124,525	126,151	148,278
MERCOSUL	(1)	(1)	(1)	1,950	734	2,771
Others	37,000	39,913	49,984	49,280	59,493	64,162
TOTAL	1,096,000	1,131,592	1,251,940	1,069,279	1,284,861	1,350,287
<sup>1</sup> Data for MERCOSUL (which includes: Argentina, Brazil, Paraguay, and Uruguay) for 1998/99 to 2000/01 are not available, but rather are included in "other" category. Source: ABECitrus, The Brazilian Association for Citrus Exporters, retrieved at <a href="http://www.abecitrus.com.br/expmus.html">www.abecitrus.com.br/expmus.html</a> .						

Brazilian exporters, as well as exporters from the United States, face a variety of tariff and non-tariff barriers for FCOJM in third-country markets. In 2005, the normal trade relations rate of duty for FCOJM, subheading 2009.11.00, was 29.72 cents per SSE gallon. In addition to U.S. tariffs, exporters of FCOJM to the United States are subject to the Florida equalization tax. Since 1970, the state of Florida has imposed an "equalizing excise tax" on processed orange and grapefruit products that are imported into the state to be blended with local juices. The Florida citrus excise tax, or "box tax" was instituted in 1935 to fund the Florida Department of Citrus ("FDOC") and is assessed on every box of citrus that enters into

<sup>12</sup> Proprietary Customs data \*\*\*.

<sup>13</sup> USITC Publication 3195, May 1999.

primary trade channels in Florida. The FDOC runs marketing, research, and regulatory programs for Florida citrus; 80 percent of the department's budget goes toward marketing programs.<sup>14</sup>

On March 20, 2002, the government of Brazil filed a request for consultations with the United States through the World Trade Organization ("WTO") regarding the excise tax. Brazil argued that the "equalizing excise tax" violated the GATT as it imposed a tax on processed citrus products imported from abroad, and not on those products imported from other states in the United States. In addition, Brazil objected to paying a tax that supported marketing advertisements for Florida citrus products. As a result, the Florida state legislature passed into law a bill requiring out-of-state domestic producers to pay the "equalizing excise tax." Furthermore, as a result of numerous bilateral discussions, the Florida Legislature amended the "equalizing excise tax" to allow persons subject to payment to opt out of the two-thirds of the tax that is utilized for marketing, advertising, or public relations. As a result, on May 28, 2004, Brazil withdrew its WTO complaint.<sup>15</sup>

---

<sup>14</sup> "Court Rules Against Box Tax", The Ledger, October 21, 2004.

<sup>15</sup> "Brazil withdraws WTO complaint against Florida's equalizing excise tax", FAS, June 4, 2004. Retrieved at [www.fas.usda.gov](http://www.fas.usda.gov).



## **PART V: PRICING AND RELATED INFORMATION**

### **FACTORS AFFECTING PRICES**

#### **Raw Materials**

Orange prices have declined since 1999 (figure V-1). One extractor/processor noted that FCOJM is a commodity, and the primary raw material costs associated with fruit, an agricultural product, are affected by all the factors associated with such (i.e. weather, disease, harvesting labor, trees' crop size, land usage pressures, etc.). One extractor/processor reported that prices of raw materials have generally declined since 1999 due to over-supply of raw material in Florida in a declining consumer market, while another reported that fresh fruit has been priced high due to long-term contracts for fruit by some processors.

#### **Transportation Costs to the U.S. Market**

Transportation costs for FCOJM from subject countries to the United States (excluding U.S. inland costs) in 2003 are estimated to be equivalent to approximately eight percent of the customs value for product from Brazil. These estimates are derived from official import data and represent the transportation and other charges on imports valued on a c.i.f. basis, as compared with customs value.<sup>1</sup>

#### **U.S. Inland Transportation Costs**

U.S. inland transportation costs for FCOJM ranged between 2 percent and 12 percent for both U.S. extractor/processors and for importers.<sup>2</sup> Extractor/processors and importers also were asked to estimate the percentage of their sales that occurred within certain distance ranges. Three of six extractor/processors and all three responding importers reported that more than 50 percent of their sales were shipped between 101 and 1,000 miles to their customers. Three of the six extractor/processors reported that at least 40 percent of their sales were shipped more than 1,000 miles.

#### **Exchange Rates**

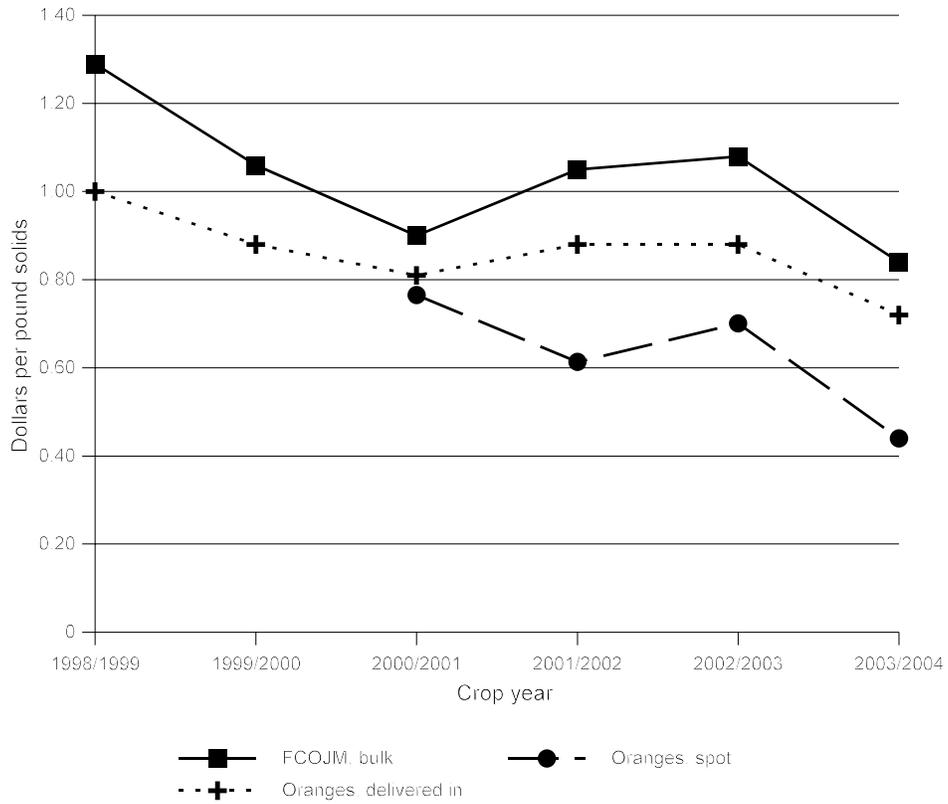
Quarterly data reported by the International Monetary Fund for the Brazilian real from January 1999 through September 2004 for the nominal and real values of the currency are presented in figure V-2. The data show that while the nominal value generally depreciated during the period examined, the real value fluctuated through the end of 2002. The real value appreciated by 26 percent from the fourth quarter of 2002 to the third quarter of 2004.

---

<sup>1</sup> These estimates are based on HTSUS subheading 2009.11.00.

<sup>2</sup> \*\*\*.

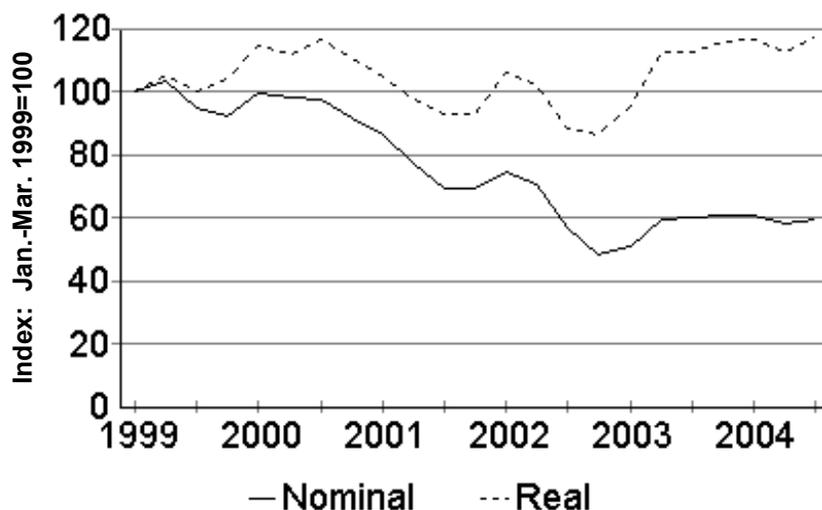
**Figure V-1**  
**FCOJM and orange prices: Season average prices for FCOJM, bulk; spot market prices for oranges; and delivered-in prices<sup>3</sup> for oranges**



Sources: Florida Citrus Mutual, Florida Citrus Processors Association, and Florida Department of Citrus.

<sup>3</sup> The delivered-in price is the price agreed to be paid to the grower/supplier and does not include advertising tax, inspection fees, or import duties.

**Figure V-2**  
**Exchange rates: Indices of the nominal and real exchange rates of the Brazilian real relative to the U.S. dollar, by quarters, January 1999-September 2004**



Source: International Monetary Fund, *International Financial Statistics*, retrieved from <http://ifs.apdi.net/imf/about.asp> on December 22, 2004.

## PRICING PRACTICES

### Pricing Methods

Four extractor/processors and four importers reported determining prices based on contracts and the price of FCOJM on the New York Board of Trade (“NYBOT”) futures market.<sup>4</sup> Two extractor/processors and two importers cited setting prices on a transaction-by-transaction negotiation. Three extractor/processors and three importers reported having a discount policy for select customers, usually those with large sales volumes.

Sales of FCOJM are mostly made on a short-term contract or spot basis, but the percentage of sales varied widely for each category. Four of seven extractor/processors reported over 50 percent of their sales were made on a spot basis. Four of seven extractor/processors and three of five responding importers reported short-term contracts lasting anywhere from six months to one year, while one extractor/processor and one importer reported the length of short-term contracts as quarterly. Another extractor/processor reported the length of short-term contracts as one month. Long-term contracts ranged from two years for two extractor/processors to 20 years for one extractor/processor.

Six of seven extractor/processors and all five responding importers said they do not renegotiate prices during the contract period. Six of seven extractor/processors and all five responding importers reported both price and quantity were fixed in contracts, and one extractor/processor reported flexibility

<sup>4</sup> FCOJ futures have been traded since 1966, and FCOJ options were added in 1985. The primary FCOJ futures contract (FCOJ-A) traded in the NYBOT market specifies that juice deliverable against the contract must be of Florida and/or Brazilian origin. The NYBOT website (<http://www.nybot.com>) states that the major factor in FCOJ pricing has been and continues to be the weather.

in price for both short- and long-term contracts. Five extractor/processors and four importers reported no meet-or-release provisions.

### PRICE DATA

The Commission requested U.S. extractor/processors and importers of FCOJM to provide quarterly data for the total quantity and f.o.b. value of FCOJM that was shipped to unrelated customers in the U.S. market. Data were requested for the period January 1999 to September 2004. The products for which pricing data were requested are as follows:

**Product 1**– FCOJM in bulk tanker shipments.

**Product 2**– FCOJM in 55-gallon drums.

Seven U.S. extractor/processors and four importers of FCOJM from Brazil provided usable pricing data for sales of the requested products, although not all firms reported pricing for all products for all quarters. No data were reported for subject imports from Brazil. By quantity, pricing data reported by responding firms in 1999 through 2004 accounted for approximately 46 percent of U.S. producers’ shipments of FCOJM and 32 percent of U.S. shipments of imports from Brazil. The pricing data are presented in tables V-1 and V-2, and figures V-3 and V-4. Because there were no data for subject imports from Brazil, margins of underselling were not calculated.

**Table V-1**

**FCOJM: Weighted-average f.o.b. prices and quantities of domestic and imported product 1, by quarters, January 1999-September 2004**

\* \* \* \* \*

**Table V-2**

**FCOJM: Weighted-average f.o.b. prices and quantities of domestic and imported product 2, by quarters, January 1999-September 2004**

\* \* \* \* \*

**Figure V-3**

**FCOJM: Weighted-average f.o.b. prices (per-pound solids equivalent) of domestic and imported product 1, by quarters, January 1999-September 2004**

\* \* \* \* \*

**Figure V-4**

**FCOJM: Weighted-average f.o.b. prices (per-pound solids equivalent) of domestic and imported product 2, by quarters, January 1999-September 2004**

\* \* \* \* \*

## **Price Trends**

There were not observations for all products from all sources throughout the period for which data were requested, and the descriptions below concern those periods for which data were reported. Overall, prices for U.S. and Brazilian product 1 decreased. Prices for U.S. product 2 fell, and prices for Brazilian product 2 rose.

The quarterly average of FCOJ prices from the NYBOT were added to the figures for reference. Prices for U.S. and Brazilian product 1 generally followed the same trend as the futures price over the period January 1999 through September 2004. However, the decline in futures prices that began in early 2003 did not begin until late 2003 for both U.S. and Brazilian product 1. Prices for U.S. product 2 generally followed the same trend as the futures price; prices for Brazilian product 2 generally did not.

**APPENDIX A**

***FEDERAL REGISTER* NOTICES AND THE COMMISSION'S STATEMENT  
ON ADEQUACY**



**ACTION:** Institution of a five-year review concerning the antidumping duty order on frozen concentrated orange juice from Brazil.

**SUMMARY:** The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on frozen concentrated orange juice from Brazil would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;<sup>1</sup> to be assured of consideration, the deadline for responses is May 21, 2004. Comments on the adequacy of responses may be filed with the Commission by June 14, 2004. For further information concerning the conduct of this review 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 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** April 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202) 205-3193, 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>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background.*—On May 5, 1987, the Department of Commerce issued an antidumping duty order on imports of frozen concentrated orange juice from Brazil (52 FR 16426). The Commission

---

**INTERNATIONAL TRADE  
COMMISSION**

[Investigations Nos. 731-TA-326 (Review)]

**Frozen Concentrated Orange Juice  
From Brazil**

**AGENCY:** International Trade  
Commission.

<sup>1</sup> No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 04-5-088, expiration date June 30, 2005. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

subsequently affirmed its determination in the antidumping investigation in response to a December 30, 1988, remand order of the United States Court of International Trade. Following five-year reviews by Commerce and the Commission, effective May 28, 1999, Commerce issued a continuation of the antidumping duty order on imports of frozen concentrated orange juice from Brazil (64 FR 42660). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

*Definitions.*—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Brazil.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination concerning the antidumping duty investigation, three members of the Commission defined the Domestic Like Product as frozen concentrated orange juice for manufacturing, a highly concentrated form of frozen concentrated orange juice. One member of the Commission found a broader Domestic Like Product consisting of frozen concentrated orange juice (encompassing frozen concentrated orange juice for manufacturing, frozen concentrated orange juice for retail, and single strength orange juice). One other like product combination was found in the original determination. In its expedited five-year review determination, the Commission defined the Domestic Like Product as the same as Commerce's scope and unchanged from the determination of the Commission majority in the original investigation, *i.e.*, frozen concentrated orange juice for manufacturing.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like

Product constitutes a major proportion of the total domestic production of the product. In its original determination concerning the antidumping duty investigation, three members of the Commission defined the Domestic Industry as growers of round oranges and extractors of orange juice that produce frozen concentrated orange juice for manufacturing; specifically excluded from the Domestic Industry were reconstitutors. One member of the Commission defined the Domestic Industry as growers and processors, including reconstituting operations of integrated producers. One other domestic industry definition was used in the original determination. In its expedited five-year review determination, the Commission defined the Domestic Industry the same as the Commission majority in the original investigation, *i.e.*, all domestic producers of frozen concentrated orange juice for manufacturing, including growers of round oranges.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

*Participation in the review and public service list.*—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission is seeking guidance as to whether a second transition five-year review is the "same particular matter" as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's

participation was "personal and substantial." However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at (202) 205-3088.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Certification.*—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

*Written submissions.*—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is May 21, 2004. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is June 14, 2004. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The

Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

*Inability to provide requested information.*—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

*Information To Be Provided in Response To This Notice of Institution:* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in

section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 1997.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2003 (report quantity data in single-strength equivalent gallons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in single-strength equivalent gallons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2003 (report quantity data in single-strength equivalent gallons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 1997, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject

---

Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: March 25, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-7391 Filed 3-31-04; 8:45 am]

**BILLING CODE 7020-02-P**

---

---

**INTERNATIONAL TRADE  
COMMISSION**

[Investigations Nos. 731-TA-326 (Second Review)]

**Frozen Concentrated Orange Juice  
from Brazil**

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of Commission determination to conduct a full five-year review concerning the antidumping duty order on frozen concentrated orange juice from Brazil.

**SUMMARY:** The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty order on frozen concentrated orange juice from Brazil would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review 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 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** July 6, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mary Messer (202-205-3193), 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>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** On July 6, 2004, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that both the domestic and respondent interested party group responses to its notice of institution (69 FR 17230, April 1, 2004) were adequate. A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: July 20, 2004.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-16868 Filed 7-22-04; 8:45 am]

**BILLING CODE 7020-02-P**

---

---

---

**INTERNATIONAL TRADE  
COMMISSION**

[Investigation No. 731-TA-326 (Second Review)]

**Frozen Concentrated Orange Juice  
From Brazil**

**AGENCY:** United States International Trade Commission.

**ACTION:** Scheduling of a full five-year review concerning the antidumping duty order on frozen concentrated orange juice from Brazil.

**SUMMARY:** The Commission hereby gives notice of the scheduling of a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty on frozen concentrated orange juice from Brazil would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review 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 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** July 6, 2004.

**FOR FURTHER INFORMATION CONTACT:** Megan Spellacy (202) 205-3190, 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>). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:**

*Background:* On July 6, 2004, the Commission determined that responses to its notice of institution of the subject five-year review were such that a full review pursuant to section 751(c)(5) of the Act should proceed (69 FR 44060, July 23, 2004). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

*Participation in the review and public service list:* Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review 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, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the review need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list:* Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this review available to authorized applicants under the APO issued in the review, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice of institution of the review need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report:* The prehearing staff report in the review will be placed in

the nonpublic record on January 12, 2005, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

*Hearing:* The Commission will hold a hearing in connection with the review beginning at 9:30 a.m. on February 1, 2005, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 25, 2005. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 27, 2005, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

*Written submissions:* Each party to the review may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is January 21, 2005. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 10, 2005; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of the review on or before February 10, 2005. On March 4, 2005, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 8, 2005, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's

rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI 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 review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: August 16, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-19068 Filed 8-19-04; 8:45 am]

**BILLING CODE 7020-02-P**

---

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-351-605]

**Frozen Concentrated Orange Juice  
From Brazil; Final Results of the  
Expedited Sunset Review of the  
Antidumping Order**

**AGENCY:** Import Administration,  
International Trade Administration,  
Department of Commerce.

**ACTION:** Notice of final results of  
expedited sunset review of the  
antidumping order on frozen  
concentrated orange juice from Brazil.

---

**SUMMARY:** On April 1, 2004, the Department of Commerce (“the Department”) initiated a sunset review of the antidumping duty order on frozen concentrated orange juice (“FCOJ”) from Brazil pursuant to section 751(c) of the Tariff Act of 1930, as amended (“the Act”). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department conducted an expedited (120-day) sunset review. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the Final Results of Review section of this notice.

**EFFECTIVE DATE:** September 7, 2004.

**FOR FURTHER INFORMATION:** Hilary E. Sadler, Esq., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4340.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 1, 2004, the Department published the notice of initiation of the sunset review of the antidumping duty order on FCOJ from Brazil.<sup>1</sup> On April 16, 2004, the Department received a Notice of Intent to Participate from Florida Citrus Mutual; Citrus Belle; Citrus World, Inc.; Peace River Citrus Products, Inc.; and Southern Gardens Citrus Processors Corporation (collectively “domestic interested parties”) within the deadline specified in section 315.218(d)(1)(i) of the Department’s regulations. The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as U.S. producers of FCOJ. On May 3, 2004, the Department received complete substantive responses from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department’s regulations. We did not receive responses from any respondent interested parties to this proceeding, except a participation waiver from Citrovita Agro Industrial, Ltda., a respondent interested party. See response of Citrovita Agro Industrial, Ltda., “FCOJ from Brazil Sunset Review: Clarification” (May 10, 2004). As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department’s regulations, the Department determined to conduct an expedited review of this order.

**Scope of the Order**

The merchandise covered by this order is FCOJ from Brazil. The merchandise is currently classifiable under subheading 2009.11.00 of the Harmonized Tariff Schedule United States (“HTS”). The HTS subheading is provided for convenience and customs purposes. The written description remains dispositive.

**Analysis of Comments Received**

All issues raised in these reviews are addressed in the “Issues and Decision Memorandum” (“Decision Memo”) from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated August 30, 2004, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely

to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading “September 2004.” The paper copy and electronic version of the Decision Memorandum are identical in content.

**Final Results of Reviews**

We determine that revocation of the antidumping duty order on FCOJ from Brazil would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average percentage margins:

Manufacturers/exporters/producers	Weighted average margin (percent)
Citrovita .....	15.98
All Others .....	1.96

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: August 30, 2004.

**James J. Jochum,**  
*Assistant Secretary for Import Administration.*

[FR Doc. E4-2082 Filed 9-3-04; 8:45 am]

**BILLING CODE 3510-DS-P**

<sup>1</sup> See *Initiation of Five-Year (“Sunset”) Reviews*, 69 FR 17129 (April 1, 2004) (“Initiation Notice”).

**DEPARTMENT OF COMMERCE****International Trade Administration****[A-351-605]****Frozen Concentrated Orange Juice from Brazil; Initiation of Changed Circumstances Antidumping Duty Administrative Review****AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is initiating a changed circumstances administrative review of the antidumping duty order on frozen concentrated orange juice (FCOJ) from Brazil (*see Notice of Antidumping Duty Order: Frozen Concentrated Orange Juice from Brazil* (52 FR 16426, May 5, 1987)) in response to a request from Louis Dreyfus Citrus Inc., a U.S. importer of FCOJ from Brazil, COINBRA-Frutesp, S.A. (COINBRA-Frutesp), a manufacturer/exporter of FCOJ from Brazil, and the affiliated companies of the Louis Dreyfus group (collectively "Louis Dreyfus"). These entities have requested that the Department conduct a changed circumstances review to determine that COINBRA-Frutesp is the successor-in-interest to Coopercitrus Industrial Frutesp, S.A. (Frutesp), and as a result to find that FCOJ from Brazil manufactured and exported by COINBRA-Frutesp is not subject to the antidumping duty order on FCOJ from Brazil.

**EFFECTIVE DATE:** January 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood or Jill Pollack, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3874 and (202) 482-4593, respectively.

**SUPPLEMENTARY INFORMATION:****Background:**

On May 5, 1987, the Department published in the *Federal Register* an antidumping duty order on FCOJ from Brazil covering all Brazilian producers except Sucocitrico Cultrale, S.A. *See Antidumping Duty Order; Frozen Concentrated Orange Juice from Brazil*, 52 FR 16426 (May 5, 1987). On October

21, 1991, the Department revoked the antidumping duty order with regard to Frutesp. *See Frozen Concentrated Orange Juice from Brazil; Final Results and Termination in Part of Antidumping Duty Administrative Review; Revocation in Part of Antidumping Duty Order*, 56 FR 52510 (Oct. 21, 1991).

In 1993, Louis Dreyfus purchased the shares and assets of Frutesp, and the following year Frutesp changed its name to COINBRA-Frutesp.

On August 3, 2004, Louis Dreyfus informed the Department that it controls, through its member companies, all the assets of COINBRA-Frutesp. In this submission, Louis Dreyfus requested an expedited changed circumstances review to determine that FCOJ from Brazil manufactured by Louis Dreyfus or its affiliates and exported by COINBRA-Frutesp is not subject to the antidumping duty order on FCOJ from Brazil.

On September 17 and November 5, 2004, we requested additional clarification from Louis Dreyfus with respect to the companies that are the subject of its request for a changed circumstances review. On September 20 and November 15, 2004, Louis Dreyfus clarified that it is requesting that COINBRA-Frutesp be designated as the successor-in-interest to Frutesp. According to Louis Dreyfus, this action is necessary because on March 18, 2004, U.S. Customs and Border Protection (CBP) informed Louis Dreyfus that entries of FCOJ manufactured by COINBRA-Frutesp are, in fact, subject to the antidumping duty order on FCOJ, and CBP is currently requiring the payment of cash deposits on such merchandise. Louis Dreyfus asserts that the CBP had not required cash deposits on COINBRA-Frutesp's exports prior to that time.

**Scope of the Review**

The merchandise covered by this order is FCOJ from Brazil, and is currently classifiable under item 2009.11.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS item number is provided for convenience and customs purposes. The Department's written description of the scope of the review remains dispositive.

**Initiation of Changed Circumstances Review**

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), the Department will conduct a changed circumstances review upon request from an interested party or receipt of information concerning an antidumping

duty order, when either of which shows changed circumstances sufficient to warrant a review of the order. Thus, in accordance with section 751(b) of the Act, the Department is initiating a changed circumstances review to determine whether COINBRA–Frutesp is the successor–in–interest to Frutesp for purposes of determining antidumping duty liability with respect to imports of FCOJ from Brazil produced and exported by COINBRA–Frutesp.

In making a successor–in–interest determination, the Department examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See, e.g., Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan*, 67 FR 58 (Jan. 2, 2002); *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20462 (May 13, 1992). While no single factor or combination of these factors will necessarily provide a dispositive indication of a successor–in–interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company’s resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (Mar. 1, 1999); *Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review*, 59 FR 6944 (Feb. 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

With regard to Frutesp, Louis Dreyfus claims that the production facilities and contractual relationships with suppliers and customers remained unchanged after Louis Dreyfus assumed control of this company. According to Louis Dreyfus, COINBRA–Frutesp and its assets have remained essentially the same as those of Frutesp for which the order was revoked. In addition, Louis Dreyfus states that changes in the corporate name and ownership are the only material aspects of COINBRA–Frutesp’s business that have changed since the Department revoked the antidumping duty order with regard to Frutesp.

In this case, the Department finds that the information submitted by Louis Dreyfus provides sufficient evidence of changed circumstances to warrant a review to determine whether COINBRA–Frutesp is the successor–in–interest to Frutesp. Thus, in accordance with section 751(b)(1) of the Act, we are initiating a changed circumstances review based upon the information contained in Louis Dreyfus’ submissions to determine whether the revocation of the order as to Frutesp should apply to merchandise manufactured and exported by COINBRA–Frutesp. Because it is the Department’s practice to examine changes in management and customer base as part of its analysis in such a determination, and Louis Dreyfus has not addressed these factors, we are not conducting the changed circumstances review on an expedited basis.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances review, in accordance with 19 CFR 351.221(c)(3)(i) (2004), which will set forth the factual and legal conclusions upon which our preliminary results are based, and a description of any action proposed based on those results. Interested parties may submit comments for consideration in the Department’s preliminary results not later than 60 days after publication of this notice. Responses to those comments may be submitted not later than 10 days following submission of the comments. All written comments must be submitted in accordance with 19 CFR 351.303 (2004), and must be served on all interested parties on the Department’s service list in accordance with 19 CFR 351.303(f) (2004). The Department will also issue its final results of review within 270 days after the date on which the changed circumstances review is initiated, in accordance with 19 CFR 351.216(e) (2004), and will publish these results in the **Federal Register**.

The current requirement for a cash deposit of estimated antidumping duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This notice is in accordance with sections 751(b)(1) of the Act and 19 CFR 351.216 and 351.222 of the Department’s regulations.

Dated: January 19, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5–314 Filed 1–26–05; 8:45 am]

**BILLING CODE 3510–DS–S**

## **EXPLANATION OF COMMISSION DETERMINATIONS ON ADEQUACY**

in

*Frozen Concentrated Orange Juice from Brazil*, Inv. No. 731-TA-326 (Second Review)

On July 6, 2004, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Tariff Act of 1930, as amended, 19 U.S.C. § 1675(c)(5).

The Commission determined that the domestic interested party group response was adequate. The Commission received a joint response with company-specific data from an association of orange growers, Florida Citrus Mutual, and three producers of frozen concentrated orange juice (FCOJ), A. Duda & Sons, Inc. (dba Citrus Belle), Citrus World, Inc., and Peace River Citrus Products, Inc. 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 determined that the respondent interested party group response was adequate as well. The Commission received a joint response with company-specific data from Citrovita Agro Industrial Ltda., a Brazilian producer, and Votorantim International North America, Inc., an importer of FCOJ from Brazil. Because the Commission received an adequate response from respondent interested parties accounting for a substantial percentage of Brazilian subject production, the Commission determined that the respondent interested party group response was adequate.

**APPENDIX B**  
**HEARING WITNESSES**



## CALENDAR OF PUBLIC HEARING

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

**Subject:** Frozen Concentrated Orange Juice from Brazil

**Inv. No.:** 731-TA-326 (Second Review)

**Date and Time:** February 1, 2005 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room, 500 E Street, SW, Washington, D.C.

### **OPENING REMARKS:**

In Support of Revocation of Order (**John D. Greenwald**, Wilmer Cutler Pickering Hale and Dorr LLP)

### **Non-Party In Opposition to the Revocation of the Antidumping Duty Order:**

Willkie Farr & Gallagher LLP  
Washington, D.C.  
on behalf of

Louis Dreyfus Citrus Inc.

**Randal G. Freeman**, Senior Vice President, Louis  
Dreyfus Citrus Inc.

**Rebecca Griffin**

) – OF COUNSEL

**In Support of the Revocation of  
the Antidumping Duty Order:**

Wilmer Cutler Pickering Hale and Dorr LLP  
Washington, D.C.  
on behalf of

Citrovita Agro Industrial Ltda.  
Votorantim International North America, Inc.

**Eduardo Scabbia**, Managing Director, Votorantim  
International North America, Inc.

**John D. Greenwald** )  
 ) – OF COUNSEL  
**Evan D. Alexander** )

**REBUTTAL/CLOSING REMARKS:**

In Support of Revocation of Order (**John D. Greenwald**, Wilmer  
Cutler Pickering Hale and Dorr LLP)

**APPENDIX C**  
**SUMMARY DATA**



Table C-1

## FCOJM: Summary data concerning the U.S. market, crop years 1998/99 - 2003/04

(Quantity=million gallons, value=million dollars, unit values are per gallon; period changes=percent, except where noted)

Item	Reported data						Period changes					
	Crop years						1998/99 -	1998/99 -	1999/00 -	2000/01 -	2001/02 -	2002/03 -
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2003/04	1999/00	2000/01	2001/02	2002/03	2003/04
Total available FCOJM:												
Quantity . . . . .	1,399.0	1,580.4	1,483.4	1,551.8	1,399.9	1,576.0	12.6	13.0	-6.1	4.6	-9.8	12.6
Florida production share (1)	45.4	52.6	52.9	55.4	44.8	55.4	10.0	7.1	0.3	2.6	-10.6	10.6
Carryover stock share (1)	29.9	26.6	30.4	33.1	36.2	31.5	1.6	-3.3	3.7	2.7	3.1	-4.7
Importers' share (1):												
Brazil (subject) . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Brazil (nonsubject) . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
All other sources . . . . .	6.1	6.2	5.7	4.7	4.2	4.1	-2.0	0.2	-0.5	-1.0	-0.5	-0.2
Total imports . . . . .	24.7	20.8	16.8	11.5	19.0	13.1	-11.5	-3.9	-4.0	-5.3	7.5	-5.9
U.S. imports from:												
Brazil (subject):												
Quantity . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Brazil (nonsubject):												
Quantity . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
All other sources:												
Quantity . . . . .	84.7	98.4	85.2	73.5	59.2	63.8	-24.6	16.2	-13.4	-13.7	-19.4	7.8
Value . . . . .	99.4	108.5	101.1	100.1	76.4	54.1	-45.5	9.2	-6.8	-1.1	-23.7	-29.1
Unit value . . . . .	\$1.17	\$1.10	\$1.19	\$1.36	\$1.29	\$0.85	-27.7	-6.0	7.7	14.7	-5.3	-34.3
All sources:												
Quantity . . . . .	344.9	328.8	248.6	178.3	265.9	206.7	-40.1	-4.7	-24.4	-28.3	49.1	-22.3
Value . . . . .	386.0	320.6	238.8	190.4	282.9	182.1	-52.8	-17.0	-25.5	-20.3	48.6	-35.6
Unit value . . . . .	\$1.12	\$0.98	\$0.96	\$1.07	\$1.06	\$0.88	-21.3	-12.9	-1.5	11.2	-0.4	-17.2
U.S. exports:												
Quantity . . . . .	71.8	74.5	57.0	125.4	41.5	60.3	-16.1	3.6	-23.4	119.9	-66.9	45.3
Value . . . . .	133.8	124.7	104.9	145.9	85.6	95.3	-28.8	-6.8	-15.9	39.2	-41.3	11.2
Unit value . . . . .	\$1.86	\$1.67	\$1.84	\$1.16	\$2.06	\$1.58	-15.1	-10.1	9.8	-36.7	77.4	-23.5
U.S. processors':												
Florida production (quantity)	635.5	830.8	784.2	860.2	627.4	873.2	37.4	30.7	-5.6	9.7	-27.1	39.2
Carryover stock (quantity)	418.6	420.8	450.6	513.3	506.6	496.1	18.5	0.5	7.1	13.9	-1.3	-2.1

Source: Compiled from official statistics of USDA and USDOC.

**Table C-2**

**FCOJM: Summary data concerning U.S. processors (1), crop years 1998/99 - 2003/04**

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

Item	Reported data						Period changes					
	Crop years						1998/99 -	1998/99 -	1999/00 -	2000/01 -	2001/02 -	2002/03 -
	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04	2003/04	1999/00	2000/01	2001/02	2002/03	2003/04
U.S. processors <sup>1</sup> :												
Average capacity quantity . . . . .	623,100	699,350	699,350	784,350	784,350	784,350	25.9	12.2	0.0	12.2	0.0	0.0
Production quantity . . . . .	396,125	519,377	479,409	645,697	500,894	658,832	66.3	31.1	-7.7	34.7	-22.4	31.5
Capacity utilization (2) . . . . .	63.6	74.3	68.6	82.3	63.9	84.0	20.4	10.7	-5.7	13.8	-18.5	20.1
U.S. shipments:												
Quantity . . . . .	595,748	663,615	642,931	743,796	638,618	695,334	16.7	11.4	-3.1	15.7	-14.1	8.9
Value . . . . .	551,417	585,279	526,686	655,302	564,105	527,645	-4.3	6.1	-10.0	24.4	-13.9	-6.5
Unit value . . . . .	\$0.93	\$0.88	\$0.82	\$0.88	\$0.88	\$0.76	-18.0	-4.7	-7.1	7.5	0.3	-14.1
Export shipments:												
Quantity . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Value . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Unit value . . . . .	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity . . . . .	163,025	190,827	164,144	135,029	136,987	180,738	10.9	17.1	-14.0	-17.7	1.5	31.9
Inventories/total shipments	***	***	***	***	***	***	***	***	***	***	***	***
Production workers . . . . .	877	861	942	984	964	1,010	15.2	-1.8	9.4	4.5	-2.0	4.8
Hours worked (1,000s) . . . . .	1,978	2,093	2,090	2,483	2,207	2,100	6.2	5.8	-0.1	18.8	-11.1	-4.8
Wages paid (\$1,000s) . . . . .	22,845	24,169	25,414	31,277	28,188	26,711	16.9	5.8	5.2	23.1	-9.9	-5.2
Hourly wages . . . . .	\$11.55	\$11.55	\$12.16	\$12.60	\$12.77	\$12.72	10.1	-0.0	5.3	3.6	1.4	-0.4
Productivity (pounds per ho . . . . .	176.1	209.6	191.5	198.5	161.7	232.3	31.9	19.0	-8.6	3.6	-18.5	43.7
Unit labor costs . . . . .	\$0.07	\$0.06	\$0.06	\$0.06	\$0.08	\$0.05	-16.5	-16.0	15.2	-0.0	24.5	-30.7
Net sales:												
Quantity . . . . .	514,371	628,469	695,464	808,304	648,589	719,336	39.8	22.2	10.7	16.2	-19.8	10.9
Value . . . . .	443,276	438,742	428,554	598,496	487,885	503,887	13.7	-1.0	-2.3	39.7	-18.5	3.3
Unit value . . . . .	\$0.86	\$0.70	\$0.62	\$0.74	\$0.75	\$0.70	-18.7	-19.0	-11.7	20.2	1.6	-6.9
Cost of goods sold (COGS) . . . . .	415,950	438,668	407,623	546,986	450,176	473,875	13.9	5.5	-7.1	34.2	-17.7	5.3
Gross profit or (loss) . . . . .	27,326	74	20,931	51,510	37,709	30,012	9.8	-99.7	28,185.1	146.1	-26.8	-20.4
SG&A expenses . . . . .	12,736	14,149	14,150	19,171	16,963	17,974	41.1	11.1	0.0	35.5	-11.5	6.0
Operating income or (loss) . . . . .	14,590	(14,075)	6,781	32,339	20,746	12,038	-17.5	(3)	(3)	376.9	-35.8	-42.0
Capital expenditures . . . . .	21,916	57,969	11,581	13,989	10,182	10,999	-49.8	164.5	-80.0	20.8	-27.2	8.0
Unit COGS . . . . .	\$0.81	\$0.70	\$0.59	\$0.68	\$0.69	\$0.66	-18.5	-13.7	-16.0	15.5	2.6	-5.1
Unit SG&A expenses . . . . .	\$0.02	\$0.02	\$0.02	\$0.02	\$0.03	\$0.02	0.9	-9.1	-9.6	16.6	10.3	-4.5
Unit operating income or (lo . . . . .	\$0.03	(\$0.02)	\$0.01	\$0.04	\$0.03	\$0.02	-41.0	(3)	(3)	310.3	-20.1	-47.7
COGS/sales (2) . . . . .	93.8	100.0	95.1	91.4	92.3	94.0	0.2	6.1	-4.9	-3.7	0.9	1.8
Operating income or (loss)/ . . . . .												
sales (2) . . . . .	3.3	(3.2)	1.6	5.4	4.3	2.4	-0.9	-6.5	4.8	3.8	-1.2	-1.9

(1) Data compiled from USITC questionnaires.

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

(3) Undefined.

Note.--Financial data are reported on a fiscal year basis and may not necessarily be comparable to data reported on a calendar year basis. Because of rounding figures may not add to the total shown. Unit values and shares are calculated from the unrounded figures.

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

**APPENDIX D**

**U.S. PRODUCERS', U.S. IMPORTERS', U.S. PURCHASERS', AND  
FOREIGN PRODUCERS' COMMENTS REGARDING  
THE EFFECTS OF THE ANTIDUMPING DUTY ORDER AND  
THE LIKELY EFFECTS OF REVOCATION**



**COMMENTS REGARDING THE EFFECTS OF THE ORDER AND  
THE LIKELY EFFECTS OF REVOCATION**

**U.S. Producers**

U.S. producers were asked whether they anticipated any changes in the character of their operations or organization relating to the production of FCOJM in the future if the antidumping order were to be revoked. (Question II-4). The responses of extractor/processors are presented below:

**A. Duda and Sons**

“\*\*\*.”

**Cargill Juice**

“\*\*\*.”

**Citrosuco NA**

“\*\*\*.”

**Citrus World**

“\*\*\*.”

**Cutrale**

“\*\*\*.”

**Holly Hill**

“\*\*\*.”

**Louis Dreyfus**

“\*\*\*.”

## **U.S. Importers**

U.S. importers were asked whether they anticipated any changes in the character of their operations or organization relating to the importation of FCOJM in the future if the antidumping order were to be revoked. (Question II-4). The responses of importers are presented below:

### **Cargill**

“\*\*\*.”

### **Citrus Products, Inc.**

“\*\*\*.”

### **The Coca-Cola Company**

“\*\*\*.”

### **Louis Dreyfus**

“\*\*\*.”

### **Votorantim International North America, Inc.**

“\*\*\*.”

## U.S. Purchasers

U.S. purchasers were asked to describe the likely effects of any revocation of the antidumping order covering FCOJM from Brazil in terms of: (1) its future activities; and (2) the U.S. market as a whole. (Question III-35) The responses of U.S. purchasers are presented below:

\*\*\*

(1) Activities of your firm: "Revocation would most likely place domestic solids at a price disadvantage, causing some domestic suppliers to exit the market. Some of our competitors already use foreign solids; thus, we would most likely be "forced" to modify our specs. to include foreign solids in order to offer a price competitive product. Longer term we expect prices would almost equalize, with domestic solids at a slight price premium and after losing some domestic suppliers it will force domestic suppliers to become more efficient, but because of stricter U.S. laws, they would likely never be able to be quite as competitive. Thus, revocation would most likely be detrimental to U.S. citrus growers."

(2) Entire U.S. market: "Since our customers base is largely located in Florida, we believe our customers "recognize" the benefits of 100% Florida solids. Nationwide this is not likely the case, so retailers and customers alike would benefit from revocation of the antidumping order."

\*\*\*

(1) Activities of your firm: "The likely effect of the revocation of the existing antidumping order of FCOJ from Brazil will be that petitioners file a "new case." In the event that any injury by reason of subject imports is found, and that margins are found, we will undergo the annual review process in order to have the order revoked as to \*\*\*. As far as we are concerned, nothing would change our market behavior."

(2) Entire U.S. market: "As to the entire U.S. market, we believe that in the event of revocation all other Florida/Brazilian processors will do precisely the same thing as we will."

\*\*\*

(1) Activities of your firm: "None, our packaging is suitable for either Fla. or Brazil."

(2) Entire U.S. market: "None, the rules of supply and demand will prevail."

\*\*\*

(1) Activities of your firm: "None."

(2) Entire U.S. market: "Don't see it impacting the market. Will have no impact on \*\*\*. \*\*\* is in favor of the antidumping order."

\*\*\*

(1) Activities of your firm: "We have found that Brazilian processors do not want to be bothered by small buyer like our company."

(2) Entire U.S. market: "All purchasing is based heavily on price. I expect the large users will develop a useable blend of Brazil and Florida to lower their product cost. Less Florida FCOJM will be used. Florida processors will be hurt. Brazil will purchase the Florida processing plants. Brazil will control the world citrus market."

\*\*\*

- (1) Activities of your firm: "N/A."
- (2) Entire U.S. market: "We can't anticipate actions of our competition, but we would expect imports of Brazilian FCOJM to increase given their relative cost advantage."

\*\*\*

- (1) Activities of your firm: "No opinion."
- (2) Entire U.S. market: "No opinion."

\*\*\*

- (1) Activities of your firm: "No effect."
- (2) Entire U.S. market: "Revocation of the antidumping order will have no effect on the U.S. market or our firm. In fact, since its inception, it has had little effect. Under the original order, margins were 1.96% (a de minimis margin under the present statute). All major foreign producers easily gained revocation during the first three years of the order. During the years subsequent to the order, the U.S. industry has changed dramatically. The two largest soft drink marketers, Coca Cola and Pepsi purchased the Minute Maid and Tropicana brands respectively. All four of the largest Brazilian producers of FCOJM developed arrangements for manufacturing FCOJM in Florida, thus allowing them to service U.S. clients primarily from U.S. production. This also enabled the multinational operations to maximize their U.S. facility and worldwide transport and storage operations to export U.S. product to other markets. Separately, the U.S. grove production more than doubled due to tremendous replantings after the freezes of the mid-80s. This replanting boom culminated in a record production of Florida oranges in 2004 of 254 million boxes. At the same time, demand for FCOJM in recent years decreased dramatically as NFC and ready-to-serve products became popular and competitive soft drinks containing little or no FCOJM gained market success. An added factor to this decline in consumption was the hugely popular low-carb diet craze. All such diets recommend avoiding orange juice as a high carb product. The combination of this huge supply increases and reduced demand left U.S. inventories extremely high with limited capacity to store the product. Yet, during this time, imports remained relatively stable and were offset by exports. FCOJM is a traded commodity in the U.S., and U.S. pricing is directly related to the available supply and demand in the U.S. and worldwide. Pricing during the past few years reached historical lows as a result of the combination of record performance and record decline in demand. This pricing decline was equally dramatically reversed this fall after a series of hurricanes landed in Florida. As of the date of this submission, futures prices have increased 43% from their pre-hurricane lows. This reflects the decrease in the Florida crop estimate from an anticipated 225 million boxes to 174 million boxes. It is these factors and not a dumping order that dictate effects on the U.S. FCOJM market."

\*\*\*

- (1) Activities of your firm: "Do not anticipate any impact. The suppliers we use all have processing operations in the U.S.."
- (2) Entire U.S. market: "Do not anticipate any major impact. The hurricanes, canker, and the loss of groves to urban development will most likely have a greater impact."

\*\*\*

(1) Activities of your firm: "Allows us to buy most competitive-priced juice based on global supply and demand."

(2) Entire U.S. market: "Producers domestically will need to consider world juice markets into future marketing strategy."

\*\*\*

(1) Activities of your firm: "No effect."

(2) Entire U.S. market: "Do not care to speculate."

\*\*\*

(1) Activities of your firm: "May force us to use imported FCOJM due to price pressure."

(2) Entire U.S. market: "Would expect smaller users would be affected in a similar fashion."

\*\*\*

(1) Activities of your firm: "None."

(2) Entire U.S. market: "None."

\*\*\*

(1) Activities of your firm: "None - duties appear to be more important."

(2) Entire U.S. market: "None."

## **Producers/Exporters from Brazil**

Foreign producers were asked whether they anticipated any changes in the character of their operations or organization relating to the production of FCOJM in the future if the antidumping order were to be revoked. (Question II-3). Their responses were as follows:

### **Cargill Agricola**

“\*\*\*.”

### **Citrovita**

“\*\*\*.”

### **COINBRA Frutesp**

“\*\*\*.”

### **Citrosuco**

“\*\*\*.”

### **Sucocitrico Cutrale**

“\*\*\*.”

**APPENDIX E**

**U.S. PRODUCERS' COMMENTS REGARDING  
THEIR SUPPORT OR OPPOSITION TO THE CURRENT ANTIDUMPING  
DUTY ORDER**



**COMMENTS REGARDING THE EFFECTS OF THE ORDER AND  
THE LIKELY EFFECTS OF REVOCATION**

**U.S. Producers**

U.S. producers were asked whether they support or oppose the continuation of the antidumping duty order currently in place for FCJM from Brazil. (Question I-3). The responses of extractor/processors are presented below:

**A. Duda and Sons**

“\*\*\*.”

**Cargill**

“\*\*\*.”

**Citrus World**

“\*\*\*.”

**Citrosuco NA**

“\*\*\*.”

**Cutrale**

“\*\*\*.”

**Holly Hill**

“\*\*\*.”

**Louis Dreyfus**

“\*\*\*.”