Lemon Juice From Argentina and Mexico

Investigation Nos. 731-TA-1105-1106 (Review)

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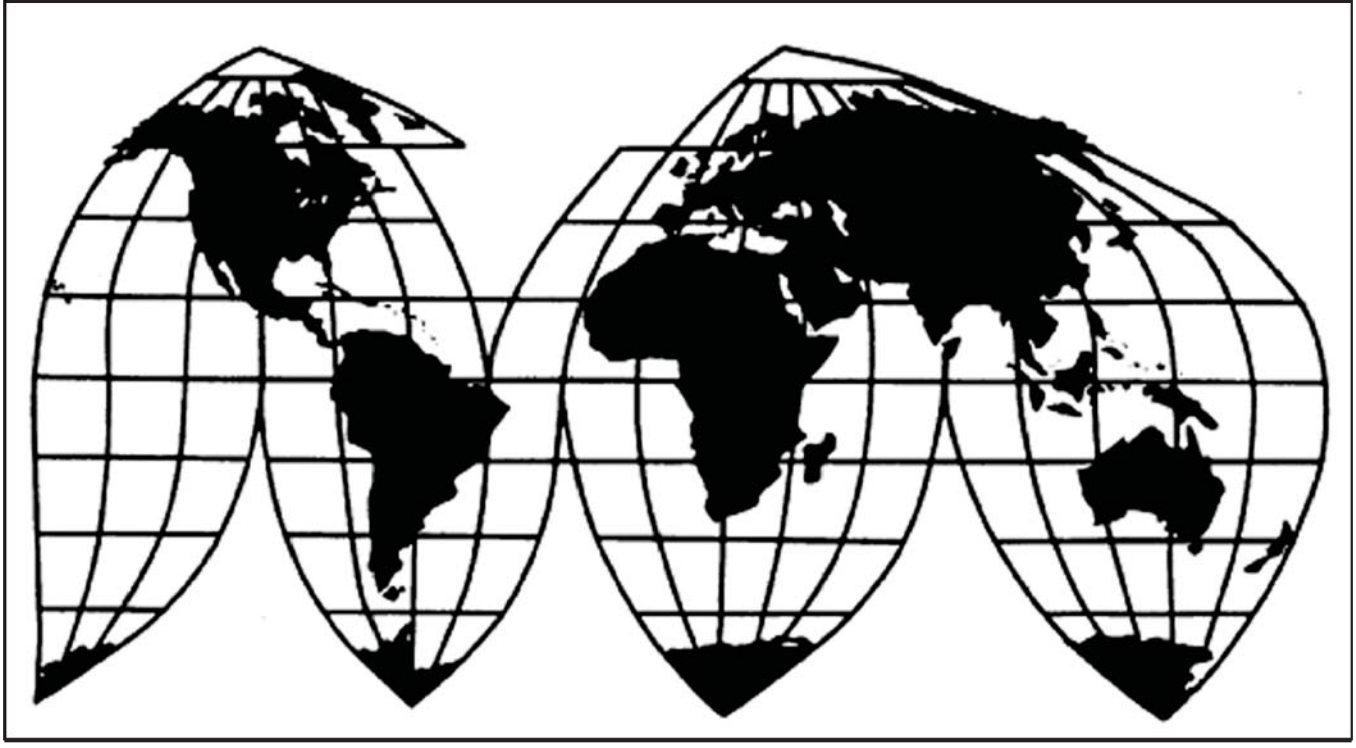
U.S. International Trade Commission



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U.S. International Trade Commission

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Note.--Information that would reveal confidential operations of individual concerns may not be published and therefore has been deleted from this report.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 Nos. 731-TA-1105-1106 (Review)

LEMON JUICE FROM ARGENTINA AND MEXICO

DETERMINATION

On the basis of the record[1] developed in the subject five-year reviews, 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)), that termination of the suspended antidumping duty investigation on lemon juice from Argentina would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2] The Commission also determines that termination of the suspended antidumping duty investigation on lemon juice from Mexico 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 these reviews on August 1, 2012 (77 FR 45653) and determined on November 5, 2012 that it would conduct full reviews (77 FR 67833, November 14, 2012). Notice of the scheduling of the Commission's reviews 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 December 5, 2012 (77 FR 72384). The hearing was held in Washington, DC, on May 16, 2013, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

[2] Commissioner Daniel R. Pearson made a negative determination with respect to the suspended investigation on lemon juice from Argentina.

VIEWS OF THE COMMISSION

Based on the record in these five-year reviews, we determine under section 751(c) of the Tariff Act of 1930, as amended ("the Tariff Act"), that termination of the suspended antidumping duty investigation on lemon juice from Argentina would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. We determine that termination of the suspended antidumping duty investigation on lemon juice from Mexico 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.[1]

I. Background

The Original Investigations. The original investigations of lemon juice from Argentina and Mexico were initiated based on an antidumping duty petition filed by Sunkist Growers, Inc. ("Sunkist") on September 21, 2006.[2] In November 2006, the Commission made preliminary determinations that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of lemon juice from Argentina and Mexico that were alleged to be sold in the United States at less than fair value.[3]

The Suspension Agreements. On September 10, 2007, before the Commission reached final determinations in the original investigations, Commerce suspended the antidumping duty investigation involving lemon juice from Argentina based on a suspension agreement it entered with S.A. San Miguel A.G.I.C. F. ("San Miguel") and Citrusvil, S.A. ("Citrusvil") to revise their prices to eliminate completely sales of lemon juice to the United States at less than fair value.[4] Similarly, on September 10, 2007, Commerce suspended the antidumping duty investigation involving lemon juice from Mexico based on a suspension agreement it entered with The Coca-Cola Company ("TCCC") and The Coca-Cola Export Corporation, Mexico Branch ("TCCEC") to revise their prices to eliminate completely sales of lemon juice to the United States at less than fair value.[5]

The signatories of each agreement are producers and exporters that account for substantially all (not less than 85 percent) of the subject merchandise imported into the United States from the subject country. Commerce may at any time require additional producers/exporters in the subject country to sign the agreement to ensure that not less than substantially all subject imports from each country into the United States are covered.[6] In 2009, Citromax S.A.C.I. became a signatory to the Agreement with respect

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[1] Commissioner Pearson determines that termination of the suspended antidumping duty investigation on lemon juice from Argentina 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. *See* Additional and Dissenting Views of Commissioner Daniel R. Pearson. Except as otherwise noted, Commissioner Pearson joins Sections I to V and VII of these Views.

[2] Confidential Report, Memorandum INV-LL-046 (June 24, 2013) as revised by Memorandum INV-II-052 at I-2 (July 8, 2013) ("CR") at I-2; Public Report, *Lemon Juice from Argentina and Mexico*, Inv. Nos. 731-TA-1105-1106 (Review), USITC Pub. 4418 ("PR") at I-2 (Jul. 2013).

[3] *Lemon Juice From Argentina and Mexico*, Inv. Nos. 731-TA-1105-1106, USITC Pub. 3891 (Nov. 2006) ("USITC Pub. 3891").

[4] 72 Fed. Reg. 53991 (Sep. 21, 2007).

[5] 72 Fed. Reg. 53995 (Sep. 21, 2007).

[6] 72 Fed. Reg. at 53991, 53996.

to subject imports from Argentina and Procimart Citrus became a signatory to the Agreement with respect to subject imports from Mexico.[7]

Commerce establishes normal values once a year for each type of lemon juice to be exported from each country. The subject imports cannot be sold in the United States below these values.[8]

These Reviews. The Commission instituted these reviews on August 1, 2012,[9] and on November 5, 2012, decided to conduct full reviews.[10] The Commission received prehearing and posthearing submissions from domestic producer Ventura Coastal, LLC, a joint venture between Ventura Coastal and Sunkist Growers, Inc. ("Ventura Coastal, LLC"). The Commission also received prehearing submissions from Argentine respondents San Miguel, Citrusvil, and Citromax S.A.C.I., producers and exporters of the subject merchandise in Argentina, and Camara de Industriales Citricos de Argentina (Chamber of Citrus Manufacturers of Argentina) (collectively "Argentine Respondents"), and from Mexican respondents Procimart SA de CV, a producer and exporter of the subject merchandise in Mexico, its affiliated U.S. importer The Citrus Team Company, and TCCC and TCCEC, respectively a producer of the subject merchandise in Mexico and a U.S. importer of subject merchandise from Mexico (collectively "Mexican Respondents"). In addition to their separate prehearing submissions, Argentine Respondents and Mexican Respondents filed joint prehearing and posthearing submissions. Representatives of Ventura Coastal, LLC, Argentine Respondents, and Mexican Respondents appeared at the Commission's hearing accompanied by counsel.

Domestic industry data in these reviews are based on the questionnaire responses of two U.S. processors of lemon juice that are believed to account for the vast majority of domestic production of lemon juice in 2012. U.S. import data and related information are based on Commerce's official import statistics and the questionnaire responses of seven U.S. importers of lemon juice believed to account for 48.5 percent of subject imports between January 2007 and December 2012, the period of review.[11] Foreign industry data and related information are based on the questionnaire responses of three producers and exporters of lemon juice in Argentina accounting for *** percent of total lemon juice exports from Argentina to the United States in 2012, and of two producers in Mexico accounting for *** percent of total lemon juice subject exports from Mexico to the United States in 2012.[12]

II. Domestic Like Product

In making its determination under section 751(c) of the Tariff Act, the Commission defines the "domestic like product" and the "industry."[13] The Tariff Act defines "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."[14] The Commission's practice in five-year reviews is to

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[7] *See e.g.*, Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 15-16; Argentine Respondents' Submission of Normal Values and Price Data (June 12, 2013); Ventura Coastal, LLC's Prehearing Brief at 14; Hearing Transcript at 75-80.

[8] 72 Fed. Reg. at 53992, 53997.

[9] 77 Fed. Reg. 45653 (Aug. 1, 2012).

[10] 77 Fed. Reg. 67833 (Nov. 14, 2012).

[11] The responding importers accounted for 49.1 percent of subject imports from Argentina and 19.3 percent of subject imports from Mexico in 2012. CR/PR at IV-1.

[12] CR at I-9, PR at I-7.

[13] 19 U.S.C. § 1677(4)(A).

examine the domestic like product definition from the original investigations and consider whether the record indicates any reason to revisit the prior findings.[15]

Commerce has defined the scope of the suspended investigations in these five-year reviews as follows:

> certain lemon juice for further manufacture, with or without addition of preservatives, sugar, or other sweeteners, regardless of the GPL (grams per liter of citric acid) level of concentration, brix level, brix/acid ratio, pulp content, clarity, grade, horticulture method (e.g., organic or not), processed form (e.g., frozen or not-from-concentrate), FDA standard of identity, the size of the container in which packed, or the method of packing.[16]

Excluded from the scope are (1) lemon juice at any level of concentration packed in retail-sized containers ready for sale to consumers, typically at a level of concentration of 48 GPL, and (2) beverage products such as lemonade that typically contain 20% or less lemon juice as an ingredient.[17]

In the United States, lemons are generally grown primarily for the fresh market. Those with imperfections or that fail to meet size or grade standards are shipped for processing into various products including lemon juice. Lemon juice is sold to be used as an ingredient by food and beverage processing companies as well as producers of non-food products, such as household cleaners.[18]

Lemons are processed into juice with varying concentrations, acidity, and sugar content. Concentrated lemon juice and not-from-concentrate lemon juice ("NFCLJ") are the two main types. Concentrated lemon juice can be marketed as cloudy, containing up to 12 percent pulp, or clear or clarified, with no visible pulp. The level of concentration is principally measured by acidity, as grams per liter of anhydrous citric acid ("GPL"). Most lemon juice is sold into the concentrate market and is later diluted and sold as reconstituted single strength lemon juice, or used in lemonade and other lemon-flavored beverages and soft drinks.[19] The maximum shelf life of concentrated lemon juice is typically one to two years and as inventoried lemon juice reaches its maximum shelf life it is sold at a discount.[20] Concentrated lemon juice is more economically transported and stored than NFCLJ since removing the water reduces bulk and weight. In addition, highly concentrated lemon juice is less susceptible to microorganisms and may be stored refrigerated rather than frozen, which reduces energy costs. NFCLJ is

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(…Continued)

[14] 19 U.S.C. § 1677(10); *see, e.g., Cleo Inc. v. United States*, 501 F.3d 1291, 1299 (Fed. Cir. 2007); *NEC Corp. v. Department of Commerce*, 36 F. Supp. 2d 380, 383 (Ct. Int'l Trade 1998); *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, 96th Cong., 1st Sess. 90-91 (1979).

[15] *See, e.g., Internal Combustion Industrial Forklift Trucks from Japan*, Inv. No. 731-TA-377 (Second Review), USITC Pub. 3831 at 8-9 (Dec. 2005); *Crawfish Tail Meat from China*, Inv. No. 731-TA-752 (Review), USITC Pub. 3614 at 4 (Jul. 2003); *Steel Concrete Reinforcing Bar from Turkey*, Inv. No. 731-TA-745 (Review), USITC Pub. 3577 at 4 (Feb. 2003).

[16] 77 Fed. Reg. 73021 (Dec. 7, 2012), 77 Fed. Reg. 75998 (Dec. 26, 2012).

[17] 77 Fed. Reg. 73021 (Dec. 7, 2012), 77 Fed. Reg. 75998 (Dec. 26, 2012).

[18] CR at I-12, PR at I-9-10.

[19] CR at I-12-13, PR at I-9-10.

[20] Hearing Transcript at 29 (Borgers), USITC Pub. 3891 at 16-17.

used in the production of "premium" lemonades.[21] NFCLJ can be stored in aseptic tanks for up to a year and in non-aseptic tanks for a few weeks.[22]

In the preliminary phase of the original investigations, the Commission defined a single domestic like product consisting of all lemon juice for further manufacturing, coextensive with the scope of the investigations.[23] The record of these five-year reviews contains no information warranting revisiting the domestic like product definition and no party has argued otherwise.[24] Consequently, in these reviews, we define the domestic like product to be certain lemon juice, coextensive with the scope of the reviews.

III. Domestic Industry

Section 771(4)(A) of the Tariff Act defines the relevant industry as the domestic "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."[25] In defining the domestic industry, the Commission's general practice has been to include in the industry all producers of the domestic like product, whether toll-produced, captively consumed, or sold in the domestic merchant market.

We must determine whether any producer of the domestic like product should be excluded from the domestic industry pursuant to section 771(4)(B) of the Tariff Act. This provision 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.[26] Exclusion of such a producer is within the Commission's discretion based upon the facts presented in each investigation.[27]

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[21] CR at I-13, PR at I-10.

[22] Hearing Transcript at 180 (Horrisberger), 98-99 (Borgers).

[23] USITC Pub. 3891 at 5-7. The Commission observed that all forms of lemon juice shared certain general physical characteristics and uses and were interchangeable in end uses, sold to food processors for further manufacturing, produced in similar production processes, and generally perceived to be similar products. *Id.*

[24] CR at I-12-17; PR at I-9-13. *See also* Ventura Coastal, LLC's Prehearing Brief at 2 (agreeing with the domestic like product definition used in the preliminary determination in the original investigations). Argentine and Mexican respondents did not comment on this issue in these reviews.

[25] 19 U.S.C. § 1677(4)(A). The definitions in 19 U.S.C. § 1677 apply to the entire subtitle containing the antidumping and countervailing duty laws, including 19 U.S.C. §§ 1675 and 1675a. *See* 19 U.S.C. § 1677.

[26] *See 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); *Sandvik AB v. United States*, 721 F. Supp. 1322, 1331-32 (Ct. Int'l Trade 1989), *aff'd mem.*, 904 F.2d 46 (Fed. Cir. 1990); *Empire Plow Co. v. United States*, 675 F. Supp. 1348, 1352 (Ct. Int'l Trade 1987).

[27] The primary factors the Commission has examined in deciding whether appropriate circumstances exist to exclude a related party include the following:

(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 producer 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. at 1168.

In the preliminary phase of the original investigations, although Ventura Coastal was a related party based on its importation of subject lemon juice during the period of investigation, the Commission found that appropriate circumstances did not exist to exclude it because its primary interest appeared to lie in domestic production and it imported to maintain a complete product line.[28] Accordingly, the Commission defined the domestic industry as consisting of all domestic producers of lemon juice for further manufacture, corresponding to the subject merchandise in the investigations.[29]

In these reviews, we find that no domestic producer is a related party.[30] Accordingly, for purposes of our analysis in these reviews, we define the domestic industry to include all domestic producers of lemon juice for further manufacture.

IV. Cumulation

A. Legal Standard

> With respect to five-year reviews, section 752(a) of the Tariff Act provides as follows: the Commission may cumulatively assess the volume and effect of imports of the subject merchandise from all countries with respect to which reviews under section 1675(b) or (c) of this title were initiated on the same day, if such imports would be likely to compete with each other and with domestic like products in the United States market. The Commission shall not cumulatively assess the volume and effects of imports of the subject merchandise in a case in which it determines that such imports are likely to have no discernible adverse impact on the domestic industry.[31]

Cumulation therefore is discretionary in five-year reviews, unlike original investigations, which are governed by section 771(7)(G)(i) of the Tariff Act.[32] The Commission may exercise its discretion to

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[28] USITC Pub. 3891 at 12.

[29] USITC Pub. 3891 at 8. The Commission also concluded in the preliminary phase of the original investigations that lemon growers were not part of the domestic lemon juice industry under the grower/processor provision of the statute, 19 U.S.C. § 1677(4)(E). The requirement that the raw agricultural product be substantially devoted to production of the processed product in order for growers to be included in the industry was not met as most lemons were sold fresh rather than processed into lemon juice or other products. USITC Pub. 3891 at 8-11, *citing* 19 U.S.C. § 1677(4)(E)(i) & (ii). The record in these reviews similarly supports a finding that growers are not part of the domestic industry because lemons grown in the United States during the period of review were not substantially devoted to production of lemon juice. CR at I-16, PR at I-12 (63 percent of U.S. grown lemons were sold fresh and only 37 percent were processed into lemon juice and other products).

[30] The Commission has previously found that a domestic producer that is not related to an exporter or importer through affiliation or direct importation of subject merchandise may nonetheless be deemed a related party if it controls a large volume of subject imports. The Commission has found such control to exist where the domestic producer was responsible for a predominant proportion of an importer's subject imports and the importer's subject imports were substantial. *See, e.g., Foundry Coke from China*, Inv. No. 731-TA-891 (Final), USITC Pub. 3449 (Sep. 2001) at 8-9. Although *** (CR at Table III-4), the record does not indicate that *** *E.g.*, CR at III-6 n.9, PR at III-4 n.9. Consequently, we find that ***.

[31] 19 U.S.C. § 1675a(a)(7).

[32] 19 U.S.C. § 1677(7)(G)(i); *see also, e.g., Nucor Corp. v. United States*, 601 F.3d 1291, 1293 (Fed. Cir. 2010) (Commission may reasonably consider likely differing conditions of competition in deciding whether to cumulate subject imports in five-year reviews); *Allegheny Ludlum Corp. v. United States*, 475 F. Supp. 2d 1370, 1378 (Ct. Int'l Trade 2006) (recognizing the wide latitude the Commission has in selecting the types of factors it considers (Continued…)

cumulate, however, only if the reviews are initiated on the same day, the Commission determines that the subject imports are likely to compete with each other and the domestic like product in the U.S. market, and imports from each such subject country are not likely to have no discernible adverse impact on the domestic industry in the event of revocation. Our focus in five-year reviews is not only on present conditions of competition, but also on likely conditions of competition in the reasonably foreseeable future.

In the preliminary phase of the original investigations, the Commission found a reasonable overlap of competition between subject imports from Argentina and Mexico and between subject imports from each subject country and the domestic like product. It found that the domestic like product and subject imports from Argentina and Mexico were generally interchangeable, the U.S. market for lemon juice from all sources tended to be nationwide, the majority of shipments of domestically produced lemon juice and the subject imports from Argentina and Mexico were sold to food processors (including nonjuice and fruit drink producers), and subject imports of lemon juice from Argentina and Mexico were simultaneously present in the U.S. market. It therefore cumulated subject imports from Argentina and Mexico in analyzing reasonable indication of material injury by reason of subject imports.[33]

In these reviews, the statutory threshold for cumulation is satisfied, because all reviews were initiated on the same day, August 1, 2012.[34] In addition, we consider the following issues in deciding whether to exercise our discretion to cumulate the subject imports: (1) whether imports from any of the subject countries are precluded from cumulation because they are likely to have no discernible adverse impact on the domestic industry; (2) whether there is a likelihood of a reasonable overlap of competition among imports from the subject countries and the domestic like product; and (3) whether there are similarities and differences in the likely conditions of competition under which subject imports are likely to compete in the U.S. market.[35] Ventura Coastal, LLC argues that the Commission should cumulate subject imports from Argentina and Mexico.[36] Argentine Respondents argue that the Commission should decline to exercise its discretion to cumulate subject imports from Argentina and Mexico because they will likely compete under different conditions of competition.[37] Mexican Respondents argue that the Commission should not cumulate subject imports from Mexico and Argentina because subject imports

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(…Continued)
relevant in deciding whether to exercise discretion to cumulate subject imports in five-year reviews); *Nucor Corp. v. United States*, 569 F. Supp. 2d 1328, 1337-38 (Ct. Int'l Trade 2008).

[33] USITC Pub. 3891 at 13-14.

[34] 77 Fed. Reg. 45653 (Aug. 1, 2012).

[35] Commissioner Pearson notes that, while he considers the same issues discussed in this section in determining whether to exercise his discretion to cumulate the subject imports, his analytical framework begins with whether imports from the subject countries are likely to face similar conditions of competition. For those subject imports that are likely to compete under similar conditions of competition, he next proceeds to consider whether there is a likelihood of a reasonable overlap of competition whereby those imports are likely to compete with each other and with the domestic like product. Finally, if based on that analysis he intends to exercise his discretion to cumulate one or more subject countries, he analyzes whether he is precluded from cumulating such imports because the imports from one or more subject countries, assessed individually, are likely to have no discernible adverse impact on the domestic industry. See Steel *Concrete Reinforcing Bar From Belarus, China, Indonesia, Korea, Latvia, Moldova, Poland, and Ukraine*, Invs. Nos. 731-TA-873 to 875, 877 to 880, and 882 (Review), USITC Pub. 3933 (Jul. 2007) (Separate and Dissenting Views of Chairman Daniel R. Pearson and Commissioner Deanna Tanner Okun Regarding Cumulation). *Accord Nucor Corp. v. United States*, 605 F. Supp. 2d 1361, 1372 (Ct. Int'l Trade 2009); *Nucor Corp. v. United States*, 594 F. Supp. 2d 1320, 1345-47 (Ct. Int'l Trade 2008), *aff'd*, 601 F.3d 1291 (Fed Cir. 2010).

[36] Ventural Coastal, LLC's Prehearing Brief at 4-9.

[37] Argentine Respondents' Prehearing Brief at 1-6.

from Mexico will have no discernible adverse impact on the domestic industry in the event of termination and because subject imports from Argentina and Mexico will likely compete under different conditions of competition.[38]

B. Likelihood of No Discernible Adverse Impact[39]

The statute precludes cumulation if the Commission finds that subject imports from a country are likely to have no discernible adverse impact on the domestic industry.[40] Neither the statute nor the Uruguay Round Agreements Act ("URAA") Statement of Administrative Action ("SAA") provides specific guidance on what factors the Commission is to consider in determining whether imports "are likely to have no discernible adverse impact" on the domestic industry.[41] With respect to this provision, the Commission generally considers the likely volume of subject imports and the likely impact of those imports on the domestic industry within a reasonably foreseeable time if the orders are revoked or the suspended investigations are terminated. Our analysis for each of the subject countries takes into account, among other things, the nature of the product and the behavior of subject imports in the original investigations.

Based on the record in these reviews, we do not find that imports from either of the subject countries would likely have no discernible adverse impact on the domestic industry in the event of termination.

Argentina: During the period of the original investigations, subject imports from Argentina declined from 2.0 million gallons in 2003 to 1.9 million gallons in 2005. Subject imports from Argentina were 1.3 million gallons in interim (January-August) 2005 and 1.0 million gallons in interim 2006. Following the period of investigation, subject imports from Argentina were 471,000 gallons in 2007 and then, after the suspension agreement was entered in September 2007, increased to 1.3 million gallons in 2008 and fluctuated thereafter, ending at 2.5 million gallons in 2012.[42]

During the period of review, production of the reporting Argentine processors fluctuated on an annual basis but rose overall from *** gallons in 2007 to *** gallons in 2012. The percentage of shipments these processors exported ranged from a low of *** percent in 2008 to a high of *** percent in 2009, finishing at *** percent in 2012. The share of Argentine producers' total shipments that were exported to the United States increased irregularly during the review period from *** percent in 2007 to *** percent in 2012.[43] Under these circumstances, we do not find that subject imports from Argentina would likely have no discernible adverse impact on the domestic industry if the suspended antidumping duty investigation were terminated.

Mexico: During the period of the original investigations, subject imports from Mexico declined from 972,000 gallons in 2003 to 970,000 gallons in 2005. Subject imports from Mexico were 358,000 gallons in interim 2005 and 472,000 gallons in interim 2006.[44] Following the period of investigation, subject imports from Mexico were 922,000 gallons in 2007, and then, after the suspension agreement was

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[38] Mexican Respondents' Prehearing Brief at 10-11.

[39] Commissioner Pearson does not join this section of the opinion.

[40] 19 U.S.C. § 1675a(a)(7).

[41] SAA, H.R. Rep. No. 103-316, vol. I at 887 (1994).

[42] USITC Pub. 3891 at Table IV-2 and CR/PR at Table I-1.

[43] CR/PR at Table IV-7.

[44] USITC Pub. 3891 at Table IV-2.

entered in September 2007, increased to 1.2 million gallons in 2008. Subject imports from Mexico declined irregularly thereafter to 918,000 gallons in 2012.[45]

Production of the reporting Mexican processors increased from *** gallons in 2007 to *** gallons in 2010, ending the period of review at *** gallons in 2012.[46] The percentage of shipments they exported fluctuated within a narrow range, between *** percent in 2011 and *** percent in 2008.[47] The share of Mexican producers' total shipments that were exported to the United States also fluctuated within a narrow range, between *** percent in 2009 and *** percent in 2001.[48] Under these circumstances, we do not find that subject imports from Mexico are likely to have no discernible adverse impact on the domestic industry if the suspended antidumping investigation were terminated.

C. Likelihood of a Reasonable Overlap of Competition[49]

The Commission has generally considered four factors intended to provide a framework for determining whether subject imports compete with each other and with the domestic like product.[50] Only a "reasonable overlap" of competition is required.[51] In five-year reviews, the relevant inquiry is whether there likely would be competition even if none currently exists because the subject imports are absent from the U.S. market.[52]

Fungibility. A majority of market participants (domestic producers, importers, and purchasers) reported that domestically produced lemon juice was always or frequently interchangeable with lemon juice from Argentina and Mexico and that subject imports from Argentina and Mexico were always or frequently interchangeable.[53] In comparing the U.S. and Argentine products, the U.S. and Mexican

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[45] CR/PR at Table I-1.

[46] CR/PR at Table IV-9.

[47] CR/PR at Table IV-9.

[48] CR/PR at Table IV-9.

[49] Commissioner Pearson does not join this section of the opinion.

[50] The four factors generally considered by the Commission in assessing whether imports compete with each other and with the domestic like product are as follows: (1) the degree of fungibility between subject imports from different countries and between subject imports and the domestic like product, including consideration of specific customer requirements and other quality-related questions; (2) the presence of sales or offers to sell in the same geographical markets of imports from different countries and the domestic like product; (3) the existence of common or similar channels of distribution for subject imports from different countries and the domestic like product; and (4) whether subject imports are simultaneously present in the market with one another and the domestic like product. *See, e.g., Wieland Wierke, AG v. United States*, 718 F. Supp. 50 (Ct. Int'l Trade 1989).

[51] *See Mukand Ltd. v. United States*, 937 F. Supp. 910, 916 (Ct. Int'l Trade 1996); *Wieland Wierke*, 718 F. Supp. at 52 ("Completely overlapping markets are not required."); *United States Steel Group v. United States*, 873 F. Supp. 673, 685 (Ct. Int'l Trade 1994), *aff'd*, 96 F.3d 1352 (Fed. Cir. 1996). We note, however, that there have been investigations in which the Commission has found an insufficient overlap in competition and declined to cumulate subject imports. *See, e.g., Live Cattle from Canada and Mexico*, Inv. Nos. 701-TA-386 and 731-TA-812-13 (Prelim.), USITC Pub. 3155 at 15 (Feb. 1999), *aff'd sub nom, Ranchers-Cattlemen Action Legal Foundation v. United States*, 74 F. Supp. 2d 1353 (Ct. Int'l Trade 1999); *Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan*, Inv. Nos. 731-TA-761-62 (Final), USITC Pub. 3098 at 13-15 (Apr. 1998).

[52] *See generally Chefline Corp. v. United States*, 219 F. Supp. 2d 1313, 1314 (Ct. Int'l Trade 2002).

[53] CR/PR at Table II-12.

products, and the Argentine and Mexican products with respect to twenty-five factors, a majority or plurality of purchasers rated the products comparable in nearly all instances.[54]

Geographic Overlap. U.S. producers reported nationwide sales of lemon juice. Importers of lemon juice from Argentina reported shipments in each geographic region of the United States and importers of lemon juice from Mexico reported shipments in four of the six specified regions.[55]

Channels of Distribution. A substantial share of shipments of domestically produced lemon juice and the subject imports from Argentina and Mexico were to food/drink processors. That channel of distribution accounted for a majority of shipments of the domestic like product and subject imports from Argentina in all years of the review period for which data were available and for a majority of shipments of subject imports from Mexico in all years of the review period except 2010 and 2012.[56]

Simultaneous Presence. Subject imports of lemon juice from Argentina and Mexico were simultaneously present in the U.S. market for every month for which data were collected.[57]

Conclusion. The record indicates that U.S.-produced lemon juice and subject imports from Argentina and Mexico are fungible and that if the suspended investigations were terminated subject imports from each subject country and the domestic like product would likely be sold simultaneously in overlapping channels of distribution and in overlapping geographic markets in the United States. We therefore find that there likely would be a reasonable overlap of competition between the domestic like product and imports from Argentina and Mexico and subject imports from Argentina and Mexico if the suspended investigations were terminated.

D. Likely Conditions of Competition[58]

In light of differences in the conditions under which subject imports from Argentina and Mexico will likely compete in the U.S. market if the suspended investigations are terminated, we do not exercise our discretion to cumulate subject imports from Argentina and Mexico. While the industry in Argentina serves a substantial domestic market for lemon juice, it is primarily export oriented.[59] Although a large share of its exports are destined for markets other than the United States, the share exported to the United States grew substantially over the period of review.[60] Due to phytosanitary restrictions, Argentina can

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[54] CR/PR at Table II-10. The only exceptions were that a majority of purchasers rated the U.S. product superior to the Argentine product in terms of delivery time, a majority rated the U.S. product superior to the Mexican product in terms of availability, and a majority rated the Argentine product superior to the Mexican product in terms of availability of clear juice. *Id.*

[55] CR/PR at Table II-2.

[56] CR/PR at Table II-1.

[57] CR at IV-7, PR at IV-5.

[58] Commissioner Pinkert concurs in the Commission's determination not to cumulate imports of the subject merchandise from Argentina and Mexico. Where, in a five-year review, he does not find that imports of the subject merchandise are likely to have no discernible adverse impact on the domestic industry in the event of revocation and finds that such imports would be likely to compete with each other and with the domestic like product in the U.S. market, he cumulates them unless there is a condition or propensity – not merely a trend – that is likely to persist for a reasonably foreseeable time and that significantly limits competition such that cumulation is not warranted. In his view, there are two structural conditions, discussed in the text, that militate against cumulation: first, subject imports from Argentina, unlike subject imports from Mexico, could be increased substantially and precipitously in the reasonably foreseeable future; and second, as a result of phytosanitary restrictions, Argentine producers are not able, as are Mexican producers, to shift production from lemon juice to fresh lemons.

[59] CR/PR at Table IV-7.

[60] CR/PR at Table IV-7.

ship only lemon juice, not whole lemons, to the United States.[61] Argentina currently has large amounts of lemon juice in inventory.[62] Lemon juice from Argentina must be transported to the United States by ocean vessel because of the distance between the two countries.[63]

The industry in Mexico began in the 1970s when large U.S. beverage bottlers, including TCCC, encouraged the planting of lemons to ensure a supply of lemon oil and lemon juice for their products.[64] The domestic market for lemon juice in Mexico is insubstantial.[65] During the period of review, nearly all of the Mexican industry's lemon juice production was exported and nearly all of those exports were to the United States.[66] In 2006, after some of the contracts with beverage companies expired, Mexican firms began to increase the amount of lemons exported to the more lucrative fresh market.[67] Moreover, the proximity of the Mexican industry to the U.S. market permits subject imports from Mexico to be transported to the United States by truck, which in turn permits shipment within a few days of order as well as sales in small lots and on a spot market and just-in-time delivery basis.[68]

Based on the above, we find that the conditions of competition under which subject imports from Argentina and Mexico are likely to compete in the U.S. market if the suspended investigations were terminated would differ substantially and, therefore, we decline to exercise our discretion to cumulate subject imports from Argentina with subject imports from Mexico.

V. Whether Termination of the Suspended Investigations Would Likely Lead to Continuation or Recurrence of Material Injury Within a Reasonably Foreseeable Time

A. Legal Standards

In a five-year review conducted under section 751(c) of the Tariff Act, Commerce will revoke an antidumping or countervailing duty order and/or terminate a suspended antidumping or countervailing duty investigation unless: (1) it makes a determination that dumping or subsidization is likely to continue or recur and (2) the Commission makes a determination that revocation of the antidumping or countervailing duty order and/or termination of a suspended antidumping or countervailing duty investigation "would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time."[69] The URAA SAA states that "under the likelihood standard, the Commission will engage in a counterfactual 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

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[61] CR at IV-9, PR at IV-7. The United States currently restricts lemon imports from Argentina due to concerns over Citrus Variegated Chlorosis (CVC). *Id.*

[62] CR/PR at Table IV-7. The Argentine industry's ratios of inventories to production and inventories to total shipments were substantially higher in 2012 than in all prior years of the period of review. *Id.*

[63] *See, e.g.*, CR at II-26, PR at II-18; Hearing Transcript at 184-85 (Horrisberger); Joint Respondents Posthearing Brief, Responses to Commissioner Questions at 14-15; Argentine Respondents' Prehearing Brief at 3-4.

[64] CR at IV-13, PR at IV-9. USITC Pub. 3891 at VII-4. TCCEC ***. CR at IV-15, PR at IV-10.

[65] CR/PR at Table IV-9.

[66] CR/PR at Table IV-9.

[67] CR at IV-13-14, PR at IV-9.

[68] *See, e.g.*, CR at II-25, PR at II-17; Hearing Transcript at 184-85 (Horrisberger); Joint Respondents Posthearing Brief, Responses to Commissioner Questions at 14-15; Argentine Respondents' Prehearing Brief at 3-4.

[69] 19 U.S.C. § 1675a(a).

elimination of its restraining effects on volumes and prices of imports."[70] Thus, the likelihood standard is prospective in nature.[71] The U.S. Court of International Trade has found that "likely," as used in the five-year review provisions of the Tariff Act, means "probable," and the Commission applies that standard in five-year reviews.[72]

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."[73] According to the URAA 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 original investigations."[74]

Although the standard in a five-year review is not the same as the standard applied in an original 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 merchandise on the industry if the orders are revoked or the suspended investigation is terminated."[75] 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 a suspension agreement is terminated, and any findings by Commerce regarding duty absorption pursuant to 19 U.S.C.§ 1675(a)(4).[76] [77] The

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[70] URAA SAA at 883-84. The URAA 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. Consequently, Respondents' argument that the Commission should not apply the "continuation or recurrence" standard in these reviews because the Commission never made a final injury determination cannot be reconciled with either the statutory language or the SAA. For the reasons stated herein, their contention that the Commission should assess present material injury in these reviews is also without merit.

[71] 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." URAA SAA at 884.

[72] *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)"), *aff'd mem.*, 140 F. App'x 268 (Fed. Cir. 2005); *Nippon Steel Corp. v. United States*, 26 CIT 1416, 1419 (2002) (same); *Usinor Industeel, S.A. v. United States*, 26 CIT 1402, 1404 nn.3, 6 (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*, 26 CIT 1059, 1070 (2002) ("standard is based on a likelihood of continuation or recurrence of injury, not a certainty"); *Usinor v. United States*, 26 CIT 767, 794 (2002) ("'likely' is tantamount to 'probable,' not merely 'possible'").

[73] 19 U.S.C. § 1675a(a)(5).

[74] URAA 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*.

[75] 19 U.S.C. § 1675a(a)(1).

[76] 19 U.S.C. § 1675a(a)(1). Because Commerce has conducted no administrative reviews with respect to lemon juice from Argentina and Mexico, it has made no duty absorption findings. CR at I-9, PR at I-8.

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.[78]

In evaluating the likely volume of imports of subject merchandise if the orders under review are revoked and/or suspended investigations are terminated, 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.[79] 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.[80]

In evaluating the likely price effects of subject imports if the orders under review are revoked and/or suspended investigations are terminated, the Commission is directed to consider whether there is likely to be significant underselling by the subject imports as compared to the domestic like product and whether the subject imports are likely to enter the United States at prices that otherwise would have a significant depressing or suppressing effect on the price of the domestic like product.[81]

In evaluating the likely impact of imports of subject merchandise if the orders under review are revoked and/or suspended investigations are terminated, 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 the following: (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.[82] 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. 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 under review and whether the industry is vulnerable to material injury upon revocation.[83]

(…Continued)

[77] Commissioner Broadbent notes that she does not view the preliminary determinations using a "reasonable indication of material injury" standard -- the only injury determinations that the Commission made in these investigations -- to be the equivalent of final determinations.

[78] 19 U.S.C. § 1675a(a)(5). Although the Commission must consider all factors, no one factor is necessarily dispositive. URAA SAA at 886.

[79] 19 U.S.C. § 1675a(a)(2).

[80] 19 U.S.C. § 1675a(a)(2)(A-D).

[81] *See* 19 U.S.C. § 1675a(a)(3). The URAA 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." URAA SAA at 886.

[82] 19 U.S.C. § 1675a(a)(4).

[83] The URAA SAA states that in assessing whether the domestic industry is vulnerable to injury if the order is revoked or the suspended investigation is terminated, 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." URAA SAA at 885.

B. Findings in the Original Preliminary Determinations

Conditions of Competition. In the original preliminary determinations, the Commission found that factors affecting the supply of lemon juice included the size of the lemon crop, the quality of lemons harvested, the demand for lemons in the fresh market, and the demand for lemon oil, a co-product of lemon juice. In the United States, lemons were generally grown for the more profitable fresh market and then, when sorted and graded at the packinghouse, lemons with imperfections or that failed to meet size or grade standards for sale as fresh lemons were separated for processing into various products including lemon juice. Moreover, lemons were perishable and could only be stored for a few months in cold storage before they had to be sold to the fresh market or, in light of the high cost of alternate means of disposing of lemons, further processed into lemon juice, lemon oil, and various by-products, such as lemon pulp, lemon peel, pectin, and animal feed. The increasing demand for lemon oil reportedly resulted in an oversupply of its lemon juice co-product in the U.S. market. Similar to fresh lemons, disposal of lemon juice was very difficult and costly. Lemon juice placed in inventory had to be sold before it reached its maximum shelf life, typically one to two years. As inventoried lemon juice reached its maximum shelf life, it was sold at a discount.[84]

The domestic industry historically supplied only a portion of the U.S. lemon juice market, with the remainder supplied by imports. Domestic processors' share of the U.S. market fluctuated over the period of investigation and declined overall.[85]

The Commission observed that processing of lemon juice in the United States was not necessarily triggered by the demand for the juice itself but seemed, rather, to be based on the availability of lemons for processing, demand for lemon oil, and the high cost of disposing of lemons not needed for the fresh market. Apparent U.S. consumption fluctuated during the period and declined overall.[86]

Subject Import Volume. The quantity of cumulated subject imports from Argentina and Mexico declined by 4.6 percent from 2003 to 2005, while apparent U.S. consumption declined by *** percent. Consequently, the market share held by cumulated subject imports increased from *** percent in 2003 to *** percent in 2005 and the ratio of subject imports relative to U.S. production increased from *** percent in 2003 to *** percent in 2005. Moreover, U.S. importers' inventories of subject merchandise increased *** from *** gallons in 2003 to *** gallons in 2005.[87] The increase in subject imports' market share was accompanied by an overall decline in the domestic producers' market share, from *** percent in 2003 to *** percent in 2005. Thus, subject imports gained market share at the expense of the domestic industry. Nonsubject imports, both in absolute terms and relative to U.S. consumption, declined from 2003 to 2005.[88] The Commission concluded that cumulated subject import volume was significant, both in absolute terms and relative to consumption and production in the United States. [89]

Price Effects. All responding domestic processors and a majority of responding importers reported that subject imports were always or frequently interchangeable with the domestic like product. While all responding domestic processors reported that non-price differences between subject imports and

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[84] USITC Pub. 3891 at 15-17.

[85] USITC Pub. 3891 at 17-18.

[86] USITC Pub. 3891 at 18.

[87] USITC Pub. 3891 at 20-21.

[88] USITC Pub. 3891 at 21.

[89] USITC Pub. 3891 at 21.

the domestic like product were never or only sometimes a factor in purchasing decisions, the majority of responding importers reported that non-price differences were always or frequently an important factor.[90]

The Commission found that there had been mixed price underselling of the domestic like product by the cumulated subject imports. Cumulated subject imports undersold the domestic like product in 71 of the 113 monthly comparisons, at margins of underselling ranging from 0.3 percent to 51.8 percent.[91] The Commission also found an overall decline in prices for both the domestic like product and the subject imports over the period of investigation. Therefore, the Commission found that there was some evidence that subject imports were depressing domestic lemon juice prices.[92] In addition, the overall increase in the domestic industry's unit cost of goods sold ("COGS") and COGS as a share of net sales, at the same time that significant volumes of lower-priced subject imports entered the U.S. market, suggested some price suppression in the form of a cost-price squeeze due in part to the subject imports. The Commission concluded that the subject imports had significant adverse effects on domestic prices.[93]

Impact. The Commission found that the performance indicators in the data for the domestic industry producing lemon juice indicated declining overall trends from 2003 to 2005, although some indicators fluctuated between years.[94] The Commission concluded that subject imports had an adverse impact on the condition of the domestic industry during the period of investigation. It found that the absolute and relative volume of subject imports were significant, and that the subject imports gained market share at the expense of the domestic industry, and depressed prices for the domestic like product to a significant degree. The depressed prices, combined with the pattern of mixed underselling, caused declines in the domestic industry's financial performance over the period of investigation.[95]

Accordingly, the Commission determined that there was a reasonable indication that the domestic industry was materially injured by reason of subject imports of lemon juice from Argentina and Mexico that were alleged to be sold in the United States at less than fair value.

C. Conditions of Competition and the Business Cycle

In evaluating the likely impact of the subject imports on the domestic industry if the orders under review are revoked and/or suspended investigations are terminated, 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."[96] The following conditions of competition inform our determinations.

1. Supply Conditions

Lemon juice is produced from the juice of fresh lemons. Factors affecting the supply of lemon juice include the size of the lemon crop, the quality of lemons harvested, the demand for lemons in the fresh market, and the demand for lemon oil, a co-product of lemon juice.[97] In the United States, lemons

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[90] USITC Pub. 3891 at 21-22.

[91] USITC Pub. 3891 at 22.

[92] USITC Pub. 3891 at 22.

[93] USITC Pub. 3891 at 22-23.

[94] USITC Pub. 3891 at 23.

[95] USITC Pub. 3891 at 26-27.

[96] 19 U.S.C. § 1675a(a)(4).

[97] CR at I-12, II-4, II-7; PR at I-9, II-3, II-5.

generally are grown for the more profitable fresh market. Those with imperfections or that fail to meet size or grade standards for sale as fresh lemons, or that are not needed to meet demand in the fresh market, are shipped for processing into various products including lemon juice.[98] During the review period, 63 percent of U.S. grown lemons were sold fresh and 37 percent were processed into lemon juice and other processed products.[99]

Simple disposal of lemons not destined for the fresh market is very costly and restricted by environmental regulations in the United States, which limit the amount of fresh fruit that can be disposed of in landfills. While composting is an alternative means of disposal, composting capacity in the United States is limited.[100] Thus, lemons not destined for the fresh market are generally processed into lemon juice, its co-product lemon oil, and various byproducts, such as peel.[101]

The leading processor of lemon juice in the United States is Ventura Coastal, LLC, a joint venture that was formed in February 2012 between Ventura Coastal and the grower cooperative Sunkist Growers, Inc. The two firms have pooled their citrus fruit juice operations under Ventura Coastal's management.[102] The domestic industry historically has supplied only a portion of the U.S. supply of lemon juice, with the remainder supplied by imports.[103] Domestic processors' share of the U.S. market during the period of review fluctuated and declined overall. Domestic producers' market share was *** percent in 2007, *** percent in 2008, *** percent in 2009, *** percent in 2010, *** percent in 2011, and *** percent in 2012.

During the period of review, the market share of subject imports from Argentina fluctuated and increased overall. Their share was *** percent in 2007, *** percent in 2008, *** percent in 2009, *** percent in 2010, *** percent in 2011, and *** percent in 2012.[104] The market share of subject imports from Mexico fluctuated and declined overall. Their share was *** percent in 2007, *** percent in 2008, *** percent in 2009, *** percent in 2010, *** percent in 2011, and *** percent in 2012.[105]

Finally, the U.S. market share held by nonsubject imports fluctuated and declined overall. Their share was *** percent in 2007, *** percent in 2008, *** percent in 2009, *** percent in 2010, *** percent in 2011, and *** percent in 2012.[106] The leading sources of nonsubject imports, in descending order of 2012 market share, were South Africa, Peru, Italy, and Brazil.[107]

2. Demand Conditions

Lemon juice is used as an ingredient in beverages, particularly lemonade and soft drinks, and other foods, such as salad dressings, sauces, and baked goods. It is also used in non-food products, such as household cleaners.[108] While demand clearly exists for lemon juice used in beverages and other food

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[98] CR at I-12, PR at I-9.

[99] CR at I-16, PR at I-12.

[100] CR at I-16, II-4; PR at I-12, II-3.

[101] CR at II-4, II-7-8; PR at II-3, II-5-6.

[102] CR/PR at III-1.

[103] CR/PR at Tables I-1, I-6.

[104] CR/PR at Table I-7.

[105] CR/PR at Table I-7.

[106] CR/PR at Table I-7.

[107] CR at IV-2, PR at IV-1.

[108] CR/PR at II-1.

and nonfood products, the processing of lemon juice is not necessarily triggered by the demand for the juice itself but, rather, driven largely by supply related factors, as discussed above, such as the availability of lemons for processing, the demand for lemon oil, and the high cost of alternate means of disposing of lemons not needed for the fresh market.[109] Conversely, the record indicates that changes in lemon juice pricing will result in a relatively small change in the quantity of lemon juice demanded, in light of the limited substitutes for lemon juice and the difficulty of using substitutes in place of lemon juice, or using lemon juice in place of substitutes, as an ingredient in food products.[110] In years in which supply is greater than demand, producers put frozen concentrate lemon juice in inventory, where it can last up to two years. The longer it is held in inventory, however, the greater the discount at which it must be sold because purchasers must blend the older juice with fresher juice for it to be usable.[111]

Apparent U.S. consumption fluctuated during the period of review but increased overall: apparent U.S. consumption increased from *** gallons in 2007 to *** gallons in 2011 and then declined to *** gallons in 2012, reflecting an overall net increase of *** percent.[112]

3. Substitutability

The majority of U.S. shipments of the domestic like product and of subject imports from Argentina and Mexico are of cloudy frozen concentrated lemon juice.[113] The domestic like product and subject imports from Argentina include relatively small quantities of clarified frozen concentrated lemon juice, and the domestic like product includes cloudy NFCLJ as do, in very small quantities, the subject imports from Mexico. There were no imports of NFCLJ from Argentina.[114]

A majority of market participants (domestic producers, importers, and purchasers) reported that domestically produced lemon juice was always or frequently interchangeable with lemon juice from Argentina and Mexico and that subject imports from Argentina and Mexico were always or frequently interchangeable.[115] In comparisons involving the domestic like product and subject imports from Argentina and Mexico with respect to 25 factors, a majority or plurality of purchasers rated the products comparable in nearly all instances.[116] All responding purchasers identified price as very important in their

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[109] CR at I-12, I-16, II-4, II-7; PR at I-10, I-12, II-3, II-5-6.

[110] CR at II-13, PR at II-9.

[111] Hearing Transcript at 29 (Borgers), USITC Pub. 3891 at 16-17.

[112] CR/PR at Tables I-7, C-1. The spike in U.S. apparent consumption in 2011 is reportedly attributable at least in part to ***. Joint Respondents' Posthearing Brief, Responses to Commissioners' Questions at Exhibit 1 (Declaration of Jim Horrisberger).

[113] *E.g.*, CR/PR at Tables V-1-V-3; Ventura Coastal LLC's Posthearing Brief, Responses to Commissioner Questions at 13-14, 49; Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 19.

[114] *E.g.*, CR/PR at Tables V-2-V-3. Respondents note that Argentine producers are not currently able to meet the flavor profile specifications of TCCC, the major U.S. consumer of NFCLJ, and it is not known if or when they would be able to meet those specifications. The NFCLJ market in the United States reportedly is not large enough to justify the investment necessary for the Argentine industry to commence production of NFCLJ. Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 12-13.

[115] CR/PR at Table II-12.

[116] CR/PR at Table II-10. The exceptions were that a majority of purchasers rated the U.S. product superior to the Argentine product in terms of delivery time, a majority rated the U.S. product superior to the Mexican product in terms of availability, and a majority rated the Argentine product superior to the Mexican product in terms of availability of clear juice and technical support/service. *Id.* Ratings were mixed for the U.S. product compared to (Continued…)

purchasing decisions, although quality meeting industry standards, availability, and reliability of supply were also frequently identified as very important.[117] However, quality exceeding industry standards and availability (including reliability and ensured supply) were identified by purchasers more often than price as the first or second most important factor in purchasing decisions.[118] We accordingly find that price is at least a moderately important factor in purchasing decisions.

Based on the record of these reviews, we find that current conditions of competition in the U.S. lemon juice market are not likely to change significantly in the reasonably foreseeable future. Accordingly, we find that current conditions of competition provide us with a reasonable basis on which to assess the likely effects of termination of the suspended investigations in the reasonably foreseeable future.

VI. Termination of the Suspended Antidumping Duty Investigation of Lemon Juice from Argentina Is Likely to Lead to the Continuation or Recurrence of Material Injury to the Domestic Industry within a Reasonably Foreseeable Time[119]

A. Likely Volume of Subject Imports

The volume of subject imports from Argentina increased substantially during the period of review, both on an absolute basis and relative to domestic consumption. Subject imports from Argentina increased overall by 428.4 percent during the period, from 471,000 gallons in 2007 to 2.5 million gallons in 2012.[120] As a share of apparent U.S. consumption, subject imports from Argentina increased from *** percent in 2007 to *** percent in 2012.[121]

Evidence suggests that the Argentine industry is more focused than the U.S. industry on processing fresh lemons into lemon juice and other processed products, with 73 percent of the Argentine crop processed during the period of review and only 27 percent sold to the fresh market.[122] In large crop years, this focus increases the likelihood that the lemon juice supply will significantly exceed demand for the Argentine product, creating an incentive for Argentine producers to maximize exports and/or build their inventories.

Several factors indicate that Argentine producers have the incentive to continue to increase exports of lemon juice to the United States if the suspended investigation were terminated. First, the United States grew in importance as an export market for the Argentine industry during the period of review, and the increase in Argentine exports to the United States correlated to some extent with a decline in Argentine producers' exports to the EU. Argentine producers' reported exports to the EU declined each year from 2009 to 2012. Exports to the United States exceeded those to the EU in 2012 for the first time during the period of review. The share of Argentine producers' total shipments accounted for by

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(…Continued)
the Mexican product in terms of technical support/service, and for the Argentine product compared to the Mexican product in terms of availability (including availability of specific types). *Id.*

[117] CR/PR at Table II-8.

[118] CR/PR at Table II-7.

[119] Commissioner Pearson has made a negative determination with respect to subject imports from Argentina and does not join this section of the opinion.

[120] CR/PR at Tables IV-1, C-1.

[121] CR/PR at Table I-7.

[122] CR at IV-8, PR at IV-6.

exports to the United States increased from *** percent in 2007 to *** percent in 2012; the share accounted for by exports to the EU declined from *** percent in 2007 to *** percent in 2012.[123]

Second, the Argentine industry held a very large volume of lemon juice in inventory at the end of the period of review. Argentine producers' ending inventories increased from *** gallons in 2007 to *** gallons in 2012.[124] The 2012 ending inventory level is equivalent to *** percent of apparent U.S. consumption of *** million gallons that year.[125] Additionally, U.S. importers' ending inventories of subject lemon juice from Argentina increased over the period of review from *** gallons in 2007 to *** gallons in 2012.[126] The Argentine producers' increasing focus on the U.S. market over the period of review militates against their claim that "Argentina will not be able to use its inventories to increase exports to the United States" but, instead, will draw down inventories by exporting to other markets.[127] Additionally, the limited shelf life of lemon juice concentrate limits the time frame within which inventories will have to be drawn down. Furthermore, the production levels underlying the currently high inventory levels do not appear necessarily to be entirely anomalous.[128] For these reasons, we find that the substantial inventories of subject merchandise from Argentina that must be sold, as well as the Argentine producers' increasing focus on exports to the U.S. market, are likely to lead to additional quantities of subject imports from Argentina.

Third, the suspension agreement and the floor prices it imposes on subject imports from Argentina have had a restraining effect on the volume of subject imports from Argentina, limiting in particular the extent to which Argentine producers can increase the volumes that they direct to the U.S. market by cutting prices. This became particularly apparent ***.[129] Should the suspended investigation be terminated, this restraint will no longer be in place and subject producers in Argentina will be able to direct additional production and inventories to the U.S. market, particularly older product held in inventory that would need to be sold at a discount more likely to be below the floor price. As discussed above, U.S. domestic demand for lemon juice will unlikely be affected by lower available prices in the market because U.S. domestic supply is dictated by supply-side factors and is largely unresponsive to price. Thus, we find that Argentine producers will likely send to the United States additional volumes of

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[123] CR/PR at Table IV-7.

[124] CR/PR at Table IV-7.

[125] CR/PR at Table I-7.

[126] CR/PR at Table IV-3.

[127] Joint Respondents' Posthearing Brief at 11-12.

[128] The high level of inventories in Argentina at the end of 2012 resulted in part from good growing conditions in Argentina in 2011 (Joint Respondents' Posthearing Brief at 9). Although production in Argentina was lower in 2012 than in 2011, it exceeded that of all years of the period of review other than 2011. CR/PR at Table IV-7. Also, although current lemon production in Argentina is projected to decrease somewhat as a result of a drought in the first quarter of 2013, the lemon planted area in Argentina increased in 2012/13 and is expected to continue to expand marginally in the future, especially in the provinces of Salta and Jujuy. USDA Gain Report, Argentina Citrus Semi-annual 2013 (June 14, 2013). Based on the record data, we decline to project that the Argentine lemon crop in the reasonably foreseeable future will be appreciably smaller than the levels observed during the period of review. We do observe that any fluctuation in the size of the Argentine lemon crop will not affect the export of fresh lemons to the United States. The United States bans imports of fresh lemons from Argentina for phytosanitary reasons. CR at IV-9, PR at IV-7.

We also observe that the supply of fresh lemons, rather than lemon juice processing capacity, is the principal constraint to increasing lemon juice production. CR at IV-10, PR at IV-8. Consequently, our analysis of likely volume of subject imports does not rely heavily on reported capacity data.

[129] Argentine Respondents' Submission of Normal Values and Price Data (June 12, 2013).

both older juice that cannot currently be sold in the United States at price levels mandated by the suspension agreement and excess juice from the large 2012 and 2013 crops that might otherwise be held in inventory, forcing domestic producers to increase inventories rather than sell at lower price points.[130]

For these reasons, we conclude that the volume of subject imports from Argentina would likely be significant if the suspended antidumping duty investigation on lemon juice from Argentina were terminated.[131] [132]

B. Likely Price Effects of Subject Imports

As discussed above, domestically produced frozen concentrated forms of lemon juice, which constitute the majority of domestic industry production, are interchangeable with subject imports from Argentina, all of which are frozen concentrates. Moreover, price is at least a moderately important factor in purchasing decisions in the U.S. lemon juice market, although availability, reliability of supply, and quality are also important factors.[133]

In these reviews, the Commission asked U.S. producers and importers of lemon juice to provide quarterly data for the total quantity and value of their shipments of three pricing products to unrelated U.S. customers from January 2007 through December 2012.[134] Two U.S. processors and five importers provided usable price data for comparison of quarterly prices for the domestic like product and subject imports from Argentina.[135] Reported pricing data accounted for *** percent of U.S. shipments of U.S. produced products and *** percent of U.S. imports of products from Argentina.[136]

Prices for all three products from all sources were substantially higher at the end of the period of review than at the beginning.[137] During the period of review, subject imports from Argentina undersold the domestic like product in 18 of 30 quarterly comparisons and oversold the domestic like product in 12 of 30 comparisons.[138] Much of the reported underselling during the period of review concerned product 2, a product for which shipment quantities for both the domestic like product and the subject imports were

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[130] In fact, as imports from Argentina gained market share in 2012 and prices for these imports approached the price floors set pursuant to the agreement, U.S. producers' inventories increased by *** percent. CR/PR at Table C-1.

[131] We have also considered whether the subject producers are likely to shift production from nonsubject products to lemon juice. All three responding producers reported producing other products on the same equipment and using the same workers as in the production of lemon juice ***. CR at IV-10' PR at IV-8. Nevertheless, we do not rely on product shifting as a basis for finding that additional subject import volumes are likely because subject producers in Argentina indicate that their production is seasonal and that they currently maintain sufficient capacity to process all available lemons. CR at IV-10, PR at IV-8.

[132] There are no known antidumping or countervailing duty findings or remedies in place in third country markets regarding lemon juice from Argentina. CR at IV-18, PR at IV-11.

[133] CR/PR at Table II-8; *cf.* CR/PR at Table II-7.

[134] The pricing products were as follows: (1) cloudy frozen concentrated lemon juice, non-organic, for further manufacture, (2) clarified frozen concentrated lemon juice, non-organic, for further manufacture, (3) cloudy not from concentrate lemon juice, non-organic, for further manufacture. CR at V-4, PR at V-3.

[135] CR at V-4, PR at V-3.

[136] CR at V-4-5, PR at V-3.

[137] CR/PR at Tables V-1, V-2, V-3.

[138] CR/PR at Tables V-1, V-2, V-5.

relatively modest.[139] With respect to product 1, the largest volume product from all sources, the Argentine product undersold the domestic like product in 9 of 20 comparisons and oversold it in 11 of 20 comparisons.[140] The underselling data were also mixed in the preliminary phase of the original investigations, in which subject imports of products 1 and 2 from Argentina undersold the domestic like product in 37 of 73 comparisons and oversold in 36 of 73 comparisons.[141] In light of these data, we find that the mixed underselling by the subject imports from Argentina that was prevalent in the period of investigation and the period of review would be likely to continue if the suspended investigation were terminated.

At the end of the period of review, subject imports from Argentina were priced nearer to the price floors of the suspension agreement than at any time earlier in the period.[142] We have previously found that, in the event of termination of the suspended investigation, the subject producers in Argentina will likely have an incentive to increase their supply of lemon juice to the United States in light of their increasing focus on the U.S. market and their need to deplete their currently large perishable inventories. Absent the restraining effect of the suspension agreement, subject producers in Argentina will have an incentive to drop prices below current floor levels to sell these additional volumes.

The resulting increased supply of lemon juice from Argentina in the U.S. market will likely reduce domestic prices for two reasons. First, because of the substitutability of the product and the importance of price in purchasing decisions, decreases in prices of subject imports from Argentina will also affect prices for the domestic like product. Second, because lemon juice is an ingredient in other products, any increased supply of lemon juice is unlikely to stimulate substantial additional demand for the product.[143] Therefore, the likely substantial available supply of low-priced subject imports upon termination of the suspended investigation would force the domestic industry to lower prices or prevent price increases in order to sell its lemon juice production during the limited time that it may be kept in inventory. Consequently, we conclude that the likely increased supply of subject imports from Argentina upon termination of the suspended investigation would likely have significant price-depressing or price-suppressing effects.

C. Likely Impact of Subject Imports[144]

As previously discussed, the domestic industry data in these reviews reflect questionnaire responses for Ventura Coastal and the grower cooperative Sunkist, as well as for Ventura Coastal, LLC, the joint venture these firms formed in 2012.[145]

The domestic industry shut down or consolidated some processing facilities during the period of review,[146] although its capacity was constant at *** gallons during the period of review.[147] Production

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[139] CR/PR at Table V-2, V-5.

[140] CR/PR at Table V-1, V-5.

[141] USITC Pub. 3891 at 22.

[142] Argentine Respondents' Submission of Normal Values and Price Data (June 12, 2013).

[143] CR at II-15, PR at II-10.

[144] In the final results of its expedited five-year review with respect to lemon juice from Argentina, Commerce found dumping margins of 128.50 percent for Citrusvil, 85.64 percent for San Miguel, and 113.52 percent for all others. 77 Fed. Reg. 73021 (Dec. 7, 2012).

[145] CR at III-1-2, PR at III-1-2. Capacity remained constant although Ventura Coastal and Sunkist each undertook some consolidation of production operations in 2008. CR at III-2, PR at III-2.

increased from *** gallons in 2007 to *** gallons in 2009, before declining over the next three years to *** gallons in 2012.[148] Capacity utilization followed a similar trend, increasing from *** percent in 2007 to *** percent in 2009, before declining over the next three years to *** percent in 2012.[149] Total U.S. shipments fluctuated over the period of review and declined overall from *** gallons in 2007 to *** gallons in 2012.[150] End-of-period inventories fluctuated during the period of review, increasing overall from *** gallons in 2007 to *** gallons in 2012, and accounted for *** percent of production in 2007 and *** percent of production in 2012.[151]

The number of production and related workers and hourly wages fluctuated and increased overall during the period of review, while total hours worked, hours worked per worker, and total wages paid fluctuated and decreased overall from 2007 to 2012.[152] Productivity in gallons per 1,000 hours increased overall.[153]

The financial performance of the domestic industry fluctuated during the period of review. Total net sales fluctuated and declined overall during the period of review on a volume basis while increasing overall on a value basis.[154] Operating income increased from $*** in 2007 to $*** in 2011, before declining to $*** in 2012.[155] Operating income ratios increased from *** percent in 2007 to *** percent in 2011 then declined to *** percent in 2012.[156] Total cost of goods sold (COGS) increased irregularly during the period of review, reaching their highest levels in 2012.[157]

(…Continued)

[146] Ventura Coastal reported that it ***. Sunkist consolidated its lemon processing operations in 2008 when it closed a processing plant in Ontario, California and moved the equipment and many of its employees to a newer facility in Tipton, California. CR/PR at III-2.

[147] CR/PR at Table III-1.

[148] CR/PR at Table III-1.

[149] CR/PR at Table III-1.

[150] CR/PR at Table III-2.

[151] CR/PR at Table III-3.

[152] There were *** production and related workers in 2007 and *** in 2012. Hourly wages were $*** in 2007 and $*** 2012. Hours worked declined from *** in 2007 to *** 2012. Hours worked per worker declined from *** in 2007 to *** in 2012. Total wages paid declined from $*** in 2007 to $*** in 2012. CR/PR at Table III-5.

[153] Productivity in gallons per 1,000 hours rose from *** in 2007 to *** in 2012. CR/PR at Table III-5.

[154] On a quantity basis, total net sales were *** gallons in 2007, *** gallons in 2008, *** gallons in 2009, *** gallons in 2010, *** gallons in 2011, and *** gallons in 2012. On a value basis, total net sales were $*** in 2007, $*** in 2008, $*** in 2009, $*** in 2010, $*** in 2011, and $*** in 2012. CR/PR at Table III-6.

[155] CR/PR at Table III-6.

[156] CR/PR at Table III-6. Ventura Coastal, LLC argues that the industry's profitability levels are overstated because, consistent with the Commission's accounting methodology for cooperatives, they do not account for Sunkist's cost of lemons prior to the formation of the joint venture in 2012. Ventura Coastal, LLC's Posthearing Brief at 11-12. We agree and give somewhat less weight to the industry's operating income margins as shown in CR/PR at Table III-6. We need not and do not adopt any of the alternate methodologies proposed by domestic producers for calculating Sunkist's operating income margins. *E.g.*, Ventura Coastal, LLC's Posthearing Brief, Responses to Commissioner Questions at 15-20 and Exhibits 4, 5.

[157] CR/PR at Table III-6. Total COGS increased from $*** in 2007 to $*** in 2012, and unit COGS increased from $*** in 2007 to $*** in 2012. CR/PR at Table III-6. The increase in COGS (and decline in operating income) in 2012 resulted in part from Sunkist's not reporting raw material costs prior to February 2012, consistent with its being simply a processing cooperative, followed by the reporting of raw material costs on all U.S. lemon juice (Continued…)

We conclude that the domestic industry is not currently in a vulnerable condition. Although reporting for Sunkist for most of the period of review did not include raw material costs as a result of its cooperative structure, the available data indicate an industry with growing revenues and profitable performance, which is confirmed by separate examination of Ventura Coastal's operations.[158] We also note that the declines in certain financial indicators in 2012 result from the reorganization of the industry and inclusion of costs for Sunkist operations that were not included prior to formation of the Ventura Coastal, LLC joint venture.

As explained above, we find that the volume of subject imports from Argentina would likely be significant in the reasonably foreseeable future if the suspended investigations were terminated. Moreover, because of the nature of the U.S. lemon juice market, increased subject imports from Argentina absent the discipline of the suspension agreement will likely result in a significant decline in U.S. prices for lemon juice. To compete with the likely volumes of subject imports and to dispose of its own production, the domestic industry would need to cut prices or forego needed price increases, and/or incur higher inventory costs. The resulting loss of revenues would likely cause deterioration in the financial performance of the domestic industry. Therefore, we find that revocation of the orders under review would likely have a significant adverse impact on the domestic industry.[159]

We have also considered the role of factors other than subject imports so as not to attribute likely injury from other factors to the subject imports. Nonsubject imports' share of the market fluctuated from a period high of *** percent in 2007 to a period low of *** percent in 2010.[160] Although we recognize the limitations of average unit value (AUV) data, the data in the record indicate that the nonsubject imports had higher AUVs than subject imports from Argentina for every year of the period of review except 2009.[161] The nonsubject imports in the U.S. market during the period of review did not prevent the domestic industry from achieving strong operating performance, and their continued presence in the event the suspended investigation were terminated would not preclude subject imports from increasing their presence in the U.S. market and/or forcing the domestic industry to lower or restrain prices as a result.

Accordingly, we determine that termination of the suspended antidumping duty investigation on lemon juice from Argentina would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.

(…Continued)
operations after the Ventura Coastal, LLC joint venture was formed between Sunkist and Ventura Coastal in February 2012. CR/PR at Table III-6 n.1.

[158] CR/PR at Table III-8.

[159] To the extent the Argentine producers argue that the domestic industry is insulated from competition from any volume of subject imports from Argentina because the domestic industry is the only substantial supplier of NFCLJ in the U.S. market, the record indicates that NFCLJ accounts for a minority of the domestic industry's sales volume. Instead, frozen concentrate accounts for the largest volume of domestic industry sales in the U.S. market. *See, e.g.*, Ventura Coastal, LLC's Posthearing Brief at 14-15; *see also* CR/PR at Tables V-1-V-3. The record indicates that the frozen concentrate imported from Argentina is a good substitute for the domestic product and that they compete on the basis of price. CR/PR at Tables II-8, II-10.

[160] CR/PR at Table I-7.

[161] CR/PR at Table IV-1.

VII. Termination of the Suspended Investigation on Lemon Juice from Mexico Is Not Likely to Lead to Continuation or Recurrence of Material Injury within a Reasonably Foreseeable Time

A. Likely Volume of Subject Imports

During the period of review, the volume of subject imports from Mexico declined somewhat overall, both on an absolute basis and relative to domestic consumption.[162] The volume of subject imports from Mexico fluctuated on an absolute basis during the period from a low of 695,000 gallons in 2009 to high of 1.4 million gallons in 2010. From this peak, subject imports from Mexico declined to 979,000 gallons in 2011 and then to 918,000 gallons in 2012.[163] Subject imports from Mexico also fluctuated as a share of apparent U.S. consumption from a low of *** percent in 2011 to a high of *** percent in 2010, declining overall from *** percent in 2007 to *** percent in 2012.[164]

The record does not support the conclusion that subject imports of lemon juice from Mexico would likely exceed the volume ranges observed during the period of review if the suspended investigation were terminated. Indeed, a conclusion that subject import volume is likely to remain within this range is supported by several factors. Historically, the Mexican lemon juice industry formed in the 1970s when large U.S. beverage bottlers encouraged the planting of lemons solely to ensure a supply of lemon juice and lemon oil for their products, not for the sale of fresh lemons.[165] During the period of review, the Mexican industry exported nearly all of its lemon juice production to the United States notwithstanding the suspension agreement.[166] The industry in Mexico could increase subject imports to the United States upon termination of the suspended investigation only if it increased production, and the record does not indicate that any appreciable increase in lemon juice production is likely in the reasonably foreseeable future. The Mexican growers' relatively recent ability to export increasing quantities of higher-value fresh lemons, in addition to lemon juice and lemon oil, would also limit the likelihood of any increase in lemon juice production. Lemon growers in Mexico began exporting fresh lemons in 2006 after the expiration of some of their contracts with beverage bottlers to grow lemons solely for processing.[167] Whereas four years ago only 15 percent of lemon production in Mexico went to the fresh

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[162] Mexican producers reported capacity equal to that of their actual lemon juice production. Consequently, reported capacity data are of limited utility in determining likely lemon juice production levels. CR/PR at Table IV-9. Production would be limited, however, by current lemon tree plantings. Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 7. Various sources estimate fresh lemon yield from current plantings in Mexico at between 78,000 and 142,000 metric tons annually. CR at IV-13, PR at IV-9. Any additional plantings would take three to five years to bear fruit. Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 7-8. It appears, moreover, that since the expiration of the exclusive contracts of Mexican growers with beverage bottlers to supply lemon juice and lemon oil, some growers are no longer interested in investing in their lemon operations and may be slowly abandoning them. Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 8.

[163] CR/PR at Table I-6.

[164] CR/PR at Table I-7.

[165] CR at IV-13, PR at IV-9.

[166] CR/PR at Table IV-9.

[167] CR at IV-13-14, PR at IV-9; Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 6-7. Although Mexico does not differentiate between fresh lemons and fresh limes in their trade data, it is possible to track most of the growth in Mexican fresh lemon exports by analyzing U.S. fresh lemon imports from Mexico since the United States is Mexico's principal fresh lemon export market. CR at IV-14 n.37, PR at IV-9 n.37.

market, it is estimated that this share increased to 25 percent in 2012.[168] Moreover, the Inter-American Institute for Cooperation on Agriculture estimates that citrus greening disease (also known as Huanglongbing) will cause lemon production in Mexico to decline by 10 to 18 percent in the reasonably foreseeable future.[169] Finally, TCCC, a major importer of lemon juice from Mexico, reports that it will continue to source 80 to 90 percent of its NFCLJ requirements from Ventura Coastal, LLC, if only because of limitations on Mexican supply imposed by Mexico's limited growing season.[170]

Based on the foregoing analysis, we conclude that the volume of subject imports from Mexico will likely be significant if the suspended investigation is terminated, although it will likely remain within the range observed during the period of review.[171] As discussed below, however, we find that the significant volume of subject imports from Mexico will not be likely to have a significant adverse effect on domestic producers' prices or otherwise to have a significant adverse impact on the domestic industry.

B. Likely Price Effects of Subject Imports

As discussed above, price is at least a moderately important factor in purchasing decisions in the U.S. lemon juice market, although availability, reliability of supply, and quality are also important factors.[172]

In these reviews, the Commission requested that U.S. producers and importers of lemon juice provide quarterly data for the total quantity and value of their shipments of three pricing products to unrelated U.S. customers from January 2007 through December 2012.[173] Two U.S. processors and four importers provided usable price data for comparison of quarterly prices for the domestic like product and subject imports from Mexico from January 2007 through December 2012.[174] Reported pricing data accounted for *** percent of U.S. shipments of U.S. produced products and *** percent of U.S. imports of products from Mexico.[175] During the period of review, subject imports from Mexico undersold the

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[168] CR at IV-13-14, Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 7.

[169] Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 6 and Exhibit 6.

[170] Joint Respondents' Posthearing Brief, Responses to Commissioner Questions (Horrisberger declaration).

[171] We have also considered several other factors in our analysis of likely subject import volume. End-of-period inventories of the Mexican industry decreased overall during the period of review from *** gallons in 2007 to *** gallons in 2012. These end-of-period inventories accounted for *** percent of total production in 2007 and *** percent in 2012. CR/PR at Table IV-9. There were *** inventories of subject merchandise from Mexico in 2007, 2008, or 2009. From 2010 to 2012, these inventories ranged from *** to *** gallons. CR/PR at Table IV-3.

***. CR at IV-18, PR at V-11. Nevertheless, as previously discussed, lemon juice production levels are typically a function of fresh lemon supply, rather than lemon juice processing capacity.

There are no known antidumping or countervailing duty findings or remedies in place in third country markets regarding lemon juice from Mexico. CR at IV-18, PR at IV-11.

[172] CR/PR at Table II-8; *cf.* CR/PR at at Table II-7.

[173] The pricing products were as follows: (1) cloudy frozen concentrated lemon juice, non-organic, for further manufacture, (2) clarified frozen concentrated lemon juice, non-organic, for further manufacture, (3) cloudy not from concentrate lemon juice, non-organic, for further manufacture. CR at V-4, PR at V-3.

[174] CR at V-4. PR at V-3.

[175] CR at V-4-5, PR at V-3. In the original preliminary phase investigations, subject imports from Mexico undersold the domestic like product in 34 of 40 comparisons. USITC Pub. 3891 at 22.

domestic like product in 12 of 22 comparisons and oversold the domestic like product in 10 of those 22 comparisons.[176]

Prices for the subject imports from Mexico and the domestic like product increased over the period of review.[177] Although the domestic industry's ratio of COGS to net sales fluctuated during the period of review, these ratios were favorable for both domestic producers.[178]

We do not anticipate that the pricing patterns of subject imports from Mexico will likely change appreciably upon termination of the suspended investigation. During the period of review, subject imports from Mexico were priced well above the normal value floor prices set by the suspension agreement for subject imports from Mexico.[179] Moreover, as we have previously found, the volume of subject imports from Mexico is not likely to change appreciably from the levels observed during the period of review. Accordingly, exporters of the subject merchandise from Mexico will have no incentive to reduce prices upon termination; at the likely prevailing volumes, reduced prices would only serve to reduce the exporters' revenues. Because these pricing patterns did not cause significant adverse price effects during the period of review, they are unlikely to do so in the reasonably foreseeable future if the suspended investigations were terminated. Hence, we conclude that the likely volume of subject imports from Mexico would not be likely to have significant price-depressing or price-suppressing effects if the suspended investigation were terminated.

C. Likely Impact of Subject Imports[180]

We incorporate by reference our discussion of the condition of the domestic industry in section VI above. For the reasons stated there, we find that the domestic industry is not in a vulnerable condition.[181]

In view of our findings regarding the likely volume and price effects of subject imports from Mexico and the current lack of vulnerability of the domestic industry, we conclude that subject imports from Mexico would not be likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investments if the suspended investigation were terminated. The volumes of subject imports from Mexico likely upon termination would be insufficient to have likely price effects and therefore would not be likely to cause any significant declines in the domestic industry's revenues or financial performance. Accordingly, we determine that termination of the suspended antidumping duty investigation on subject imports from Mexico would not be likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

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[176] CR/PR at Tables V-1, V-3, V-5.

[177] CR/PR at Tables V-1, V-3, V-4.

[178] CR/PR at Tables III-6-8. Because Sunkist's costs of goods sold did not include raw materials costs, we examined this factor both for the individual producers as well as for the industry as a whole.

[179] Joint Respondents' Posthearing Brief, Responses to Commissioner Questions at 15-17.

[180] In the final results of its full review with respect to lemon juice from Mexico, Commerce found dumping margins of 146.10 percent for The Coca Cola Export Corporation, Mexico Branch, 205.37 percent for Citrotam Internacional S.P.R. de R.L. ("Citrotam")/Productos Naturales de Citricos ("Pronacit"), and 146.10 percent for all others. 78 Fed. Reg. 39944, 39945 (June 28, 2013).

[181] Although Commissioner Pearson did not join section VI.C. of the opinion, he agrees with the finding that the domestic industry is not currently in a vulnerable condition.

VIII. Conclusion

For the foregoing reasons, we determine that termination of the suspended antidumping duty investigation on lemon juice from Argentina would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[182] We further determine that termination of the suspended antidumping duty investigation on lemon juice from Mexico 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.

[182] Commissioner Pearson dissenting.

ADDITIONAL AND DISSENTING VIEWS OF COMMISSIONER DANIEL R. PEARSON

I. INTRODUCTION

Based on the record in these reviews, I determine, under section 751(c) of the Tariff Act of 1930,[1] as amended ("the Act"), that termination of the suspended antidumping duty investigation on imports of lemon juice from Argentina and Mexico would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. Accordingly, I join in the negative determination reached by my colleagues with respect to subject imports from Mexico. I write separately because I reach a negative determination with respect to subject imports from Argentina.

Consequently, these views consist of my negative determination on subject imports from Argentina. I join the discussion of background (section I), domestic like product (section II), domestic industry (section III), cumulation (section IV, with the exception of section IV.B on no discernible adverse impact), legal standard, findings in the original preliminary determinations, and conditions of competition and the business cycle (section V), and the likely injury analysis for subject imports from Mexico (section VII), as set forth in the majority views.

II. TERMINATION OF THE SUSPENDED ANTIDUMPING DUTY INVESTIGATION OF SUBJECT IMPORTS FROM ARGENTINA WOULD NOT LIKELY LEAD TO THE CONTINUATION OR RECURRENCE OF MATERIAL INJURY TO THE DOMESTIC INDUSTRY WITHIN A REASONABLY FORESEEABLE TIME

A. Effectiveness of Suspension Agreements over the Period of Review

In a review investigation, the statute guides the Commission to "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 record of these investigations indicates that the suspension agreements have had no discernible effect on either the volume of subject imports or the pricing of those imports over the period of review. Since the suspension agreements have not had an influence on the U.S. market up to this point, I find that terminating the suspended antidumping duty investigation of subject imports from Argentina will have no effect on the market in the reasonably foreseeable future. Thus, terminating the suspended antidumping duty investigation will not lead to a continuation or recurrence of material injury.

It is not often that the Commission conducts five-year reviews of suspended antidumping duty investigations, a fact that can be appreciated by noting the many questions asked by the Commissioners on this subject at the hearing.[2] The Department of Commerce ("Commerce") administers two types of suspension agreements, one that is intended to eliminate injury, and another, like the suspension agreements in these investigations, that are intended to provide pricing discipline.[3] A review involving the type of remedy in place here, the establishment of normal values, is unique in my Commission experience. Both the domestic and respondent interested parties have agreed that the mechanism and the effects of the normal value method are quite different than the trade remedies that are usually involved in

[1] 19 U.S.C. § 1675(c).

[2] *E.g.*, Tr. at 42-49 (Comm. Pearson); 74-75 (Comm. Broadbent); 108-09 & 167-69 (Comm. Pinkert).

[3] Tr. at 168-69 (Clark); 19 U.S.C.§§ 1673c(b) & (c); 19 C.F.R. § 353.18.

a five-year review.[4] Counsel for the domestic interested parties characterized the major difference as being that if there is sufficient demand for subject imports, "then that product that comes in is not necessarily going to be restrained by volume, but it will be sold at a fair value price so that the U.S. price can rise as well."[5] Given the limited nature of the normal value remedy, it occurs to me that the best way to evaluate its effectiveness is to compare the prevailing market prices with the normal value.

As requested by the Commission at the hearing, both Argentine and Mexican interested parties provided data comparing their normal values (assigned by Commerce) and their sales prices.[6] For the two Mexican producers, average prices for exports to the United States were *** higher than the normal values assigned. For *** higher than the normal value. For Procimart, the average export price was *** percent higher than the normal value.

From the Argentine producers, the Commission received normal value comparisons for ***; the products being defined by their ***. There is no volume data associated with the normal values for the various products. For all *** Argentine products, sales prices were *** higher than the assigned normal values, but I agree with the observation of domestic interested parties that the differential between the Argentine export prices and their normal values *** over the period.[7] The Argentine interested party also recognized that prices approached normal values a "few times."[8] For ***, the lowest margin (among its *** products) by which export prices exceeded the normal value in 2008 was *** percent; thereafter, the lowest margin *** to *** percent in 2009, to *** percent in 2010, to *** percent in 2011, and finally to *** percent in 2012. For ***, the lowest margin (among its *** products) by which export prices exceeded the normal value in 2008 was *** percent; thereafter, the lowest margin *** to *** percent in 2009, then *** to *** percent in 2010, before *** to *** percent in 2011 and to *** percent in 2012. For ***, the lowest margin (among its *** products) by which export prices exceeded the normal value in 2010 was *** percent; thereafter, the lowest margin *** to *** percent in 2011, and to *** percent in 2012. Of particular note is the fact that the *** of these margins between 2011 and 2012, in *** of the products for which there were both export prices and normal values, consisted of both export price declines and normal value increases.

Despite the invitation by domestic interested parties to so conclude, I decline to adopt the view that, had the normal values not been in place, the prices of subject imports from Argentina would have declined even further.[9] Both sides agreed at the Commission's hearing that Argentina is the world's largest producer of lemons[10] and that Argentina's lemon crop in 2011 was exceptionally large, having benefited from excellent weather.[11] It is therefore not surprising that some impact was felt throughout world markets when the largest global supplier experienced a record harvest. In the U.S. market, the price reaction in 2011 was complicated by another circumstance that both parties recognized as unprecedented: the launch by *** of a frozen lemonade product in mid-2011 that required ***.[12] This event was largely responsible for the *** percent increase in U.S. consumption in between 2010 and

[4] Tr. at 7-8 & 59-61 (McGrath); 188-89 (Dunn & Lunn).

[5] Tr. at 60 (McGrath).

[6] Letter from Argentine interested parties, June 12, 2013; Mexican interested parties' Responses to Commissioners' Questions, at 15-16.

[7] Domestic Interested Parties' Final Comments at 6.

[8] Tr. at 216 (Nolan).

[9] Domestic interested parties, Final Comments at 8.

[10] Tr. at 19 (Wootton); 148 (Nolan).

[11] Tr. at 20 (Wootton); 151 (Nolan).

[12] Tr. at 110-11 & 122-23 (Borgers); 135 (McGrath); Joint Respondents' Posthearing Brief, Declaration of ***.

2011,[13] which kept supply and demand roughly balanced in the U.S. market and U.S. prices stayed level in 2011.[14] The frozen lemonade product, however, was not a success and this left major U.S. purchasers with significant excess inventory, resulting in lower purchases, and lower prices, in 2012.[15]

What I believe occurred with respect to the *** of the differential between Argentine export prices and normal values in 2012 was that, at the same time that U.S. prices fell, both for domestically produced lemon juice and for imports from Argentina, due to the inventory build-up, Argentine normal values for 2012 were increased, because they were calculated by Commerce in 2011, when tighter market conditions were prevalent.[16] While ***. While it is true that the quantity of U.S. imports from Argentina declined by 27.1 percent between 2011 and 2012, Argentine import prices were still attractive enough that the quantity (and value) of imports from Argentina in 2012 was larger than in any other year dating back to 2004 (the first year in the period of the original investigations), with the single exception of 2011.[17] This relatively high volume of imports from Argentina in 2012 is notable because this was a year in which one of the major U.S. purchasers was not buying as much as it had in the past due to its inventory overhang.[18] Therefore, I do not believe that Argentine exporters had an incentive to drop their prices below the levels observed, or below the normal values that they had been assigned by Commerce. Accordingly, I believe that, as repeatedly stated by the Argentine producers,[19] the suspension agreement had no meaningful effect on the U.S. market in 2012, or in any other year of the period of review. This leads me to conclude, as detailed below, that the termination of the suspended antidumping duty investigations will likewise have no effect on the domestic industry.

B. Likely Volume of Subject Imports from Argentina

In evaluating the likely volume of imports of subject merchandise if the suspended antidumping duty investigation were terminated, the Commission is directed to consider whether the likely volume of subject imports would be significant either in absolute terms or relative to production or consumption in the United States.[20] 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 such 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.[21]

When considering the likely volume of subject imports from Argentina, I note that respondent interested parties did not contest the presence of significant volumes of subject imports. Rather, they freely offer that "in 2011 imports from Argentina were 3,410 thousand gallons, more than double the

[13] CR/PR at Table C-1.

[14] CR/PR at Tables V-1, -2, & -3.

[15] Tr. at 111 (Borgers); Joint Respondents' Posthearing Brief, Declaration of ***.

[16] Tr. at 75-76 (Brophy) (stating that the normal value is calculated "ahead of time," is done "once a year," and is "based on largely their cost of production from a prior year as supplied . . . .").

[17] CR/PR at Table I-1.

[18] Joint Respondents' Posthearing Brief, Declaration of ***.

[19] Tr. at 153 (Nolan); 208-09 (Clark); 250-52 (Lunn).

[20] 19 U.S.C. § 1675a(a)(2).

[21] Id.

average annual volume of imports from Argentina before the investigation."[22] Based on these data, I believe that the observation of the respondent interested parties is a fair one: "it is apparent that the suspension agreements had no impact whatever on the quantities of subject imports entering the US."[23] Likewise, the U.S. market share held by subject imports from Argentina in 2011 and 2012 was higher than any of the previous years of the period of review and any of years during the period of the original investigation.[24]

It is important to consider whether crop year 2010/11 was truly an "extraordinary year for Argentine lemons,"[25] or whether it constitutes an upward trend, as argued by the domestic interested parties.[26] First, we learned that the extraordinary crop year of 2010/11 was immediately preceded by "an unusually low crop year in 2009/10."[27] Second, we are told that "lemons for processing in [Argentina] have been below 2011 levels for both 2012 and (estimated) 2013."[28] Data published in June 2013 by the USDA on Argentine lemon production strongly supports this appraisal. Lemons available for processing in Argentina in 2011/12 were 20.5 percent lower than in the previous year, and although the estimate for 2012/13 is slightly higher than the previous year, it will still be 20.0 percent lower than the extraordinary year of 2010/11.[29] This corresponds to the production data provided to the Commission by the Argentine lemon juice industry; between 2010 (the "unusually low" year) and 2011 (the "extraordinary" year), lemon juice production increased by *** percent and between 2011 and 2012, lemon juice production declined by *** percent. The USDA data discussed above on the quantity of lemons likely available for processing this year strongly suggests that lemon juice production will be much closer to the intermediate 2012 figure than to either the "unusually low" 2010 figure or the "extraordinary" 2011 figure. This is crucial because the intermediate production levels (see, e.g., 2009) have not been associated with an inventory buildup in Argentina, whereas the "extraordinary" production level of 2011 clearly did result in a buildup.

Nor does it appear that there has been any sustained effort by Argentine growers to increase planted area or the number of trees. While the staff report indicates that planted area in Argentina increased by 11.4 percent over the period of review,[30] the latest USDA report indicates that since crop

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[22] Joint Respondents' Prehearing Brief at 14. Over the period of review, U.S. imports from Argentina were 471,000 gallons in 2007; 1,328,000 gallons in 2008; 1,026,000 gallons in 2009; 1,309,000 gallons in 2010; 3,410,000 gallons in 2011; and 2,487,000 gallons in 2012. CR/PR at Table C-1. During the period of the original investigation, U.S. imports from Argentina were 1,075,000 gallons in 2004; 1,897,000 gallons in 2005; and 1,977,000 gallons in 2006. CR/PR at Table I-1.

[23] Joint Respondents' Prehearing Brief at 14.

[24] CR/PR at Table I-1. The U.S. market share held by subject imports from Argentina was *** percent in 2007, *** percent in 2008, *** percent in 2009, *** percent in 2010, *** percent in 2011, and *** percent in 2012. The highest U.S. market share held by Argentina over the earlier years of the period of review was *** percent in 2008. The highest U.S. market share observed in the period of the original investigations was *** percent in 2005.

[25] Joint Respondents' Prehearing Brief at 21. At the hearing, the representative of the Argentine lemon juice industry attributed this to the prevailing "ideal weather conditions." Tr. at 151 (Nolan).

[26] Domestic Interested Parties' Prehearing Brief at 16-17.

[27] Joint Respondents' Prehearing Brief at 21. While USDA reports found on the record of these investigations do not have data from that year, reported Argentine production of lemon juice in that year was *** of the period of review. CR/PR at Table IV-7.

[28] Joint Respondents' Prehearing Brief at 22.

[29] USDA-FAS, GAIN Report: Argentina Citrus Semi-Annual 2013, June 14, 2013, at 14.

[30] CR at IV-7; PR at IV-6 ("Planted area in 2011/12 rose to 49,000 hectares, up from 44,000 hectares in 2006/07.").

year 2010/11, planted area in Argentina has increased by only 900 hectares, or by 1.9 percent.[31] Likewise, the number of fruit-bearing lemon trees in Argentina has increased by only 3.6 percent since the 2010/11 crop year.[32] Because the acreage and number of productive trees "provide the best indicator" of Argentina's ability to export lemon juice to the U.S. market within the reasonably foreseeable future, I agree that Argentine exports are "unlikely to reach 2011 levels again for the foreseeable future."[33] Therefore, I see the extraordinarily high production of lemon juice in Argentina in 2011 as a transitory occurrence linked to ideal weather conditions and which does not portend a continuation of record-level Argentine production.

Domestic interested parties also point to declining Argentine exports, and a declining share of exports, sent to the EU in 2011 and 2012 as evidence that the recession in the EU has diverted, and will continue to divert, more Argentine exports to the U.S. market in the reasonably foreseeable future.[34] Whereas the domestic interested parties claim to see diversion from the EU in 2011, I rather see unusually high 2011 U.S. demand pulling these imports into the U.S. market;[35] a high demand generated, in large part, by the launch of the *** frozen lemonade product in mid-2011.[36] U.S. consumption in 2011 stands out because it is *** gallons higher than the average level of consumption in the other five years of the period.[37] Most of this excess U.S. demand was apparently serviced through imports from Argentina, which increased by *** gallons between 2010 and 2011. By contrast, Argentine exports to the EU market only declined by *** gallons between 2010 and 2011.[38] Argentine exports to the EU continued to decline in 2012, but Argentine exports to the U.S. market also declined between 2011 and 2012. Argentine interested parties emphasized that their exports to the EU are to "long-standing customers who require considerable quantities of juice year after year."[39] In every year from 2004 to 2011, the volume of Argentine exports to the EU market was higher than its exports to the U.S. market; 2011 was the first year that the volume of exports to the EU was not at least double the exports to the U.S. market.[40] Testimony of the Argentine industry indicated that demand for lemon juice was down in the EU due to both the recession, which has affected personal consumption, but also because of substitution away from lemon juice in juice blends due to price increases.[41] I expect that these are temporary factors that will moderate, leading to Argentine exports to the EU return to more typical levels in the reasonably foreseeable future.

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[31] USDA-FAS, GAIN Report: Argentina Citrus Semi-Annual 2013, June 14, 2013, at 14; Joint Respondents' Prehearing Brief at 26.

[32] USDA-FAS, GAIN Report: Argentina Citrus Semi-Annual 2013, June 14, 2013, at 14; Joint Respondents' Prehearing Brief at 26. I also consider that it "takes five years for a lemon tree to reach productivity." Joint Respondents' Prehearing Brief at 27; see also Tr. at 195-96 (Dunn & Nolan).

[33] Joint Respondents' Prehearing Brief at 26; see also Tr. at 153 (Nolan) ("I believe it's extremely unlikely that Argentina will see another crop as big as 2011 for many years to come.").

[34] Domestic Interested Parties' Prehearing Brief at 18 ("The dramatic increase in U.S. lemon juice imports from Argentina in 2011 and 2012 occurred partly as a result of the expanded capacity and production in Argentina and partly as a result of the diversion of Argentine exports from the EU market into the U.S. market during this period."); Posthearing Brief at 7; Responses to Commissioners' Questions at 33-34; Domestic Interested Parties' Final Comments at 5-6.

[35] See my discussion at hearing of demand-pull versus supply-push. Tr. at 204-07.

[36] Tr. at 110-11 & 122-23 (Borgers); 135 (McGrath); Joint Respondents' Posthearing Brief, Declaration of ***.

[37] CR/PR at Table C-1.

[38] CR/PR at Table IV-7.

[39] Joint Respondents' Responses to Commissioners' Questions at 8; Tr. at 166 (Dunn).

[40] Joint Respondents' Responses to Commissioners' Questions at 13-14 & Exhibit; Tr. at 151-52 (Nolan).

[41] Tr. at 170-71 (Nolan).

Summarizing, I find that the extraordinarily large Argentine lemon juice production level of 2011 was due to a highly favorable weather anomaly that is not likely to be repeated in the reasonably foreseeable future. Further, I observe no indications—either in the data on acreage or the number of productive trees—that the Argentine capacity to produce lemons available for processing has increased enough such that it has become likely that lemon juice production will again approach the level recorded in 2011 within the reasonably foreseeable future. Finally, I do not believe that recessionary EU market conditions have caused, or will cause, the diversion of a significant volume of Argentine exports from the EU market to the U.S. market within the reasonably foreseeable future. I conclude, therefore, as do the respondent parties: "Since the volume of subject imports was unimpeded by the suspension agreements, its stands to reason that terminating the agreements will not, by itself, result in any further increase in subject imports."[42]

C. Likely Price Effects of Subject Imports from Argentina

In evaluating the likely price effects of subject imports if the suspended antidumping duty investigation were terminated, the Commission is directed to consider whether there is likely to be significant price underselling by the subject imports as compared to the domestic like products and whether the subject imports 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.[43]

In section II(A) above, I described why I believe that the normal values set by Commerce within the context of the suspension agreement had no effect on prices within the U.S. market for lemon juice and why, therefore, the termination of the suspended investigation of subject imports from Argentina would have no effect on prices in the reasonably foreseeable future. The domestic interested parties have agreed that these normal values are fair values.[44] Because the actual sales prices of subject U.S. imports from Argentina were always higher, and usually much higher, than the "fair" normal values, it can be stated that there was no dumping over the period of review by Argentine producers. In the most important (in volume terms) pricing product, product 1, subject Argentine imports oversold (or sold at the same price as) U.S. producers' prices in *** of the first *** quarterly comparisons.[45] Most of these overselling margins were ***, with *** of the *** overselling margins calculated at *** percent. Then, beginning in the ***, subject imports from Argentina undersold U.S. producers' prices in *** of *** quarterly comparisons. The underselling margins in this latter period were ***, with *** out *** being *** percent or less and the highest being *** percent.[46] While domestic interested parties directly link this switch to underselling with higher volumes of imports from Argentina, I note that Argentine prices

[42] Joint Respondents' Prehearing Brief at 14.

[43] 19 U.S.C. § 1675a(a)(3). The SAA states that "consistent 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.

[44] Tr. at 8 (McGrath); 62 (Borgers) (imports selling "at a value that was now reflecting production costs"); 75-76 (Brophy) ("similar to a dumping analysis" normal values are "based on largely their cost of production."). "The suspension agreement in this case was designed to eliminate dumping. In order to accomplish this goal, Commerce calculated a non-dumped price for each of the Argentine signatories and required them to sell at or above that price in the U.S. market. In essence, the signatories were required to sell at a zero percent dumping margin during the period of review." Domestic Interested Parties' Posthearing Brief at 8-9; *see also* Final Comments at 9-10.

[45] CR/PR at Table V-1. There were no imports from Argentina of pricing product 3. For pricing product 2, imports from Argentina were a tiny fraction of the imports of pricing product 1. In fact, in *** of the *** possible quarters, there were *** imports from Argentina; in another *** quarters the volume of imports from Argentina were less than *** gallons. CR/PR at Table V-2.

[46] CR/PR at Table V-1.

for product 1 did not decline significantly until *** higher volumes of subject imports from Argentina began. As detailed above in the volume section, I do not attribute the higher volumes of subject Argentine imports to a supply push from Argentina driven by aggressive underselling; rather, I believe that the higher volumes of imports entered the U.S. market from Argentina due to customer demand, in large part attributable to a new product introduction. Further, the factor that I believe to have been most responsible for the switch from Argentine overselling to underselling in *** was price increases by U.S. producers. Testimony by domestic producers at the hearing established that U.S. price increases in the latter part of the period were due to the expiration of long-term contracts that the domestic industry had with purchasers that had not allowed them to adjust to the higher lemon prices in the wake of the U.S. frost in early 2007.[47]

Although there appears to have been some pricing reaction to the inventory buildups throughout the supply chain in the last half of 2012, U.S. prices for domestic producers still increased *** over the period of review, increasing by *** percent for pricing product 1, by *** percent for pricing product 2, and by *** percent for pricing product 3.[48] Because I believe that U.S. and global markets will quickly return to more typical inventory levels in the wake of the return to intermediate lemon juice production levels in 2012 and 2013 in Argentina,[49] the world's largest producing country, I do not expect that there will be continued pricing pressures leading to price depression in the reasonable foreseeable future were the suspended antidumping duty investigation on lemon juice from Argentina terminated. Nor do I find any evidence that termination of the suspended antidumping duty investigation on Argentina would lead to price suppression. The domestic industry's COGS-to-net-sales ratio declined *** before increasing to ***. While the increased COGS-to-net-sales ratio might appear to indicate a cost-price squeeze, there were significant changes to the structure of the domestic industry in 2012 that may account for much of this increase.[50]

D. Likely Impact of Subject Imports from Argentina

In evaluating the likely impact of imports of subject merchandise if the suspended antidumping duty investigation under review were terminated, 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, the following: (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.[51] All relevant factors are to be considered "within the context of the business cycle and the conditions of competition that are distinctive to the affected industry."[52] As instructed by the statute, I have considered the extent to which any improvement in the state of the domestic industry is related to the order at issue and whether the industry is vulnerable to material injury if the order were revoked.[53]

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[47] Tr. at 93-94 & 136 (Borgers) ("It was merely the expiration of the older contracts that allowed things to kind of normalize over time.").

[48] CR/PR at Tables V-1 to V-3.

[49] Joint Respondents' Prehearing Brief at 24-25.

[50] As stated by domestic interested parties, because of the joint venture, 2012 was the first year that data on the domestic industry reflects "a raw material cost that includes the full cost of lemons for the entire domestic industry reflective of the market price for lemons in the United States." Domestic Interested Parties' Prehearing Brief at 32.

[51] 19 U.S.C. § 1675a(a)(4).

[52] Id.

[53] 19 U.S.C. § 1675a(a)(1)(B),(C)

As discussed in section II(B) above, I believe that the volume of subject imports from Argentina will, in the reasonably foreseeable future, be lower than that recorded during the "extraordinary" crop year of 2011, and return to levels that do not result in inventory buildups throughout the supply chain. Further, as discussed in section II(C) above, I believe that subject imports from Argentina will not enter the U.S. market at prices that will lead to price depression or suppression. Being that I find that the domestic industry is not in a vulnerable condition—but instead in rather healthy condition and benefitting from a recent joint venture between the two most significant members of the domestic industry—I do not believe that what will most probably be a continuation of the status quo with respect to likely import volumes and price effects will result in a significant adverse impact on the domestic lemon juice industry.

Domestic interested parties have argued that, first, their operating margins are not the "cartoonishly high numbers"[54] that appear in the staff report,[55] but something less due to the fact that Sunkist had a cooperative structure and did not report raw material costs for their lemon juice operations. Second, domestic interested parties note that while the condition of the domestic industry has improved, this is principally the result of the suspension agreements.[56] With respect to the first argument, I would only note that the firm-level financial results for Ventura, which does pay market prices for their lemons, and the results of the joint venture in 2012 *** than those reported by Sunkist.[57] With respect to the second point, I simply note that I have concluded in the above sections that the suspension agreements have had no noticeable impact on subject import volumes or prices and, consistent with those findings, I now conclude that the suspension agreements have had no impact on the financial condition of the domestic industry.

In view of my findings on likely volume and price effects of subject imports from Argentina, and the current lack of vulnerability of the domestic industry, I conclude that subject imports from Argentina would not be likely to have a significant adverse impact on the domestic industry's output, sales, market share, profits, or return on investments if the suspended investigation were terminated. The volumes of subject imports from Argentina likely upon termination would not be likely to have likely price effects and therefore would not be likely to cause any significant declines in the domestic industry's revenues or financial performance. Accordingly, I determine that termination of the suspended antidumping duty investigation on subject imports of lemon juice from Argentina would not be likely to lead to the continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

III. CONCLUSION

For the above-stated reasons, and those set forth in the sections of the majority views that I join, I determine that termination of the suspended antidumping duty investigation on imports of lemon juice from Argentina and Mexico would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

[54] Tr. at 61 (McGrath).

[55] For the past seven years, going back to 2006, the domestic industry has not reported an operating margin of less than *** percent. CR/PR at Table I-1.

[56] Domestic Interested Parties Prehearing Brief at 29.

[57] *Compare* CR/PR at Table III-7 *with* Table III-8.

PART I: INTRODUCTION

BACKGROUND

On August 1, 2012, the U.S. International Trade Commission ("Commission" or "USITC") gave notice, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act")[1], that it had instituted reviews to determine whether termination of the suspended investigations on lemon juice from Argentina and Mexico would likely lead to the continuation or recurrence of material injury to a domestic industry.[2] [3] On November 5, 2012, the Commission determined that it would conduct full reviews pursuant to section 751(c)(5) of the Act.[4] The following tabulation presents information relating to the background and schedule of this proceeding:[5]

Effective date	Action
September 10, 2007	Commerce suspends antidumping duty investigations (72 FR 53991 and 53995, September 21, 2007)
August 1, 2012	Commission's institution of five-year reviews (77 FR 45653)
	Commerce's initiation of five-year reviews (77 FR 45589)
November 5, 2012	Commission's determinations to conduct full five-year reviews (77 FR 67833, November 14, 2012)
November 28, 2012	Commission's scheduling of the reviews (77 FR 72384, December 5, 2012)
December 7, 2012	Commerce's final results of expedited five-year review of the suspended antidumping duty investigation on lemon juice from Argentina (77 FR 73021)
December 26, 2012	Commerce's preliminary results of full five-year review of the suspended antidumping duty investigation on lemon juice from Mexico (77 FR 75998)
May 16, 2013	Commission's hearing
July 1, 2013	Scheduled date for Commerce's final results of full five-year review of the suspended antidumping duty investigation on lemon juice from Mexico
July 10, 2013	Commission's vote
July 26, 2013	Commission's determinations transmitted to Commerce

[1] 19 U.S.C. 1675(c).

[2] *Lemon Juice from Argentina and Mexico*, 77 FR 45653, August 1, 2012. All interested parties were requested to respond to this notice by submitting the information requested by the Commission.

[3] In accordance with section 751(c) of the Act, the U.S. Department of Commerce ("Commerce") published a notice of initiation of five-year reviews of the subject antidumping duty orders concurrently with the Commission's notice of institution. *Initiation of Five-Year ("Sunset") Review and Correction*, 77 FR 45589, August 1, 2012.

[4] Lemon Juice From Argentina and Mexico; Notice of Commission Determination To Conduct Full Five-Year Reviews, 77 FR 67833, November 14, 2012.

[5] The Commission's notice of institution, notice to conduct full reviews, scheduling notice, and statement on adequacy appear in appendix A and may also be found at the Commission's web site (internet address *www.usitc.gov*). Commissioners' votes on whether to conduct expedited or full reviews may also be found at the web site. Appendix B presents the witnesses appearing at the Commission's hearing.

The Original Investigations

The original investigations resulted from petitions filed by Sunkist Growers, Inc. ("Sunkist"), Sherman Oaks, CA, on September 21, 2006, alleging that an industry in the United States is materially injured and threatened with material injury by reason of less-than-fair-value ("LTFV") imports of lemon juice from Argentina and Mexico. On September 10, 2007, before the Commission reached final determinations in the original final investigations, Commerce suspended the antidumping duty investigation involving lemon juice from Argentina.[6] It entered into a suspension agreement with S.A. San Miguel A.G.I.C. y F. ("San Miguel") and Citrusvil, S.A. ("Citrusvil") to revise their prices to eliminate completely sales of lemon juice to the United States at less than fair value. On September 10, 2007, Commerce also suspended the antidumping duty investigation involving lemon juice from Mexico. It entered into a suspension agreement with The Coca-Cola Company ("TCCC") and The Coca-Cola Export Corporation, Mexico Branch ("TCCEC"), collectively "Coca-Cola", to revise their prices to eliminate completely sales of lemon juice to the United States at less than fair value.[7]

Summary Data

Table I-1 presents a summary of data from the original investigations[8] and the current full five-year reviews.

PREVIOUS AND RELATED INVESTIGATIONS

The Commission has not conducted any previous investigations concerning lemon juice.

[6] Suspension of Antidumping Duty Investigation: Lemon Juice From Argentina, 72 FR 53991, September 21, 2007.

[7] Suspension of Antidumping Duty Investigation: Lemon Juice From Mexico, 72 FR 53995, September 21, 2007.

[8] The suspension agreements concerning lemon juice from Argentina and Mexico were signed before the Commission completed its final investigations. Data presented from the original investigations throughout this report is from the prehearing staff report, Inv. Nos. 731-TA-1105-1106 (Final): Lemon Juice from Argentina and Mexico, Memorandum INV-EE-120, September 4, 2007.

Table I-1
Lemon Juice: Comparative data from the original investigations and current reviews, 2004-06, and 2007-12

(Quantity in 1,000 gallons @ 400 GPL, value in 1,000 dollars, unit value per gallon, shares/ratios in percent)

Item	2004	2005	2006		2007	2008	2009	2010	2011	2012
U.S. consumption quantity:										
Amount	***	***	***		***	***	***	***	***	***
U.S. processors' share	***	***	***		***	***	***	***	***	***
U.S. importers' share										
Argentina	***	***	***		***	***	***	***	***	***
Mexico	***	***	***		***	***	***	***	***	***
Subtotal, subject	***	***	***		***	***	***	***	***	***
All other sources	***	***	***		***	***	***	***	***	***
Total imports	***	***	***		***	***	***	***	***	***
U.S. consumption value:										
Amount	***	***	***		***	***	***	***	***	***
U.S. processors' share	***	***	***		***	***	***	***	***	***
U.S. importers' share										
Argentina	***	***	***		***	***	***	***	***	***
Mexico	***	***	***		***	***	***	***	***	***
Subtotal, subject	***	***	***		***	***	***	***	***	***
All other sources	***	***	***		***	***	***	***	***	***
Total imports	***	***	***		***	***	***	***	***	***
U.S. imports from:										
Argentina:										
Quantity	1,075	1,897	1,977		471	1,328	1,026	1,309	3,410	2,487
Value	10,035	16,080	15,727		5,538	24,876	19,581	30,786	75,190	45,566
Average unit value	9.33	8.48	7.96		11.77	18.73	19.09	23.53	22.05	18.32

Table continued on next page.

Table I-1--*Continued*
Lemon Juice: Comparative data from the original investigations and current reviews, 2004-06, and 2007-12

(Quantity in 1,000 gallons @ 400 GPL, value in 1,000 dollars, unit value per gallon, shares/ratios in percent)

Item	2004	2005	2006		2007	2008	2009	2010	2011	2012
U.S. imports from:										
Mexico:										
Quantity	960	970	1,006		922	1,153	695	1,361	979	918
Value	5,732	4,113	6,353		6,003	18,335	10,300	29,969	18,199	10,182
Average unit value	5.97	4.24	6.31		6.51	15.91	14.83	22.02	18.59	11.10
Subject sources:										
Quantity	2,036	2,868	2,983		1,392	2,481	1,720	2,669	4,389	3,405
Value	15,767	20,193	22,080		11,541	43,211	29,881	60,755	93,389	55,749
Average unit value	7.75	7.04	7.40		8.29	17.42	17.37	22.76	21.28	16.37
All other sources:										
Quantity	374	376	488		1,228	1,177	979	925	1,702	1,158
Value	5,852	6,304	6,515		14,788	23,107	17,843	22,010	37,607	25,567
Average unit value	15.64	16.78	13.34		12.05	19.64	18.23	23.80	22.10	22.09
All countries:										
Quantity	2,410	3,243	3,472		2,620	3,658	2,699	3,594	6,091	4,562
Value	21,619	26,497	28,595		26,329	66,318	47,724	82,765	130,996	81,315
Average unit value	8.97	8.17	8.24		10.05	18.13	17.68	23.03	21.51	17.82
U.S. processors':										
Capacity quantity	***	***	***		***	***	***	***	***	***
Production quantity	***	***	***		***	***	***	***	***	***
Capacity Utilization	***	***	***		***	***	***	***	***	***
U.S. shipments:										
Quantity	***	***	***		***	***	***	***	***	***
Value	***	***	***		***	***	***	***	***	***
Unit value	***	***	***		***	***	***	***	***	***

Table continued on next page.

Table I-1--*Continued*
Lemon Juice: Comparative data from the original investigations and current reviews, 2004-06, and 2007-12

(Quantity in 1,000 gallons @ 400 GPL, value in 1,000 dollars, unit value per gallon, shares/ratios in percent)

Item	2004	2005	2006		2007	2008	2009	2010	2011	2012
Export shipments:										
Quantity	***	***	***		***	***	***	***	***	***
Value	***	***	***		***	***	***	***	***	***
Unit value	***	***	***		***	***	***	***	***	***
Ending inventory quantity	***	***	***		***	***	***	***	***	***
Inventory/total shipments	***	***	***		***	***	***	***	***	***
Production workers	***	***	***		***	***	***	***	***	***
Hours worked (*1,000*)	***	***	***		***	***	***	***	***	***
Wages paid (*1,000 dollars*)	***	***	***		***	***	***	***	***	***
Hourly wages	$***	$***	$***		$***	$***	$***	$***	$***	$***
Productivity (*gallons per hour*)	***	***	***		***	***	***	***	***	***
Net sales:[1]										
Quantity	***	***	***		***	***	***	***	***	***
Value	***	***	***		***	***	***	***	***	***
Unit value	***	***	***		***	***	***	***	***	***
Cost of goods sold	***	***	***		***	***	***	***	***	***
Gross profit or (loss)	***	***	***		***	***	***	***	***	***
SG&A	***	***	***		***	***	***	***	***	***
Operating income or (loss) (*value*)	***	***	***		***	***	***	***	***	***
Unit cost of goods sold	***	***	***		***	***	***	***	***	***
Unit operating income or (loss)	***	***	***		***	***	***	***	***	***
Cost of goods sold/sales (percent)	***	***	***		***	***	***	***	***	***
Operating income or (loss)/sales	***	***	***		***	***	***	***	***	***

[1] Financial data includes tolling operations.

Source: Compiled from data in Memorandum INV-EE-120, September 4, 2007, data submitted in response to Commission questionnaires, and from official Commerce statistics.

STATUTORY CRITERIA AND ORGANIZATION OF THE REPORT

Statutory Criteria

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."

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. If a countervailable subsidy is involved, the Commission shall consider information regarding the nature of the countervailable subsidy and whether the subsidy is a subsidy described in Article 3 or 6.1 of the Subsidies Agreement."

Organization of the Report

Information obtained during the course of the reviews that relates to the statutory criteria is presented throughout this report. A summary of trade and financial data for lemon juice as collected in the reviews is presented in appendix C. U.S. industry data are based on the questionnaire responses of two U.S. processors of lemon juice that are believed to have accounted for the vast majority of domestic production of lemon juice in 2012. U.S. import data and related information are based on Commerce's official import statistics and the questionnaire responses of seven U.S. importers of lemon juice that are believed to have accounted for 48.5 percent of the total subject U.S. imports during 2007-2012. Foreign industry data and related information are based on the questionnaire responses of three producers of lemon juice in Argentina accounting for *** percent of total exports from Argentina to the United States in 2012, and two producers in Mexico accounting for *** percent of total exports from Mexico to the United States in 2012. Responses by U.S. processors, importers, purchasers, and foreign producers of lemon juice to a series of questions concerning the significance of the existing suspension agreements and the likely effects of termination of such agreements are presented in appendix D.

COMMERCE'S REVIEWS

Administrative Reviews

Commerce has not conducted any administrative reviews with regard to the suspension agreements on lemon juice from Argentina and Mexico.

Five-Year Reviews

On December 7, 2012, Commerce issued the final results of its expedited review with respect to lemon juice from Argentina. Table I-2 presents the dumping margins calculated by Commerce in its original investigation and in its expedited review.

Table I-2
Lemon juice: Commerce's preliminary original and final first five-year dumping margins for producers/exporters in Argentina

Producer/exporter	Original preliminary margin (*percent*)	First five-year review margin (*percent*)
Citrusvil	128.50	128.50
San Miguel	85.64	85.64
All others	113.52	113.52

Note.—In the original investigation, final results were postponed until September 10, 2007 (*Lemon Juice from Argentina and Mexico: Postponement of Final Antidumping Duty Determinations and Extension of Provisional Measures*, 72 FR 28953, May 23, 2007). Final results were not issued, as Commerce entered into a suspension agreement on September 10, 2007.

Source: *Lemon Juice from Argentina: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances*, 72 FR 20820, April 26, 2007; and Lemon Juice From Argentina: Final Results of the Expedited First Sunset Review of the Suspended Antidumping Duty Investigation, 77 FR 73021, December 7, 2012.

On December 26, 2012, Commerce issued the preliminary results of its full review with respect to lemon juice from Mexico. Final results are scheduled to be issued no later than July 1, 2013. Table I-3 presents the dumping margins calculated by Commerce in its original investigation and in its full review.

Table I-3
Lemon juice: Commerce's preliminary original and preliminary first five-year dumping margins for producers/exporters in Mexico

Producer/exporter	Original preliminary margin (*percent*)	Preliminary first five-year review margin (*percent*)
TCCEC	146.10	146.10
Citrotam Internacional S.P.R. de R.L. ("Citrotam") / Productos Naturales de Citricos ("Pronacit")	205.37	205.37
All others	146.10	146.10

Note.—In the original investigation, final results were postponed until September 10, 2007 (*Lemon Juice from Argentina and Mexico: Postponement of Final Antidumping Duty Determinations and Extension of Provisional Measures*, 72 FR 28953, May 23, 2007). Final results were not issued, as Commerce entered into a suspension agreement on September 10, 2007.

Source: *Notice of Preliminary Determinations of Sales at Less Than Fair Value and of Critical Circumstances in Part: Lemon Juice from Mexico,* 72 FR 20830, April 26, 2007; and *Lemon Juice from Mexico: Preliminary Results of Full Sunset Review of the Suspended Antidumping Duty Investigation*, 77 FR 75998, December 26, 2012.

THE SUBJECT MERCHANDISE

Commerce's scope

The subject merchandise covered by the suspended investigations, as defined by Commerce,[9] is as follows:

> *certain lemon juice for further manufacture, with or without addition of preservatives, sugar, or other sweeteners, regardless of the GPL (grams per liter of citric acid) level of concentration, brix level, brix/acid ratio, pulp content, clarity, grade, horticulture method (e.g., organic or not), processed form (e.g., frozen or not-from-concentrate), FDA standard of identity, the size of the container in which packed, or the method of packing.*
>
> *Excluded from the scope are: (1) Lemon juice at any level of concentration packed in retail-sized containers ready for sale to consumers, typically at a level of concentration of 48 GPL; and (2) beverage products such as lemonade that typically contain 20% or less lemon juice as an ingredient.*

Tariff Treatment

Lemon juice is classifiable in the Harmonized Tariff Schedule of the United States ("HTS") under subheadings 2009.31.40, 2009.31.60, or 2009.39.60 and imported under statistical reporting numbers 2009.31.4000, 2009.31.6020, 2009.31.6040, 2009.39.6020, and 2009.39.6040. The general (normal trade relations) rate of duty for subheading 2009.31.40 (not concentrated juice of a Brix value not exceeding 20) is 3.4 cents per liter, while the general rate for the other subheadings is 7.9 cents per liter. All NAFTA-originating imports from Mexico are eligible to enter free of duty upon proper importer claim. All imports from Argentina are dutiable at the general rate.

THE PRODUCT

Physical Characteristics and Uses

Lemon juice is produced from the juice of fresh lemons, c*itrus limon*. In the United States, lemons are grown primarily in California (45,000 acres) and Arizona (10,000 acres).[10] Generally, lemons are grown for the fresh market. Those with imperfections or that fail to meet size or grade standards are culled from the fresh market and are shipped for processing into various products including lemon juice.[11]

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[9] Lemon Juice from Mexico: Preliminary Results of Full Sunset Review of the Suspended Antidumping Duty Investigation, 77 FR 75998, December 26, 2012

[10] USDA-NASS, *Citrus Fruits 2012 Summary*, September 2012. Found at http://usda01.library.cornell.edu/usda/current/CitrFrui/CitrFrui-09-20-2012.pdf.

[11] Other processed lemon products include lemon oil and its fractions, lemon peel, and pectin. Over 400 specialty products can be made from lemons, but a much smaller number have established commercial markets. Pectin, derived from lemon peel, is widely used in the food industry as a thickening agent, and pectin pomace is used as a source of dietary fiber that, when pelletized, can be fed to cattle. Pulp wash is used in the beverage industry to add fruit solids and a cloudy appearance to juice drinks, while vitamin C, folic acid, carotenoids,

In addition, when there are more lemons available than needed in the fresh market, some of the lemons that could be used fresh are processed. Lemon juice has a particularly high acid content when compared to juice of other citrus species, typically above 4.5 percent by weight, and is not typically consumed alone at full strength, unlike orange juice. Lemon juice is used as an ingredient in beverages, particularly lemonade and soft drinks, and other foods, such as salad dressings, sauces, and baked goods. Lemon juice is sold to be used as an ingredient by food and beverage processing companies as well as producers of non-food products, such as household cleaners. Lemon juice is also sold at retail grocers to be used as an ingredient in home food and beverage preparation.

Lemons are processed into juice with varying concentration, acidity, and sugar content. Concentrated lemon juice and not-from-concentrate lemon juice ("NFCLJ") are the two main types. Concentrated lemon juice can be marketed as cloudy, containing up to 12 percent pulp, or clear or clarified, which has no visible pulp. The level of concentration is principally measured by its acidity as grams per liter of anhydrous citric acid ("GPL"). Concentrated lemon juice is typically concentrated to 400 GPL or 500 GPL, but can be tailored to customer specifications. Most lemon juice is sold into the concentrate market and is later diluted and sold as reconstituted single strength lemon juice, or used in lemonade and other lemon-flavored beverages and soft drinks. Concentrated lemon juice is more economically transported than NFCLJ since removing the water means less bulk and weight to be moved and stored. In addition, highly concentrated lemon juice is less susceptible to microorganisms and may be stored refrigerated rather than frozen, which reduces the energy costs of storage and transport. NFCLJ is used in the production of "premium" lemonades.

Organic lemon juice is also sold commercially. The organic designation specifies particular cultivation methods in the lemon orchard, such as prohibited use of pesticides or chemical fertilizers, and segregation of product at the processing plant. Although the manufacturing process is the same for organic and non-organic lemon juice, manufacturing equipment that has been exposed to non-organic residues must be thoroughly cleaned before processing organic lemons into juice. Organic lemon juice tends to sell for a higher price, reflecting the higher cost of growing fresh organic lemons, which typically have lower yields and efficiencies of growing and harvesting than do non-organic lemons. Organic lemon juice sales account for a small percentage of annual sales in the United States.[12]

Lemon juice and lemon oil, which is extracted from the lemon's peel, are two distinct products with different chemical profiles, although they may be ingredients in the same end products. Lemon oil is generally used as a flavor and fragrance enhancer in beverages, foods, and household cleaning supplies. Both can be used in beverages; lemon oil is used to impart flavor, while lemon juice is used to impart acidic tartness. Although lemon juice and oil are considered co-products in that the production of one necessitates the production of the other, the pricing of the two products is generally independent of one another.[13]

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flavonoids, narigin, and hesperidin can be extracted from lemon peel to be used in the health food and vitamin industries.

[12] Ventura Coastal reported that *** of its sales in 2012 were organic lemon juice. Ventura Coastal's posthearing brief, Response to Commissioner Questions, p. 37.

[13] In general, citrus fruit processing is designed for the collection of the juice, with the peel oil being a byproduct, as is the case with lemons, oranges, grapefruit, and Persian limes. The reverse is true, however for key

Manufacturing Process[14]

Lemons are grown in orchards, harvested, and transported to a packing house for sorting. Generally, the packing house is where fresh market lemons are distinguished from those sent for processing. Lemons for processing are culled from fresh market lemons usually based on imperfections in appearance or failure to meet size or grade standards.[15] The demand and supply for a particular size of fresh lemon may vary from year to year, based on market and growing conditions. If there are too many fresh lemons of a particular size, they may be culled into the juice market.

Commercial processing plants which produce lemon juice may also process other citrus fruits such as oranges, grapefruit, and limes.[16] For lemon processing, fruit is unloaded from trucks, brush-washed, and passed over grading tables and sizers before entering the juice/oil extractor. Although several lemon extraction systems are used worldwide for lemons, the most widely used in the United States is the FMC system.[17] Three different FMC extractor models extract juice and oil from small oranges, lemons, or limes; large oranges and small grapefruit; and large grapefruit. With this equipment, various citrus fruits of roughly similar sizes can be processed by the same extractor.

The FMC extraction method involves cutting a plug in the center of the fruit into which a strainer is inserted. A mechanical hand presses juice and pulp against the strainer, allowing juice to flow down away from pulp and peel. Peel is pushed up with pressure while a fine water mist is sprayed on the peel, creating an emulsion that flows away from the peel. Juice, pulp, peel, peel oil, seeds, and rag[18] are separated into distinct streams.

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limes in Mexico and Peru. Performing oil extraction without juicing is not generally considered commercially viable, since without the additional revenue stream from the juice, the cost of extracting the lemon oil would be prohibitive.

[14] Information regarding the manufacturing process for lemon juice is based on the description provided in the original investigations, see *Lemon Juice from Argentina and Mexico*, Inv. Nos. 701-TA-1105-1106 (Preliminary), USITC Publication 3891 (November 2006). There have been no significant changes in the manufacturing process for lemon juice since the time of the original investigations.

[15] Lemons for the fresh market are often grown to meet exact size requirements over a large range of sizes. For example, many of the largest U.S. lemons are exported to Japan for use as gifts, whereas small lemons are often sold to bars and restaurants for use as condiments for drinks and garnish for food.

[16] In most countries, lemon processing takes place only during several months of the year immediately following harvest and, therefore, citrus juicing plants process other fruits on the off-season from lemons. U.S. lemons, however, are harvested throughout most of the year due to variations in growing conditions in California and Arizona.

[17] JBT Food Tech spun-off from FMC Technologies into a separate publically-traded company in 2008. JBT FoodTech's Citrus Systems claims to be the world leader in the citrus juice extraction market and processes 75 percent of the world's juice production in over 35 different countries. Found at http://www.fmctechnologies.com/en/AboutUs/History/FMCtimeline.aspx, and http://www.jbtfoodtech.com/en/Solutions/Equipment/Citrus-Juice-Extractor, retrieved April 9, 2013.

[18] Rag is the stringy central portion and membranous walls of a citrus fruit.

The Brown Oil Extractor ("BOE") is another extraction method that is used in both the United States as well as South America. The BOE differs from the FMC method in that the oil is extracted from the lemons first by gently puncturing the peel of the whole fruit with thousands of stainless steel needle points. The oil sacks in the colored portion of the peel are ruptured, releasing the oil, which is emulsified in a water spray. A centrifuge then separates the oil from the water and polishes and finishes the oil, while the juice is drawn away in another stream. A third method of oil extraction involves an Italian-designed machine called a Pelatrice that rasps the whole fruit with rolling disc graters while the oil is captured in a water spray. With both the BOE and Pelatrice methods of extraction, juicing of the fruit is performed sequentially with oil extraction, rather than simultaneously, as with the FMC method.

After extraction, lemon juice is further processed in a centrifuge to remove any remaining bits of seed, peel, and excess pulp. At this point, the juice can be pasteurized at 90 degrees Celsius for a few seconds, resulting in NFCLJ, or it can be evaporated to remove water to produce lemon juice concentrate of a specified GPL and then pasteurized. Clarified lemon juice is ultrafiltered before pasteurization to eliminate all pulp content, then concentrated by evaporation and pasteurized. Concentrated lemon juice and NFCLJ are both packaged in bulk tankers, bins, or steel drums and frozen or chilled for storage and/or shipping.

The extraction of additional lemon derivatives or oil fractions requires further specialized equipment, and generally a processing plant must be planned from early in the design phase in order to produce such products. Lemon processing plants must also be carefully planned in order to economically dispose of the peel and other solid wastes from the lemons, usually in compliance with local and national environmental requirements. Lemons cannot be disposed of in landfills because of their high moisture content, but may be composted. Lemon juice disposal is regulated in the United States at the Federal, State, and local levels and must be pretreated prior to disposal due to its high sugar and acid content.[19]

Unlike other citrus fruits, such as limes and juice oranges that are typically grown in humid tropical climates, lemons tend to grow in arid, subtropical regions, such as those in California and Arizona in the United States. Processing generally takes place at juice/oil extraction plants near growing areas. During the period examined in these reviews, 63 percent of U.S.-grown lemons were sold fresh, both domestically and for export, and 37 percent were processed into lemon juice and other processed products.[20] Over the past 10 years, the percentage of lemons sold in the fresh market ranged from 54 to 76 percent, and the percentage processed ranged from 24 percent to 46 percent, with the lowest percentage of all lemons that were processed occurring in the 2011/12 crop year.[21] Demand for lemon juice in the United States is highest during the summer months when more lemonade is consumed. U.S. per capita consumption of lemon juice, while fluctuating from year to year, has remained in a relatively low range over the past 20 years, varying between 0.12 to 0.20 gallons per person.[22] In 2011/12, orange juice consumption per capita was more than 20 times greater than lemon juice consumption, while lemon juice consumption was three times greater than lime juice consumption.[23]

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[19] Argentina and Mexico have similar prohibitions on the disposal of lemon juice. Hearing transcript, p. 195 (Martinez and Nolan).

[20] USDA-FAS, PSD Online (accessed April 8, 2013).

[21] Ibid.

[22] USDA-ERS, Fruit and Tree Nuts Yearbook Dataset – Table G40, October 2012.

[23] Ibid.

DOMESTIC LIKE PRODUCT ISSUES

No issues with respect to domestic like product have been raised in these reviews. In its notice of institution in these current five-year reviews, the Commission solicited comments from interested parties regarding the appropriate domestic like product and domestic industry.[24] In its response to the notice of institution the domestic interested party commented that they agreed with the domestic like product and industry definitions.[25] The respondent interested parties did not comment on the domestic like product in response to the notice of institution.[26] No party requested that the Commission collect data concerning other possible domestic like products in their comments on the Commission's draft questionnaires.

U.S. MARKET PARTICIPANTS

U.S. Processors

During the original investigations, three processors supplied the Commission with information on their U.S. operations with respect to lemon juice. These firms accounted for over *** percent of U.S. production of lemon juice during 2004-06.[27] In this current proceeding, the Commission issued processor questionnaires to eight firms, two[28] of which provided the Commission with information on their lemon juice operations. These firms are believed to account for *** percent of U.S. lemon juice production in 2011.[29] Presented in table I-4 is a list of current domestic processors of lemon juice, and each company's position on continuation of the suspended investigations, production location(s), related and/or affiliated firms, and share of reported production of lemon juice in 2012.

As indicated in the table, no U.S. processors are related to foreign producers of lemon juice from Argentina, foreign producers of lemon juice from Mexico, or U.S. importers of the subject merchandise. In addition, no U.S. processors directly imported the subject merchandise, although *** purchased the subject merchandise from U.S. importers.

[24] Lemon Juice From Argentina and Mexico, 77 FR 45653, August 1, 2012.

[25] Ventura Coastal's submission of August 31, 2012, p. 15.

[26] While TCCC and Procimart indicated that they have no comment on the domestic like product, they indicated that it might be appropriate to include growers in the domestic industry, recognizing that the Commission declined to include growers in the domestic industry in the preliminary phase of the original investigations. TCCC's submission of August 31, 2012, p. 17, and Procimart's submission of August 31, 2012, p. 16.

[27] Those responding firms were Sunkist, Ventura Coastal, and ***. In addition, Vita-Pakt Products, Perricone Juices, California Citrus Products, Inc., and PF&B were identified as other processors of lemon juice.

[28] Sun Orchard is also a U.S. processor of lemon juice. ***.

[29] Ventura Coastal's submission of August 31, 2012, p. 9.

Table I-4
Lemon juice: U.S. processors, positions on the continuation of the suspended investigations, U.S. production locations, related and/or affiliated firms, and shares of 2012 reported U.S. production

Firm	Position	U.S. plant location(s)	Related firm(s)	Share of production (percent)
Sunkist	***	Ventura, CA	***	***
Sun Orchard	***[1]	Tempe, AZ and Haines City, FL	***	***
Ventura Coastal	***	Sherman Oaks, CA and Tipton, CA	***	***

[1] ***.

Note.–A 50/50 joint venture was formed between Sunkist and Ventura Coastal in February 2012. http://venturacoastal.com/about/news/. ***.

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

U.S. Importers

In the original investigations, 12 U.S. importing firms supplied the Commission with usable information on their operations involving the importation of lemon juice, accounting for the vast majority of imports of lemon juice from Argentina, and for most of the imports of lemon juice from Mexico. Of the 12 responding U.S. importers, *** a U.S. processor of lemon juice.

In these current proceedings, the Commission issued importers' questionnaires to 19 firms believed to be importers of lemon juice, as well as to all U.S. processors of lemon juice. Usable questionnaire responses were received from seven companies, representing 48.5 percent of total subject imports during 2007-12, based on official Commerce statistics.[30] Table I-5 lists all responding U.S. importers of lemon juice, their headquarters, and their shares of U.S. imports in 2012.

[30] For further discussion of the relative coverage from each subject source and coverage calculations, see Part IV.

Table I-5
Lemon juice: U.S. importers, U.S. headquarters, and share of reported imports in 2012

Firm	Headquarters	Share of reported imports (*percent*)		
		Argentina	Mexico	Total
2Skebengas dba InterGlobal Products	Dade City, FL	***	***	***
Citrus Team Company[1]	Austin, TX	***	***	***
Eastcoast Flavors[2]	Carlstadt, NJ	***	***	***
Lucy's Enterprises	City of Industry, CA	***	***	***
Mitsui Foods	Norwood, NJ	***	***	***
TCCEC[3]	Mexico City, Mexico	***	***	***
WEGO Chemical & Mineral	Great Neck, NY	***	***	***
Total		100.0	100.0	100.0

[1] Citrus Team Company is ***.
[2] Eastcoast Flavors is ***.
[3] TCCEC of Mexico City, Mexico is ***.

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

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

U.S. Purchasers

Questionnaires were sent to 17 firms reported to be purchasers of lemon juice. Ten firms reported that they did purchase lemon juice. Six purchasers reported that they were lemonade producers, four reported they produced other beverages, two reported producing other food, two reported that they were distributors, and two were "other" (including a "trader" and a firm that blends and packs custom concentrates).[31] The responding purchasers combined purchased 58.6 percent of apparent lemon juice consumption between 2007 and 2012. The largest purchaser was TCCC[32] which reported producing lemonade.[33] It reported ***. All other responding purchasers purchased less than 1 million gallons of lemon juice between 2007 and 2012.

APPARENT U.S. CONSUMPTION

Data concerning apparent U.S. consumption of lemon juice during 2007-12 are shown in table I-6. Apparent consumption based on quantity fluctuated throughout 2007 and 2012, ending *** percent

[31] Four purchasers provided multiple responses.

[32] ***.

[33] Hearing transcript, p. 139 (Horrisberger).

higher in 2012 than in 2007. Apparent consumption based on value also fluctuated throughout the period, but was *** percent higher in 2012 than in 2007.

Table I-6
Lemon juice: U.S. shipments of domestic product, U.S. imports, and apparent U.S. consumption, 2007-12

Item	Calendar year					
	2007	2008	2009	2010	2011	2012
	Quantity (*1,000 gallons @ 400 GPL*)					
U.S. processors' U.S. shipments	***	***	***	***	***	***
U.S. imports from--						
Argentina	471	1,328	1,026	1,309	3,410	2,487
Mexico	922	1,153	695	1,361	979	918
Subtotal, subject	1,392	2,481	1,720	2,669	4,389	3,405
All others	1,228	1,177	979	925	1,702	1,158
Total U.S. imports	2,620	3,658	2,699	3,594	6,091	4,562
Apparent U.S. consumption	***	***	***	***	***	***
	Value (*1,000 dollars*)					
U.S. processors' U.S. shipments	***	***	***	***	***	***
U.S. imports[1] from--						
Argentina	5,538	24,876	19,581	30,786	75,190	45,566
Mexico	6,003	18,335	10,300	29,969	18,199	10,182
Subtotal, subject	11,541	43,211	29,881	60,755	93,389	55,749
All others	14,788	23,107	17,843	22,010	37,607	25,567
Total U.S. imports	26,329	66,318	47,724	82,765	130,996	81,315
Apparent U.S. consumption	***	***	***	***	***	***

[1] Landed, duty-paid.

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

Source: Compiled from official import statistics, and data submitted in response to Commission questionnaires.

U.S. MARKET SHARES

U.S. market share data are presented in table I-7. The share of apparent consumption by quantity held by U.S. processors decreased between 2007 and 2012, ending *** percentage points lower than in 2007. Subject imports' share of apparent consumption fluctuated over the period**,** ending the period *** percentage points higher than in 2007. Imports from nonsubject sources held their highest shares in 2007 and 2008, then fell in 2009 and 2010, before rising in 2011 and dropping slightly in 2012, ending *** percentage points lower than in 2007.

Table I-7
Lemon juice: U.S. consumption and market shares, 2007-12

* * * * * * *

PART II: SUPPLY AND DEMAND INFORMATION

U.S. MARKET CHARACTERISTICS

Lemon juice is sold in two forms: lemon juice concentrate and NFCLJ. These forms may be either clarified or cloudy, as identified by the pulp content. Lemon juice is used as an ingredient in beverages, particularly lemonade and soft drinks, and other foods, such as salad dressings, sauces, and baked goods. Lemon juice is sold to be used as an ingredient by food and beverage processing companies as well as producers of non-food products, such as household cleaners. Repackaged, reconstituted lemon juice is also sold at retail grocers to be used as an ingredient in home food and beverage preparation.

CHANNELS OF DISTRIBUTION

As presented in table II-1, most sales of U.S.-produced lemon juice (over *** percent) went to food processors, including fruit drink and nonjuice producers, and remanufacturers/packagers.[1] U.S. processors sold less than *** percent to remanufacturers/packagers, less than *** percent to distributors, and had no sales to "other end users."

Sales by imports were less concentrated. The majority of imports from Argentina were sold to food processors in each year imports were reported; however, 15 percent or more of the product from Argentina was sold to distributors and as much as 21 percent of imports were sold to "other end users." No sales were reported to remanufacturers/packagers. Importers of product from Mexico were more variable. Most Mexican imports were sold to food processors in four of the six years reported, but sold as much as 36 percent was sold to remanufacturers, and as much as 63 percent to distributors. They reported no sales to "other end users."

U.S. distributors or resellers of lemon juice reported their largest customers are beverage/food manufacturers, followed by remanufacturers and packagers. Importers of lemon juice from subject countries reported that their largest customers in most years were beverage/food manufacturers, followed by distributors. In contrast, importers of lemon juice from nonsubject countries reported that all their sales were to distributors (table II-1).

[1] Remanufacturers/packers dilute and repackage lemon juice concentrate for resale.

Table II-1
Lemon juice: U.S. processors' and U.S. importers' share (percent) of U.S. shipments by channels of distribution, 2007-12

Item	2007	2008	2009	2010	2011	2012
U.S. processors' U.S. shipments to:						
Distributors	***	***	***	***	***	***
Remanufacturers and packagers	***	***	***	***	***	***
Food/drink processors	***	***	***	***	***	***
Other end users	***	***	***	***	***	***
U.S. importers' U.S. shipments of Argentinian imports to:						
Distributors	0.0	24.0	20.6	15.6	29.0	17.1
Remanufacturers and packagers	0.0	0.0	0.0	0.0	0.0	0.0
Food/drink processors	0.0	76.0	77.1	63.4	64.8	76.9
Other end users	0.0	0.0	2.2	21.0	6.2	6.0
U.S. importers' U.S. shipments of Mexican imports to:						
Distributors	26.5	31.1	44.4	16.7	26.7	63.3
Remanufacturers and packagers	0.0	0.0	0.0	36.3	17.8	0.0
Food/drink processors	73.5	68.9	55.6	47.0	55.5	36.7
Other end users	0.0	0.0	0.0	0.0	0.0	0.0
U.S. importers' U.S. shipments of nonsubject imports to:						
Distributors	***	***	***	***	***	***
Remanufacturers and packagers	***	***	***	***	***	***
Food/drink processors	***	***	***	***	***	***
Other end users	***	***	***	***	***	***

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

GEOGRAPHIC DISTRIBUTION

When firms were asked to list market areas in the United States where they sell lemon juice, the responses showed that the market areas tended to be nationwide. Both U.S. processors reported that they sell *** (table II-2). Six importers of lemon juice from Argentina reported selling lemon juice to one or more regions in the U.S. market. All regions except the Central Southwest, the Mountains, and "Other" regions were served by most of these Argentine importers and all regions were served by at least one importer. Four importers of lemon juice from Mexico reported selling to one or more regions in the United States. No Mexican importers reported selling to the Central Southwest, the Mountains, and "Other" regions. Only one importer reported imports from other sources (***); it reported selling to all regions except the Central Southwest, the Mountains, and "Other" regions.

Table II-2
Lemon juice: U.S. processors' and U.S. importers' U.S. shipments by region

Regions	U.S. processors	Importers that sell product from Argentina	Importers that sell product from Mexico	Importers that sell product from other sources
Northeast	***	5	3	1
Midwest	***	4	3	1
Southeast	***	5	4	1
Central Southwest	***	2	0	0
Mountains	***	1	0	0
Pacific Coast	***	4	2	1
Other–All other markets in the United States not previously listed, including AK, HI, PR, and VI, among others.	***	1	0	0

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

U.S. inland shipping distances for U.S.-processors' lemon juice were compared with those for imports from Argentina and Mexico. For U.S. processors, *** percent of their U.S. sales occur within 100 miles of their storage or production facility, *** percent were within distances of 101 to 1,000 miles, and *** percent were at distances of over 1,000 miles from their facilities. For imports from subject countries *** percent of sales occurred within 100 miles of importers' U.S. point of shipment, *** percent were within 101 to 1,000 miles, and *** percent were over 1,000 miles.

SUPPLY AND DEMAND CONSIDERATIONS

U.S. Supply

Domestic production

Based on available information, U.S. processors of lemon juice are likely to respond to changes in demand with small to moderate changes in the quantity of shipments of U.S.-produced lemon juice to the U.S. market. Supply responsiveness is reduced by the fact that juice depends on the amount of lemons grown and the share of those that go into processing. Lemons can go into processing either because they "do not meet the cosmetic standards for the fresh market or are surplus for fresh market demand."[2] In the short run, however, large inventories in 2012 and the ability of processors to store lemon juice for up to two years increase processors' ability to respond to short run increases in price.

In the longer run, the supply of lemon juice largely depends on the amount of lemons grown and the share of those lemons sold into the fresh lemon market. The lemons not sold as fresh are processed. Moreover, in the United States it is costly/difficult to dispose of lemons that are not processed or sold on the fresh market. Environmental regulations in the United States restrict the amount of fresh fruit that can be disposed of in landfills. Composting is an alternative means of disposal, but composting capacity in the United States is currently inadequate for the volume of lemons involved.[3]

[2] Hearing transcript, p. 17 (Wootton).
[3] Hearing transcript, pp. 101-102 (Borgers).

Processors, importers, and purchasers were asked the importance of a number of supply factors that may have affected apparent consumption of lemon juice since 2007 (table II-3). The responses of processors, importers, and purchasers differed. There were six factors that most responding firms in at least one group reported were very important: the Argentine lemon crop (***, 6 importers, and 5 purchasers); the U.S. lemon crop (5 importers and 6 purchasers); weather (5 importers and 6 purchasers); U.S. inventories of lemon juice (***, 4 importers); loss of lemon grove acreage in the United States (4 purchasers); ***, and ***.

Table II-3
Lemon juice: Importance of supply factors (very important "V", somewhat important "S", and not important "N") that have affected apparent consumption of lemon juice in the United States since January 2007 as reported by processors (pro), importers (imp) and purchasers (pur).

Supply factor	Pro "V"	Pro "S"	Pro "N"	Imp "V"	Imp "S"	Imp "N"	Pur "V"	Pur "S"	Pur "N"
Argentine lemon crop.....	***	***	***	6	1	0	5	0	2
Mexican lemon crop.....	***	***	***	3	2	2	3	2	2
U.S. lemon crop.....	***	***	***	5	2	0	6	0	1
Disease.....	***	***	***	2	3	1	2	3	2
Nonsubject imports of lemon juice.	***	***	***	2	1	3	1	4	2
Packaging.....	***	***	***	0	2	4	0	3	4
Subject imports of lemon juice.....	***	***	***	2	2	2	3	2	2
U.S. inventories of lemon juice.....	***	***	***	4	3	0	4	2	2
Weather.....	***	***	***	5	2	0	6	1	0
Loss of lemon grove acreage in Argentina.....	***	***	***	2	3	1	3	0	4
Loss of lemon grove acreage in Mexico.....	***	***	***	1	3	2	2	1	4
Loss of lemon grove acreage in the United States.....	***	***	***	3	3	1	4	1	2
Increased imports of lemon juice rather than fresh lemons.....	***	***	***	2	3	1	2	2	3

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

In addition, firms were asked to report if there were other factors affecting apparent consumption of lemon juice. Other factors reported by processors and importers included "product switch from fresh to processed due to phytosanitary restrictions against fresh lemons in export markets," and South African lemon juice imports. A number of purchasers reported other factors that affected apparent consumption. One reported that weather in Argentina and the United States had caused a shortage of lemon juice resulting in increased prices, and this firm expected that higher prices would reduce demand. One reported that the price it paid for lemon juice increased from $3.50 a gallon to a high of $41.00 a gallon, it stated that "we could not pass this increase on to our customers and was forced to absorb the losses of revenue." One reported that any factor that has an impact on crop size in any location will influence both the price and the supply of lemon juice. Finally, one reported that the restriction on Argentine imports into the United States increases Argentina's sales to Europe, reducing European prices and increasing the amount of Spanish and Italian lemon juices to be sold in the United States, as a result, it believed that the U.S. restrictions on imports of lemon juice from Argentina give Sunkist/Ventura Coastal little benefit.

Industry capacity

Domestic capacity was unchanged at *** million gallons of lemon juice concentrate in 2007 through 2012. Capacity utilization fluctuated, rising from a low of *** percent in 2007 to a high of *** percent in 2009 and then declined steadily to *** percent in 2012. These relatively low levels of capacity utilization suggest that U.S. processors may have some ability to increase production of lemon juice in response to an increase in prices. This ability to increase output, however, is limited by the availability of lemons/the size of the lemon crop.

Export markets

Exports accounted for a relatively small share of reported U.S. production of lemon juice over the period of review.[4] The quantity of exports fluctuated between *** percent of shipments. These data indicate that U.S. processors have a limited ability to divert shipments to or from alternative markets in response to changes in the price of lemon juice.

Inventory levels

U.S. processors' inventories increased unevenly from *** percent of total shipments in 2007 to *** percent in 2011 before increasing markedly to *** percent in 2012. These inventory levels suggest that U.S. processors may have some capability to respond to changes in demand with changes in quantity shipped from inventories, particularly after 2012.

Production alternatives

***. Production of lemon oil, *** occurs simultaneously with the production of lemon juice and therefore these products are all co-products rather than production alternatives.[5] ***. Thus, if the lemons were available for processing, ***.

Effects of demand for fresh lemons and lemon oil

Processors, importers, and purchasers were asked how demand for fresh lemons, lemon oil, and the cost of lemon disposal influenced supply of lemon juice. Processors reported that demand for fresh lemons has been static for many years, and that the size of the crop determines the supply of lemons available for juicing. In addition, Ventura Coastal reports that for lemon growers, selling to the fresh lemon market and the processing market tend to conflict because lemon oil has low agricultural residual tolerances, while growing for the fresh market requires use of agrochemicals to get the proper appearance.[6] As a result, Ventura Coastal reports that growers are better off focusing their production for either the fresh or the processing markets.[7] Importers and purchasers typically reported that increases in demand for fresh lemons would reduce the number of lemons available for processing.

The U.S. processors reported that as demand for lemon oil increases, supply of lemon juice will also increase because they are co-produced. Importers' responses were more varied. One reported that in the past, lemon juice was considered a byproduct of lemon oil, but demand for lemon juice has increased and there is little linkage between the prices of these products. Another importer reported balancing lemon oil and juice production to meet demand, and a third importer ***.[8] Two of the four responding

[4] Processors reported exports to ***.
[5] Hearing transcript, p. 71 (McGrath).
[6] Ventura Coastal's posthearing brief, p. 2.
[7] Ventura Coastal's posthearing brief, pp. 2-3.
[8] ***.

purchasers reported that lemon oil demand does not influence the supply of juice, while one reported that greater demand for lemon oil reduces the supply of lemon juice, and the other reported that, in order to break even, lemon processors had to earn enough on their combined sales of juice, oil, and peel, so that juice, oil, and peel prices could be inversely related.

Firms were asked how demand for lemon oil had changed since 2007, both within and outside the United States. Both U.S. processors reported demand was ***; two of three responding importers reported demand had increased both inside and outside the United States, while the other reported demand had fluctuated. Three purchasers responded as well, one each reporting that U.S. demand had increased, not changed, and decreased since 2007. Two of the three responding purchasers reported demand for lemon oil outside the United States has increased and one reported it was unchanged. Ventura Coastal reports that demand for lemon oil is increasing.[9]

Effect of the cost of disposal on supply

Both U.S. processors reported that disposal of lemons was not viable for environmental reasons, and ***. In some years before the suspension agreement, Sunkist reported that its growers were billed for delivering fruit for processing.[10] If disposal had been free, then it would have been more profitable for the growers if Sunkist simply discard some of these lemons instead of processing them. Importers, along with four of the five responding purchasers, in contrast, reported that the cost of lemon disposal does not influence supply much. The other purchaser reported that there was an inverse relationship between the cost of lemon disposal and the price growers are willing to accept for the sale of lemons for processing. That is, as it becomes more expensive to dispose of lemons, growers become willing to sell lemons at lower prices.

Refusal/inability to supply

Six of nine responding purchasers reported that some processors or importers refused to sell or was unable to sell lemon juice since January 2007. Firms refusing/unable to supply included: the major U.S. processors, Sunkist and Ventura Coastal; one importer, East Coast Flavors; and major Argentine producers, La Moraleja, San Miguel, Citromax, and Citrusvil. Most of these were reported to either have no product to sell or to be rationing sales because of freezes/crop problems. Two purchasers mentioned that these problems occurred in 2008. Articles from 2008 report that world lemon supply was 25 percent below normal.[11] The freeze which occurred in California and Arizona in January 2007 both reduced the

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[9] U.S. demand for lemon oil is predicted to increase by 3 percent annually for the next six years in spite of the weakening demand for soft drinks in the United States. Increasing soft drink consumption in "Asia, Latin America, and other emerging markets," will increase demand for lemon oil, and this will increase the supply of lemon juice. Ventura Coastal's posthearing brief, pp. 3-4.

[10] Hearing transcript, p. 62 (Borgers).

[11] News reports from 2008 state that Sunkist reported lemon supplies worldwide were down by 25 percent. This was in part the result of a 2007 freeze in California and wind and drought in Spain. *CBC News* "Weather woes squeeze lemon juice supplies" August 15, 2008 found at http://www.cbc.ca/news/story/2008/08/15/lemon-juice.html, retrieved March 28, 2013. This article reports that lemon juice was unavailable in some Canadian grocery stores, and as a result at least one purchaser was squeezing his own lemon juice (fresh lemons were apparently available for purchase). At the same time it reported that the USDA price of fresh lemons in September 2007 was 47 percent higher than it had been a year earlier. Canada is the largest U.S. export market for lemon juice, ***. Canada is also the largest U.S. export market for fresh lemons. Fruit and Tree Nuts Outlook/FTS-335/November 25, 2008, Economic Research Service, USDA p. 25. http://usda01.library.cornell.edu/usda/ers/FTS/2000s/2008/FTS-11-25-2008.pdf

crop harvested in 2007 and damaged the trees, resulting in a lower than normal harvest in 2008. In 2009, the crop was recovering but still below the sizes reported in the early 2000s.[12] [13]

Subject imports from Argentina

Based on available information, producers of lemon juice from Argentina are likely to respond to changes in demand with moderate changes in the quantity of shipments of lemon juice to the U.S. market. The main contributing factors to this degree of responsiveness of supply are the large amounts of exports to other markets, and the high level of inventories in 2012. In contrast, the medium run supply may be less responsive because the supply of lemons is determined by the productive lemon grove acreage, the weather, and inventories. Inventories are currently large but change from year to year and thus may not be available in other years. Productive lemon grove acreage can only change slowly.[14] In the long run, Argentine supply of lemon juice should be more responsive to demand for lemon juice than is the U.S. supply. Argentine lemon grove acreage will reflect world demand for lemon juice and lemon oil combined more than U.S. lemon acreage, because some of Argentina's lemons are grown to be processed while all U.S. production is primarily for the fresh lemon market.[15]

Industry capacity in Argentina

During the period of review, the capacity of Argentine producers increased from *** gallons to *** gallons of lemon juice. Argentine producers' capacity utilization rate for of lemon juice fluctuated year to year with no trend, ranging from a low of *** percent in 2010 to a high of *** percent in 2011. This indicates that some capacity could be used to produce more lemon juice if lemons were available and prices were high enough to make processing profitable.

Respondents predict that the 2013 crop will be lower than the predictions the USDA made for that crop in 2012. Respondents report that the USDA predictions are outdated. Since the USDA made its forecast, a drought in Tucuman has occurred,[16] which the Argentine producers predict will reduce their production. Estimates for lemon harvests after 2013 can only broadly be determined by the number of productive trees. The respondents expect that future harvests will not exceed the 2011 harvest.[17]

Ventura Coastal suggests that the Commission use the official estimates by the USDA Foreign Agricultural Service to estimate 2013 supply from Argentina. The USDA predicts Argentina's harvest in 2013 will be 15 percent above the 2012 harvest.[18]

Alternative markets for Argentine producers

Available data indicate that producers in Argentina have the ability to divert shipments to or from alternative markets in response to changes in the price of lemon juice. Shipments of lemon juice from Argentina to the United States increased unevenly from *** percent of total shipments in 2007 to *** percent in 2012. The share of Argentina's shipments to export markets other than the United States ranged from *** percent in 2009 to *** percent in 2011 with the remainder going to its home market.

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[12] Fruit and Tree Nuts Outlook/FTS-335/November 25, 2008, Economic Research Service, USDA pp. 9-10 http://usda01.library.cornell.edu/usda/ers/FTS/2000s/2008/FTS-11-25-2008.pdf

[13] One purchaser reported that in 2011, *** was unable to fulfill its contracted volume because of lack of supply.

[14] One foreign producer (***) reported lemon trees only begin to have fruit five years after they were planted.

[15] In 2004, Argentina was the world's second largest exporter of fresh lemons, however, the bulk of Argentina's lemons were processed into lemon juice. http://www.usitc.gov/publications/332/pub3863.pdf

[16] Respondents' posthearing brief, pp. 9-11.

[17] Respondents' posthearing brief, pp. 11-12.

[18] Ventura Coastal's posthearing brief, p. 2.

Inventory levels of Argentine producers

Argentine producers' inventories, as a share of total shipments, fluctuated between *** and *** percent in 2007 through 2010 before increasing to *** percent in 2011 and *** percent in 2012. These data indicate that, by the end of the period, Argentine producers could use inventories to increase shipments of lemon juice to the U.S. market.

Subject imports from Mexico

Based on available information, producers in Mexico are likely to respond to changes in demand with moderate changes in the quantity of shipments of lemon juice to the U.S. market. The main contributing factors reducing the responsiveness of Mexico's supply are that Mexico currently sells the vast majority of its lemon juice in the U.S. market, with relatively little remaining that might be shifted to the U.S. market and that Mexico's capacity is relatively low, on the other hand, high inventories in 2012 increase its ability to respond to changes in price with increased quantity. In contrast, the medium run supply may be less responsive because the supply of lemons is determined by the productive lemon grove acreage, the weather, and inventories. Inventories are currently large but change from year to year and thus may not be available in other years. Productive lemon grove acreage can only change slowly. In the long run, however, Mexico's supply will be more responsive to lemon juice demand than U.S. supply. Mexico's lemon grove acreage (like that in Argentina) reflects demand for lemons for processing while U.S. acreage is mainly determined by demand for fresh lemons.[19]

Industry capacity in Mexico

During the period of investigation, Mexican producers' capacity fluctuated from year to year, ranging from *** gallons in 2012 to *** gallons in 2010. Mexico's production was smaller than that of Argentina, ranging from *** percent of Argentina's production in 2012 to *** percent in 2010.[20] Reported production matched capacity in all years so that capacity utilization rate for Mexican lemon juice producers was 100 percent in all years. This indicates that capacity is variable and it could vary to produce more lemon juice if lemons were available.

Respondents report that Mexican lemon juice capacity may decrease in the future because of Haunglongbing disease (greening). Greening has been detected in Mexico and respondents report that it could reduce lemon production by 10 to 18 percent in the coming years.[21] In addition, Mexico's capacity to produce lemon juice is reduced by the sales of lemons as fresh fruit rather than for processing.[22]

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[19] Lemons produced in Mexico are primarily for processing or exporting, with little domestic consumption of fresh lemons. http://www.usitc.gov/publications/332/pub3863.pdf Exports of fresh lemons from Mexico to the United States, have fluctuated. Exports increased from 13,000 metric tons in 2005 to 40,402 metric tons in 2007, then decreased to 17,951 metric tons in 2008 before increasing to 32,000 metric tons in 2012. GTIS, GTA database (accessed April 24, 2013).

[20] Production rather than capacity data were compared because the countries appeared to measure capacity differently.

[21] Respondents' posthearing brief, responses to questions, p. 6. Mexico has reported Huanglongbing in a number of states including Sinaloa, Campeche, Nayarita, Jalisco, Yucatan, and Quintana Roo. North American Plant Protection Organization's Phytosanitary Alert System, posted July 8, 2009
http://www.pestalert.org/oprDetail.cfm?oprID=384 Oct. 15, 2009
http://www.pestalert.org/oprDetail.cfm?oprID=401 Dec. 10, 2009
http://www.pestalert.org/oprDetail.cfm?oprID=410 Jan. 13, 2010
http://www.pestalert.org/oprDetail.cfm?oprID=448 April 12, 2010
http://www.pestalert.org/oprDetail.cfm?oprID=423 all retrieved June 11, 2013. Greening is a serious problem for citrus growers making fruit unsalable and killing trees, it has caused the citrus acreage in Florida to decline

Alternative markets for Mexican producers

Shipments of lemon juice from Mexico to the United States as a share of total shipments ranged from a high of *** percent in 2008 to a low of *** percent in 2009. Exports to countries other than the United States were only reported in three years, ***, and ***, with the remainder going to its home market. Mexico thus has very limited ability to shift exports of lemon juice from its domestic market or other countries to the U.S. market.

Inventory levels of Mexican producers

Mexican producers' inventories, as a share of total shipments, fluctuated from year to year, decreasing from a low of *** percent in 2010 and a high of *** percent in 2012. These data indicate that, by the end of the period, Mexican producers could increase shipments of lemon juice to the U.S. market from inventories.

Nonsubject imports

The largest sources of nonsubject imports during 2007-2012 were South Africa, Italy, and Peru. Combined, these countries accounted for 79.3 percent of nonsubject imports in 2007-2012.

New suppliers

Four of eight responding purchasers were aware of new suppliers of lemon juice to the U.S. market. These included Acheral, Brixco, Cooperativa Tabacalera de Missions, and Ledesma from Argentina, M.A. Citrus from Brazil, and Nkwaleni and Cape Fruit from South Africa. Three purchasers reported expecting new suppliers in the future, one reported this was because the high cost of production in the United States, one reported that it had heard growers in Tucumán Argentina were building their own plant to produce lemon juice, and one expected more lemon juice from South Africa.

U.S. Demand

Based on available information, it is likely that any change in the price level of lemon juice will result in a relatively small change in the quantity of lemon juice demanded. The main contributing factors to the low responsiveness of demand to price are the limited substitutes and the difficulty of using substitutes in food products (since these would require changing labels and might affect the flavor or other characteristics of the food or drink). The cost share of lemon juice varied widely between and within the downstream products. The cost share is relatively high in a number of end uses, particularly lemon juice packaged for retail sales.

U.S. apparent consumption fluctuated from year to year but the large change in lemon juice prices appeared to have little impact on consumption. In spite of the recession in 2008 and lower economic growth after 2008, decreased availability of lemons caused the price of lemon juice to increase sharply in 2008. Lemon juice prices continued to increase after 2008. Apparent consumption fluctuated, but the major price increases did not lead to a noticeable reduction in apparent consumption. The lowest level of apparent consumption occurred in 2008, the year that Canadian sources report a retail lemon juice shortage. Export data show Canada is the U.S. largest market for lemon juice.[23] Relatively poor lemon

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"significantly." Huanglongbing (HLB or Citrus Greening) CISR U.C. Riverside, http://cisr.ucr.edu/citrus_greening.html retrieved June 11, 2013.

[22] Respondents' posthearing brief, responses to questions, pp. 6-7.

[23] Canadian consumption may be reflected in U.S. apparent consumption of lemon juice for further processing. ***.

juice availability, rather than lower demand from the higher prices, may have reduced apparent consumption in 2008.

End Uses

Lemon juice is mainly used in the production of beverages (fruit juices, lemonades, sodas, and juice blends) and food. *** U.S. processors, six of seven responding importers,[24] and four of five responding foreign producers[25] reported no change in the end use for lemon juice since 2007. Four of the eight responding purchasers reported changes in end uses. One (***) reported increased demand for NFC (not from concentrate) lemon juice, with NFC replacing concentrated lemon juice; it reported that its consumption of NFC increased from ***. Another reported producing additional products made using lemon juice. The third reported that its profit margins have fallen drastically due to open market prices, resulting from *** being unable to provide the lemon juice the purchaser required. The fourth purchaser reported that Peruvian lime juice was being imported into the United States labeled as lemon juice; it reported that this less expensive product reduced demand for its lemon juice.

No ***, importers, or foreign producers expected future changes in the end uses of lemon juice. Three of eight responding purchasers, however, did expect product changes including: more imports of adulterated/mislabeled lemon juice; additional products; and rising costs that make it difficult to continue in the business.

U.S. processors explained that lemon juice was a food ingredient rather than a food. According to the U.S. processors, price reductions cause larger increases in the demand for foods, than the same sized price reduction for food ingredients.[26] They explain that inventories must be sold relatively quickly since lemon juice cannot be stored for over two years and lemon juice cannot be disposed of as a waste product for environmental reasons.[27] As a result, increases in supply cause major price reductions.

Business Cycle

***, but three of six responding U.S. importers, and four of eight responding purchasers reported that demand for lemon juice is subject to business cycles or distinctive conditions of competition. Cycles reported included crop cycles, weather events that influence supply and price, and seasonal (spring and summer) demand for lemon juice for beverages such as lemonade. Two importers and two purchasers expected future changes in these cycles. *** expected that the merger of Ventura Costal and Sunkist would help insulate the U.S. industry from the impact of imports. The other purchaser reported that as sales increase, domestic suppliers are unable to supply what is needed. Two importers expected more competition from South African lemon juice.

Apparent Consumption

Apparent U.S. consumption of lemon juice fluctuated, increasing slightly overall during the six year period. Apparent consumption decreased from *** million gallons in 2007 to *** million gallons in 2008, then increased to *** million gallons in 2011, and declined to *** million gallons in 2012. Overall U.S. apparent consumption in 2012 was *** percent higher than in 2007. Petitioners reported that the high demand for lemon juice in 2011 was the result of "a large fast food chain that launched a strawberry

[24] The importer reporting a change in end use was ***." (***).
[25] The foreign producer predicted more beverages, such as flavored waters to be made using lemon juice.
[26] Hearing transcript, pp. 71-72 (McGrath).
[27] Hearing transcript, pp. 72-73 (McGrath, Borgers).

lemonade," however, demand was below what had been hoped, and much of the inventories created for the product reentered the market later.[28]

Demand Perceptions

*** and half the responding purchasers reported that demand had decreased since 2007; importers' and foreign producers' responses were more varied (table II-4). Reasons that firms gave for reduced U.S. demand included: the recession; short crops led to high prices; high prices led purchasers to reduce the amount of lemon concentrate they used; and suppliers could not or would not provide the lemon juice they requested. Two firms gave reasons for demand fluctuations including: the launch and discontinuations of products made using lemon juice caused demand for lemon juice to fluctuate; and the shift from ***. Two firms reported reasons demand increased with one reporting increases in lemon-flavored beverage and increased use of lemon juice in food processing, while the other reported increased usage in quick serve restaurants.

Table II-4
Lemon juice: Number of firms reporting changes in demand for lemon juice in the United States since 2007

Supplier	Increased	No change	Decreased	Fluctuated
U.S. processors	***	***	***	***
Importers	1	1	0	1
Purchasers	2	1	3	0
Foreign producers	1	2	0	2

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

Respondents report that demand for lemon juice has increased because of the creation of the growing market for NFC lemon juice.[29] Ventura Coastal reported that San Miguel, an Argentine producer, reported selling NFC lemon juice and San Miguel "has received inquiries from prospective U.S. customers for sales of NFC" lemon juice.[30]

Most responding importers and foreign producers, as well as half of the responding purchasers anticipated no change in future U.S. demand (table II-5). ***. Three firms gave reasons that they expected future demand changes: one expected demand would increase with increases in the popularity of lemon flavored beverage and increased use in food processing; one expected continued increases in beverage sales in quick serve restaurants; and one predicted fluctuations in U.S. demand in the future as weather and crop sizes affect the price of lemon juice.

[28] Hearing transcript, pp. 110-111, (Borgers).
[29] Respondents' posthearing brief, p. 4-5.
[30] Ventura Coastal's posthearing brief, responses to the Commissioner questions, p. 26.

Table II-5
Lemon juice: Number of firms reporting anticipated changes in demand in the United States

Supplier	Increased	No change	Decreased	Fluctuated
U.S. processors	***	***	***	***
Importers	1	2	0	0
Purchasers	2	3	0	1
Foreign producers	2	3	0	0

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

Purchasers were asked how demand for their products that used lemon juice has changed since 2007 and if this had affected their demand for lemon juice. Three reported that demand for their end use product had decreased, two reported that it had increased, one reported that it had fluctuated, and one reported that it was unchanged. All six firms reporting changes in demand for their products also reported this had changed their lemon juice consumption.

Substitute products

Both responding processors reported substitutes including ***. Two of the six responding importers also reported substitutes for lemon juice including fresh lemons for lemon juice and citric acid for the food and beverage industries. Two of eight responding purchasers reported substitutes for lemon juice including fresh lemons, lemon oil, citric acid, and other juices.[31] One of five foreign producers reported substitutes for lemon juice, including citric acid and other juices, which could be used in juices/beverages. One importer, one purchaser, and one foreign producer reported that the price of one or more of these substitutes affected the price of lemon juice.

***, no importers, and no foreign producers reported a change in substitutes since 2007 and none anticipated any changes. One of the seven responding purchasers reported a change in substitutes for lemon juice, indicating that lime juice mislabeled as lemon juice was a substitute for lemon juice and since it could get no response to its complaints about these imports, it expected this substitution to continue.

Cost share

U.S. processors, importers, and purchasers were asked to estimate the cost of lemon juice as a share of products produced from lemon juice. Five purchasers and two importers responded.[32] They reported that lemon juice represented 14 to 35 percent of the cost of lemonade,[33] 18 to 23 percent of the cost of flavored lemonade, 14 percent of the cost of lemonade concentrate, 50 to 60 percent of the cost of reconstituted lemon juice, 5 to 42 percent of the cost of “ready to drink” lemon juice, and 1 percent of the cost of Bloody Mary mix and “blends.”

SUBSTITUTABILITY ISSUES

The degree of substitution between domestic and imported lemon juice depends upon such factors as relative prices, quality (sanitation standards, aesthetic properties, and consistency), and conditions of

[31] None of the purchasers reported the end uses for the substitutes.

[32] Firms reporting lemon juice was 100 percent of the cost of end uses are not included in these numbers since these responses are meaningless.

[33] One purchaser reported that lemon juice was 98 percent of the cost of lemonade. This response was not used because it could not reflect any other expected cost of lemonade production.

sale (e.g., reliability of supply, reliability of delivery, payment terms, and delivery/lead time). Based on available data, staff believes that there is a moderate degree of substitutability between domestically produced lemon juice and lemon juice imported from subject sources.

Knowledge of Country Sources

Nine purchasers reported that they had marketing/pricing knowledge of domestic lemon juice, six reported knowledge of product from Argentina, and six reported knowledge of product from Mexico. Three reported knowledge of lemon juice from nonsubject countries including South Africa (3 firms), Spain (2), Italy (1), and Uruguay (1).

Most purchasers reported that they "always" purchase lemon juice based on the producer, but that they only "sometimes" or "never" purchase based on country of origin (table II-6). Most responding purchasers reported that their customers "never" purchase based on the producers and all purchaser reported that their customers only "sometimes" or "never" purchase based on country of origin of the lemon juice used.

Table II-6
Lemon juice: Number of purchasers ranking purchasing decisions based on producer and country of origin, as reported by U.S. purchasers

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

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

Factors Affecting Purchasing Decisions

Major factors in purchasing

Purchasers were asked to list the top three factors that they consider when choosing a supplier of lemon juice (table II-7). Factors cited by more than one firm were quality (7 firms), availability (7), price (6), and approved supplier (2). Quality was most frequently reported as the most important factor, availability was most frequently reported as the second factor, and price was the most frequently cited third most important factor.

Table II-7
Lemon juice: Number of purchasers ranking of factors used in purchasing decisions as reported by U.S. purchasers

Factor	First	Second	Third	Total
Quality[1]	4	2	1	7
Approved supplier[2]	2	0	0	2
Availability[3]	1	4	2	7
Price	1	1	4	6
Other[4]	1	1	1	3

[1] Quality includes "exceed industry standards."
[2] Approved supplier includes: "purchase from a facility authorized by ***," and *** purchase from *** cannot meet demand.
[3] Availability includes reliability and ensured supply.
[4] Other includes: "HACCP certificate and kosher" for the first factor, product consistency for second factor, and quantity for third factor.

Note.—One purchaser reported only one factor, it purchases from ***.

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

Purchasers were asked if they purchased lemon juice from one source although a comparable product was available at a lower price from another source. Five purchasers provided reasons including: purchasing U.S. product even if Argentine lemon juice is slightly less expensive to ensure year round supply; for yearly contract, reliability of supply, quality of production, and storage; South African suppliers are very reliable, have not overcommitted and thereby left us scrambling to find spot product at much higher cost; will buy product that is not lowest price to use a proven supplier, for diverse suppliers and because some plants run more efficiently when lemon juice is supplied in tankers which are only available with domestic product, with other smaller runs the purchaser can use packages available from Argentina; and one purchaser reported it had purchased more expensive product in 2008 and 2009 when Sunkist, the lower-priced source, could not supply it.

Importance of specific purchase factors

Purchasers were asked to rate the importance of 25 factors in their purchasing decisions (table II-8). Factors rated as very important by all responding purchasers were availability, price, quality meets industry standards, and reliability of supply. Other factors identified as very important by most of the responding purchasers included product consistency (8 firms), color (7), cloudy juice (6), delivery time (6), quality exceeds industry standards (6), U.S. transportation cost (6), delivery terms (5), freshness (5), GPL 400 (5), and not from concentrate (5). In contrast, half or more of the responding purchasers identified the following factors as not important: availability of organic juice (7), availability of clear juice (4), availability of GPL greater than 400 (4), and minimum quantity requirement (4).

Table II-8
Lemon juice: Number of U.S. purchasers reporting importance of purchase factors

Factor	Very important	Somewhat important	Not important
Availability	9	0	0
Availability of clear juice	3	2	4
Availability of cloudy juice	6	2	1
Availability of GPL 400	5	1	3
Availability of GPL greater than 400	2	3	4
Availability of not from concentrate	5	1	3
Availability of organic	1	1	7
Color	7	2	0
Delivery terms	5	3	0
Delivery time	6	2	0
Discounts offered	1	4	3
Extension of credit	4	2	3
Freshness of juice	5	3	0
High acidity	3	5	1
Low viscosity	2	5	2
Minimum quantity requirements	1	4	4
Packaging	3	4	2
Price	9	0	0
Product consistency	8	1	0
Product range	3	5	1
Quality meets industry standards	9	0	0
Quality exceeds industry standards	6	2	0
Reliability of supply	9	0	0
Technical support/service	3	5	1
U.S. transportation costs	6	3	0

Note.—Not all purchasers responded for all factors.

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

Factors determining quality

Four of nine responding purchasers simply reported that, if product meets its specification, then it was considered to be of good quality. The others provided details for the specific factors determining quality including: sanitary specifications (conforming to government regulations, little/no yeast or mold, no coliforms/e. coli, few dead yeast cells, low agricultural residues, and low heavy metal content); aesthetic characteristics of the juice (flavor, acidity, pulp level, cloud, color, oil levels, viscosity, and brix[34]); other properties of the juice (nutritional quality, stability/sedimentation, and consistency); packaging; manufacturing process; pre-shipment samples and shipment lot numbers match; and lack of defects.

[34] Brix is a measure of the sugar level in a liquid.

Purchasers were asked if product from subject and nonsubject countries "always", "usually", "sometimes", or "rarely or never" met minimum quality specifications. All eight responding purchasers reported that U.S. product "always" or "usually" met minimum quality specifications. Similarly, all seven responding purchasers reported product from Argentina "always" or "usually" met minimum quality specifications and six of seven responding purchasers reported lemon juice from Mexico "always" or "usually" met minimum quality specifications.[35]

Supplier certification

Eight of nine responding purchasers reported that all the lemon juice they purchase must be certified or prequalified. Qualification requirements included having a HACCP Plan,[36] GFSI certification,[37] or working to achieve one. Purchasers considered a number of factors when qualifying a producer including: plant audit, social compliance audit, product samples for testing, food safety documents, financial soundness of the producer, review by quality control team, third party audit, kosher certification, and allergen statement. Nine firms reported the time required to qualify lemon juice, this ranged from 4 to 120 days, with seven firms reported qualification times of 30 days or fewer, and two reported 120 days.

One purchaser reported that two Mexican suppliers (Procimart and Akil) had lost their approved status since 2007 as a result of an audit of their manufacturing processes; these producers were reauthorized after they corrected their process.

Changes in purchasing patterns

Purchasers were asked if they had changed their purchase patterns from subject countries and if this change had been caused by the suspension agreement or for other reasons. Six purchasers reported they had not purchased subject product before 2007. Two of the four purchasers reporting imports before 2007 reported that their purchases were unchanged, one reported reducing its purchases, and one reported other changes, but did not explain what these changes were. Purchasers were also asked if their purchases of lemon juice from nonsubject countries had changed since 2007. Four reported they did not purchase from nonsubject countries, two reported purchases from nonsubject countries were unchanged, two reported increased purchases from nonsubject countries, one reported "other",[38] and one reported purchasing from *** told this purchaser that its "bins were empty" and as a result the purchaser was "forced to the open market at prices up to $41 a gallon."

Purchasers were asked about changes in their purchasing patterns from different sources since 2007 (table II-9). Purchasers reporting that their demand for lemon juice decreased and reported that this was caused by the lack of supply. One purchaser reporting that its U.S. purchases had fluctuated explained that "2007 purchases {of U.S. product} were higher due to the poor crop situation worldwide. Balance of years {its purchases of U.S. product were} fairly consistent." The other reported U.S.

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[35] Both responding purchasers reported lemon juice from nonsubject sources always or usually met minimum quality requirements.

[36] Hazard analysis and critical control points, (HACCP) "is a management system in which food safety is addressed through the analysis and control of biological, chemical and physical hazards from raw material production, procurement and handling, to manufacturing, distribution and consumption of the finished product." http://www.fda.gov/Food/GuidanceRegulation/HACCP/default.htm retrieved April 24, 2013.

[37] Global Food Safety Initiative (GFSI) "is a business-driven initiative for the continuous improvement of food safety management systems to ensure confidence in the delivery of safe food to consumer's worldwide," found at http://www.mygfsi.com/ retrieved April 1, 2013.

[38] It did not report changes, but elsewhere in its questionnaire *** reported that its purchases from nonsubject countries fluctuated because it needed additional sources during crop shortages.

Table II-9
Lemon juice: Change in purchases from different country sources, as reported by purchasers

Source of purchase	Increase	Constant	Decrease	Fluctuate	Did not purchase
U.S.	1	2	3	2	2
Argentina	3	1	2	1	3
Mexico	4	1	2	1	2
Nonsubject	3	0	0	2	4

Note.—All nine responding purchasers reported not purchasing subject product during the period.

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

purchases had fluctuated because of price and service. *** reported demand for U.S. product had increased because ***.

For imports from Argentina, firms reporting decreased purchases either because they were no longer trading lemon juice or because the suspension agreement had kept the largest Argentine producers' prices "above the market." Reasons for increasing purchases from Argentina included: wanting a diversified supply base; increases in available supply; and that Argentina was its only available supplier in 2012. The firm reporting unchanged purchases reported that its purchases followed sales volume, and fluctuations in purchases were due to the size of harvests.

Imports from Mexico were reported to increase due to the tight domestic market, because the purchaser began to purchase or because there was increased supply. Other responses were similar to those given for Argentina. Purchases from nonsubject countries were reported to increase because of purchaser's need for product in years of crop shortages and because the firm was developing a relationship with South African processors. Crop shortages were the reason given for fluctuating purchases.

Importance of Purchasing Domestic Product

Most purchasers (7 of 9) reported that purchasing U.S.-produced lemon juice was not an important factor in their purchasing decisions. One purchaser reported that U.S. product was required by its customers for all its purchases and one (***) reported domestic lemon juice was preferred for ***. The U.S. producers report NFC lemon juice from both Argentina and Mexico currently competes with U.S. produced NFC lemon juice. One Argentine producer has received a normal value from Commerce for sales of NFC in the U.S. market and they expect more competition from NFC lemon juice from Argentina.[39] The respondents believe that Argentina currently does not produce NFC lemon juice, not even San Miguel, the Argentine producer reported that the normal value for NFC for San Miguel from Commerce was purely procedural and did not indicate that it was considering bringing NFC lemon juice into the U.S. market.[40] Respondents believe that U.S. imports from Argentina reported as NFC lemon juice are so small they may be accounted for as errors.[41] In order to sell NFC lemon juice in the U.S. market, Argentine producers stated that they would have to build a pasteurizer and create aseptic tankers to transport the lemon juice from Tucamán to Buenos Aries.[42] The U.S. producers reported that they transport some NFC lemon juice frozen in the same drums used for concentrate. They reported that

[39] Hearing transcript, pp. 28-29 (Borgers).
[40] Hearing transcript, p. 200 (Dunn).
[41] Hearing transcript, p. 215 (Dunn).
[42] Hearing transcript, pp. 200-201 (Dunn).

Argentine producers could ship NFC in drums like they ship concentrate,[43] and that San Miguel already exports NFC lemon juice into non U.S. markets.[44]

Lead Times

Lead times for delivery of lemon juice for U.S. processors ranged from *** to *** days for product from inventories and *** to *** days for produced to order. Importers' lead times for product from Argentina was *** days for product in U.S. inventories, from *** to *** days for product in inventories overseas, and from 30 to 55 days for product that is produced to order. Lead time for product from Mexico was *** days for the one importer reporting U.S. inventories, from *** to *** days for the two importers reporting product in inventories overseas and *** days for the one importer reporting product produced to order.

Comparisons of Domestic Products, Subject Imports, and Nonsubject Imports

Purchasers were asked a number of questions comparing lemon juice produced in the United States, subject countries, and nonsubject countries. First, purchasers were asked to compare U.S. product with subject product based on the same 25 factors (table II-10) for which they had been asked to rate the importance. Most responding purchasers rated U.S. and Argentine product as comparable for 22 factors, but the U.S. product as superior for delivery time. In contrast, three rated Argentina as superior for U.S. transportation costs, four reported U.S. and Argentina lemon juice were comparable, and one reported U.S. product was superior for U.S. transportation costs. Whereas four purchasers reported that the U.S. product was comparable to that from Argentina for availability, two reported that the U.S. product was superior and two reported that the Argentine product was superior.

Most responding purchasers rated U.S. and Mexican product as comparable for 22 factors. Most purchasers rated U.S. product superior for availability. Three purchasers each reported that the U.S. product was superior and that the U.S. and Mexican product were comparable for technical support/service. Three purchasers reported that the U.S. product was comparable to that from Mexico for availability of organic lemon juice, while two reported that the U.S. product was superior and two reported Mexican product was superior.

Purchasers compared product between Argentina and Mexico on the 25 factors (table II-10). Most responding purchasers reported they were comparable for 20 factors. Most reported Argentine product was superior to Mexican product for availability of clear juice and technical support. With respect to availability and availability of organic juice, three purchasers each reported Argentina was superior to Mexico and Argentina was comparable to Mexico. Three purchasers each reported that Mexico was superior to Argentina and that they were comparable for availability of GPL 400.

In addition, purchasers compared nonsubject product to U.S. and subject product based on 25 factors (table II-11). The majority of responding purchasers reporting that U.S. and nonsubject product was comparable for all factors except delivery time, product range, technical support, availability of GPL greater than 400, availability of organic juice, reliability of supply, and U.S. transportation cost. Most responding purchasers reported that Argentine and nonsubject lemon juice was comparable for all factors except product range and reliability of supply. Most responding purchasers reported that Mexican and nonsubject lemon juice was comparable for all factors except delivery time and reliability of supply.

[43] Hearing transcript, pp. 238-239 (Borgers).
[44] Ventura Coastal's posthearing brief, answers to Commission questions pp. 25-27.

Table II-10
Lemon juice: Number of U.S. purchasers' comparisons of product by subject country source

Factor	U.S. superior to Argentina	U.S. compar-able with Argentina	U.S. inferior to Argentina	U.S. superior to Mexico	U.S. compar-able with Mexico	U.S. inferior to Mexico	Argentina superior to Mexico	Argentina compar-able with Mexico	Argentina inferior to Mexico
Availability	2	4	2	**4**	3	0	3	3	1
Availability of clear juice	0	**7**	1	2	**4**	1	**4**	3	0
Availability of cloudy juice	0	**7**	1	0	**7**	0	1	**6**	0
Availability of GPL 400	1	**6**	1	1	**5**	0	0	3	3
Availability of GPL greater than 400	0	**6**	2	0	**6**	1	2	**5**	0
Availability of not from concentrate	2	**4**	0	1	**6**	0	1	**6**	0
Availability of organic	0	**5**	2	2	3	2	3	3	1
Color	1	**5**	2	1	**6**	0	2	**5**	0
Delivery terms	2	**6**	0	2	**5**	0	1	**5**	1
Delivery time	**5**	3	0	1	**6**	0	1	**4**	2
Discounts offered	0	**7**	0	0	**6**	0	0	**6**	0
Extension of credit	0	**7**	0	0	**6**	1	0	**6**	0
Freshness of juice	1	**7**	0	1	**6**	0	1	**6**	0
High acidity	0	**7**	1	0	**6**	1	1	**6**	0
Low viscosity	0	**7**	1	0	**7**	0	1	**6**	0
Minimum quantity requirements	1	**7**	0	1	**6**	0	0	**7**	0
Packaging	2	**5**	1	1	**6**	0	1	**5**	1
Price	0	**6**	2	0	**5**	2	0	**7**	0
Product consistency	1	**6**	1	1	**6**	0	2	**5**	0
Product range	2	**5**	1	1	**5**	1	3	**4**	0
Quality meets industry standards	1	**6**	1	1	**6**	0	1	**6**	0
Quality exceeds industry standards	1	**6**	1	1	**6**	0	1	**6**	0
Reliability of supply	2	**5**	1	2	**4**	1	1	**6**	0
Technical support/service	2	**5**	1	3	3	1	**4**	3	0
U.S. transportation costs	1	4	3	2	**4**	1	1	**6**	0

Note.—Not all purchasers responded for all factors.

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

Table II-11
Lemon juice: U.S. purchasers' comparisons of U.S.-produced and subject product with product from nonsubject country source

Factor	U.S. superior to Non-subject	U.S. compar-able with Non-subject	U.S. inferior to Non-subject	Argentina superior to Non-subject	Argentina compar-able with Non-subject	Argentina inferior to Non-subject	Mexico superior to Non-subject	Mexico compar-able with Non-subject	Mexico inferior to Non-subject
Availability	2	**3**	0	2	**3**	0	1	**3**	1
Availability of clear juice	2	**3**	0	2	**3**	0	0	**5**	0
Availability of cloudy juice	0	**4**	1	1	**4**	0	1	**4**	0
Availability of GPL 400	2	**3**	0	0	**5**	0	2	**3**	0
Availability of GPL greater than 400	1	2	2	2	**3**	0	1	**4**	0
Availability of not from concentrate	0	**4**	1	1	**4**	0	0	**5**	0
Availability of organic	1	2	2	1	**3**	1	0	**5**	0
Color	0	**4**	1	1	**3**	1	1	**4**	0
Delivery terms	0	**5**	0	1	**4**	0	1	**3**	0
Delivery time	**3**	2	0	1	**4**	0	**3**	2	0
Discounts offered	0	**5**	0	0	**5**	0	0	**5**	0
Extension of credit	0	**5**	0	0	**5**	0	0	**5**	0
Freshness of juice	0	**5**	0	1	**4**	0	0	**5**	0
High acidity	0	**4**	1	1	**4**	0	0	**5**	0
Low viscosity	0	**5**	0	1	**4**	0	0	**5**	0
Minimum quantity requirements	1	**4**	0	0	**5**	0	0	**5**	0
Packaging	0	**5**	0	0	**5**	0	0	**5**	0
Price	0	**4**	1	1	**3**	1	1	**3**	1
Product consistency	0	**4**	0	1	**3**	0	1	**3**	0
Product range	2	2	1	2	2	1	2	**3**	0
Quality meets industry standards	0	**5**	0	1	**4**	0	0	**5**	0
Quality exceeds industry standards	0	**4**	1	1	**4**	0	1	**4**	0
Reliability of supply	1	2	2	2	1	2	2	2	1
Technical support/service	2	2	1	1	**4**	0	0	**4**	1
U.S. transportation costs	1	2	2	0	**5**	0	1	**3**	1

Note.—Not all purchasers responded for all factors.

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

Processors, importers, and purchasers were asked whether the products from different sources can "always," "frequently," "sometimes," or "never" be used interchangeably, and whether there are differences other than price among sources (tables II-12 and II-13). Most firms reported that product from all country pairs was "always" or "frequently" interchangeable.[45] Two purchasers gave an explanation for the difference, one reported that Mexican concentrate had a different flavor and color than product from the United States or Argentina, and the other reported that the products from the United States, Argentina, and Mexico were "sometimes" interchangeable when domestic supply was extremely tight. One importer reported product from different countries was "sometimes" interchangeable because products from different countries had different flavor profiles.

Table II-12
Lemon juice: Perceived interchangeability, (always "A", frequently "F", sometimes "S", and never "N") reported by U.S. processors (USP), U.S. importers (Imp), and purchasers (Pur), by country pairs

Country pair	USP "A"	USP "F"	USP "S"	USP "N"	Imp "A"	Imp "F"	Imp "S"	Imp "N"	Pur "A"	Pur "F"	Pur "S"	Pur "N"
U.S. vs. subject												
U.S. vs. Argentina	***	***	***	***	3	3	1	0	6	2	1	0
U.S. vs. Mexico	***	***	***	***	3	2	1	0	6	1	1	1
U.S. vs. nonsubject												
U.S. vs. nonsubject	***	***	***	***	1	4	1	0	4	3	1	0
Subject vs. subject												
Argentina vs. Mexico	***	***	***	***	2	3	1	0	4	2	0	1
Subject vs. nonsubject												
Argentina vs. nonsubject	***	***	***	***	1	4	1	0	2	4	0	0
Mexico vs. nonsubject	***	***	***	***	2	4	1	0	3	3	0	0

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

[45] Four of the five responding foreign producers reported that the lemon juice they sold for their home market was interchangeable with that sold in the U.S. or third country markets. The foreign producer reporting differences stated that most of the juice sold in ***.

Table II-13
Lemon juice: Perceived differences other than price, (always "A", frequently "F", sometimes "S", and never "N") reported by U.S. processors (USP), U.S. importers (Imp), and purchasers (Pur), by country pairs

Country pair	USP "A"	USP "F"	USP "S"	USP "N"	Imp "A"	Imp "F"	Imp "S"	Imp "N"	Pur "A"	Pur "F"	Pur "S"	Pur "N"
U.S. vs. subject												
U.S. vs. Argentina	***	***	***	***	1	1	2	3	1	2	3	3
U.S. vs. Mexico	***	***	***	***	1	1	2	2	1	3	3	2
U.S. vs. nonsubject												
U.S. vs. nonsubject	***	***	***	***	1	1	3	1	0	3	1	1
Subject vs. subject												
Argentina vs. Mexico	***	***	***	***	1	1	2	2	1	3	4	1
Subject vs. nonsubject												
Argentina vs. nonsubject	***	***	***	***	1	1	3	1	0	3	2	0
Mexico vs. nonsubject	***	***	***	***	1	1	2	2	0	3	1	1

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

Most processors and most importers reported that there were only "sometimes" or "never" differences other than price for product from all country pairs. Most purchasers reported that there were "sometimes" or "never" differences other than price between U.S. and subject product. In contrast, most purchasers reported that there were "frequently" differences other than price between product from the United States and subject countries when compared with product from nonsubject countries. Factors other than price which differed included: quality and packaging concerns; differences in transportation network and availability; firm had to use Argentine lemon juice, regardless of the price, because Argentina was listed as country of origin on the end product's label; distribute volume between all three countries to ensure continuous supply; difference in the quality of the Mexican product,[46] and quality is the same but U.S. product is more available than that from Mexico or Argentina.

ELASTICITY ESTIMATES

This section discusses elasticity estimates; parties were encouraged to comment on these estimates, no parties addressed these elasticity estimates in their prehearing or posthearing brief.

U.S. Supply Elasticity

The domestic supply elasticity[47] for lemon juice measures the sensitivity of the quantity supplied by U.S. processors to changes in the U.S. market price of lemon juice. The elasticity of domestic supply depends largely on the existence of inventories and the availability of alternate markets for U.S.-produced lemon juice but is constrained by the size of the lemon crop (as in 2007-08). Analysis of these factors earlier indicates that the U.S. industry is likely to be able to increase or decrease shipments a moderate amount to the U.S. market in response to a change in price; an estimate in the range of 1.5 to 2.5 is suggested for 2013. Since inventories can vary greatly, supply elasticity may change from year to year as inventories change.

[46] This firm reported it could not match product using Mexican concentrate. Mexican product differed in both flavor and color from Argentina and domestic product.

[47] A supply function is not defined in the case of a non-competitive market.

U.S. Demand Elasticity

The U.S. demand elasticity for lemon juice measures the sensitivity of the overall quantity demanded to a change in the U.S. market price of lemon juice. 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 the lemon juice in the production of any downstream products. Based on the available information, the aggregate demand for lemon juice is likely to be very to moderately inelastic; a range of -0.25 to -0.75 is suggested.

Substitution Elasticity

The elasticity of substitution depends upon the extent of product differentiation between the domestic and imported products. Product differentiation depends upon such factors as quality (e.g., chemistry, appearance) and conditions of sale (e.g., availability, sales terms/ discounts/ promotions). Based on available information, the elasticity of substitution between U.S.-produced lemon juice and imported lemon juice is likely to be high, in the range of 4 to 8.

PART III: CONDITION OF THE U.S. INDUSTRY

OVERVIEW

The information in this section of the report was compiled from responses to the Commission's questionnaires. Two firms,[1] which accounted for the vast majority of U.S. production of lemon juice during the period for which data were collected, supplied information on their operations in these reviews.

The leading processor of lemon juice in the United States is Ventura Coastal LLC ("Ventura Coastal"). Ventura Coastal is a 50/50 joint venture that was formed in February 2012 between Ventura Coastal and Sunkist Growers, Inc.[2] It is the successor to Sunkist Growers, Inc.; the two firms have pooled all citrus fruit juice operations, including Sunkist's facility in Tipton, CA, under Ventura Coastal's management.[3] The joint venture was created to improve efficiencies and deliver better per ton returns for its cooperative grower/owners.[4]

Changes Experienced in Operations

Domestic processors were asked to indicate whether their firm had experienced any plant openings, relocations, expansions, acquisitions, consolidations, closures, or prolonged shutdowns because of strikes or equipment failure; curtailment of production because of shortages of materials or other reasons, including revision of labor agreements; or any other change in the character of their operations or organization relating to the production of lemon juice since 2007. Firms reported the joint venture

[1] The responding firms are Sunkist and Ventura Coastal. In addition, Sun Orchard, ***.

[2] Sunkist is an agricultural marketing cooperative owned by 4,000 citrus growers in California and Arizona. Sunkist Grower members account for most of the lemons grown in the United States, the majority of which are destined for the fresh market. Under Sunkist's cooperative three party structure, citrus growers join a packing house that exclusively packs for Sunkist. Essentially, under this agreement the grower dedicates all fruit from certain acreage to be handled by a Sunkist packing house, which is then in turn marketed by Sunkist or sent for processing. Hearing transcript, pp. 16-17 (Wootton).

[3] Ventura Coastal's submission of August 31, 2012, p. 2, and http://venturacoastal.com/about/news/, retrieved March 14, 2013.

[4] Hearing transcript, p. 18 (Wootton).

formed in February 2012 between Ventura Coastal and Sunkist Growers. Ventura Coastal also stated that it ***. In addition, Sunkist consolidated its lemon processing operations in 2008 when it closed a processing plant in Ontario, CA, and moved the equipment and many of its employees to a newer facility in Tipton, CA.[5]

Anticipated Changes in Operations

The Commission asked domestic processors to report anticipated changes in the character of their operations relating to the production of lemon juice. Both responding firms reported that they do not anticipate any changes.

U.S. PROCESSORS' CAPACITY, PRODUCTION, AND CAPACITY UTILIZATION

Production, capacity, and capacity utilization for lemon juice are shown in table III-1. Total reported lemon juice capacity remained constant between 2007 and 2012. Production increased by *** percent over the same period, while the capacity utilization rate increased from *** percent in 2007 to *** percent in 2009, then decreased to *** percent in 2012.

Table III-1
Lemon juice: U.S. processors' capacity, production, and capacity utilization, 2007-12

Item	Calendar year					
	2007	2008	2009	2010	2011	2012
Capacity[1] (*1,000 gallons @ 400 GPL*)	***	***	***	***	***	***
Production (*1,000 gallons @ 400 GPL*)	***	***	***	***	***	***
Capacity utilization (*percent*)	***	***	***	***	***	***

[1] Sunkist reported capacity based on operating ***. Ventura Coastal reported capacity based on operating ***.

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

Figure III-1
Lemon juice: U.S. processors' capacity, production, and capacity utilization, 2007-12

* * * * * * *

[5] Hearing Transcript, p. 17 (Wootton).

Constraints on Capacity

The Commission asked domestic processors to report constraints on their capacity to produce lemon juice. Both U.S. processors reported constraints in the manufacturing process. These constraints include juice extraction, tank storage, and frozen storage capacity, as well as customer requirements to produce NFC lemon juice or low pulp lemon juice per order. Current production capacity is also dependent on the amount of incoming fruit.

Both firms reported that they are not able to switch production between lemon juice and other products in response to a relative change in price of lemon juice. While domestic processors stated that ***.

Both firms did report that they are producing other products, including lemon oil, lemon peel, orange juice and orange oil, on the same equipment and machinery as in the production of lemon juice, and using the same production and related workers. Sunkist produces ***. Ventura Coastal produces ***.

U.S. PROCESSORS' SHIPMENTS

Data on U.S. processors' shipments of lemon juice are presented in table III-2. *** reported exporting lemon juice, which accounted for between *** percent of the quantity of U.S. processors' shipments of lemon juice between 2007 and 2012.[6] U.S. processors' total U.S. shipments, by quantity, decreased by *** percent from 2007 to 2012; however their total U.S. shipments by value increased by *** percent during the period. Unit values of U.S. shipments of lemon juice increased by *** percent from 2007 to 2008, and continued to rise each year of the period, ***.

Table III-2
Lemon juice: U.S. processors' U.S. shipments, export shipments, and total shipments, 2007-12

* * * * * * *

U.S. PROCESSORS' INVENTORIES

Table III-3, which presents U.S. processors' end-of-period inventories for lemon juice, shows that inventories increased from 2007 to 2009, then fluctuated at lower levels for 2010 and 2011. Inventories were *** percent from 2007 to 2012. As a ratio to total shipments, inventories increased in 2008 and 2009, and then steadily increased between 2010 and 2012, ending *** percentage points above 2007 levels. Ventura Coastal explained that it lost a sales volume from *** in 2012 to lower-priced imports from Argentina, resulting in an increase in U.S. processors' inventories in 2012.[7] U.S. processors can keep concentrated lemon juice in inventory for one to two years, but bulk NFCLJ only for one week.[8]

[6] U.S. processors of lemon juice reported exporting to ***.

[7] Ventura Coastal's posthearing brief, p. 14.

[8] Hearing transcript, p. 29 (Borgers).

Table III-3
Lemon juice: U.S. processors' end-of-period inventories, 2007-12

* * * * * * *

U.S. PROCESSORS' IMPORTS AND PURCHASES

*** U.S. processors reported that it imported lemon juice. ***[9] ***.[10] ***. Table III-4 presents *** purchases of lemon juice from subject sources.

Table III-4
Lemon juice: * U.S. production and purchases from subject sources, 2007-12**

* * * * * * *

U.S. PROCESSORS' EMPLOYMENT, WAGES, AND PRODUCTIVITY

The U.S. processors' aggregate employment data for lemon juice are presented in table III-5. The number of production-related workers ("PRWs") employed by the U.S. lemon juice industry increased between 2007 and 2012 by *** workers or *** percent. Total hours worked declined by *** percent between 2007 and 2012. Total wages paid also declined, and hourly wages paid to PRWs increased by *** during 2007-12.

Table III-5
Lemon juice: U.S. processors' employment-related data, 2007-12

* * * * * * *

[9] ***.

[10] ***.

FINANCIAL EXPERIENCE OF THE U.S. PROCESSORS

Introduction

Two firms, Sunkist and Ventura Coastal, provided financial results on their domestic operations producing lemon juice.[11] These firms are believed to account for the vast majority of the domestic production of lemon juice during the period of review.[12]

On February 1, 2012, Sunkist, an agricultural cooperative, and Ventura Coastal, a processor not affiliated with growers, entered into a joint venture arrangement which created a new processing company that operates Sunkist's Tipton, CA plant and Ventura Coastal's Visalia, CA plant. The new company is called Ventura Coastal LLC, and is managed by Ventura Coastal.[13]

Operations on Lemon Juice

Income-and-loss data for U.S. processors on their operations on lemon juice are presented in table III-6. Individual firm data for Sunkist and Ventura Coastal are presented in tables III-7 and III-8, respectively. From 2007 to 2012, the domestic industry experienced ***.[14]

Table III-6
Lemon juice: Results of operations of U.S. processors, 2007-12

* * * * * * *

Table III-7
Lemon juice: Results of operations of U.S. processor Sunkist, 2007-12

* * * * * * *

Table III-8
Lemon juice: Results of operations of U.S. processor Ventura Coastal, 2007-12

* * * * * * *

The results of operations for U.S. processor Sunkist are presented in table III-7. ***.[15] [16] ***.[17]

[11] ***.

[12] ***.

[13] ***.

[14] In its posthearing brief, Ventura Coastal, LLC reiterated its concern that the profit margins presented for Sunkist and the U.S. processors as a whole are not comparable to the profit margins that would be reported by corporate entities. Two alternative valuations for the cost of lemons are discussed and presented in Ventura Coastal's posthearing brief, Responses to Commissioner Questions, pp. 15-20, exhibits 4 and 5.

[15] ***.

[16] ***.

[17] ***.

The results of operations for U.S. processor Ventura Coastal, as well as the results of operations for joint venture Ventura Coastal LLC, are presented in table III-8. ***.[18] ***. [19] [20] [21] [22]

Capital Expenditures

The responding firms' aggregate data on capital expenditures are shown in table III-9. Aggregate capital expenditures *** from 2007-09, then *** during the last three years for which data were collected. *** accounted for *** reported capital expenditures from 2007-10. In 2011 and 2012, the data reflect expenditures for ***.[23] *** reported R&D expenses.

Table III-9
Lemon juice: Capital expenditures of U.S. processors, 2007-12

* * * * * * *

Assets

Data on the U.S. lemon juice processors' total assets are presented in table III-10. The total assets utilized in the production, warehousing, and sale of lemon juice irregularly increased from $*** million in 2007 to $*** million in 2012. [24] [25]

Table III-10
Lemon juice: Value of assets and return on investment of U.S. processors, 2007-12

* * * * * * *

[18] E-mail correspondence from ***.

[19] ***.

[20] In cases where raw materials are purchased from a related party, the Commission typically requests that firms report such raw materials at cost and exclude any associated profit component. *** ***.

[21] In fiscal year 2012, Sunkist reported its third consecutive year of over $1 billion in revenues. The joint venture reportedly resulted in "better pricing and created efficiencies." Sunkist recently began its annual dividend program for grower-members, reflecting "good returns and cost reductions across the business." "Sunkist hits $1 billion mark again," February 21, 2013, found at http://www.thepacker.com/fruit-vegetable-news/Sunkist-hits-1-billion-mark-again-192338781.html, retrieved on March 5, 2013. Sunkist's most recent annual report states that, "{t}he JV company...promises to deliver better per ton returns for Sunkist member/growers in addition to profits from the operation." Sunkist 2012 Annual Report, p. 1.

[22] A variance analysis is not presented in this report due to structural differences between agricultural cooperatives and independent processors, ***, and the formation of the joint venture in 2012. These factors lessen the meaningfulness of a variance analysis in these reviews.

[23] ***.

[24] ***.

[25] Return on Investment (ROI) is not calculated in this report due to structural differences between agricultural cooperatives and independent processors, ***, and the formation of the joint venture in 2012. These factors lessen the meaningfulness of ROI in these reviews.

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

U.S. IMPORTS

Overview

The Commission issued questionnaires to 19 firms believed to have imported lemon juice between 2007 and 2012, as well as to all U.S. processors of lemon juice. Seven companies, all of which imported from the subject countries, provided usable questionnaire responses.[1] Responding importers accounted for approximately 48.5 percent of imports from subject countries in 2007-2012 (by quantity).[2] Specifically, firms responding to the Commission's questionnaire accounted for 49.1 percent[3] of the subject imports from Argentina in 2012 and 19.3 percent[4] of the subject imports from Mexico in 2012.[5] Import data in this report are based on official Commerce statistics for imports of lemon juice under HTS statistical reporting numbers 2009.31.4000, 2009.31.6020, 2009.31.6040, 2009.39.6020, and 2009.39.6040.

Imports from Subject and Nonsubject Countries

Table IV-1 presents data for U.S. imports of lemon juice from Argentina, Mexico, and all other sources. Imports of lemon juice from the subject countries increased by 145 percent between 2007 and 2012. The largest increase in subject imports of lemon juice over the period were from Argentina. Imports of lemon juice from Argentina increased by over 400 percent, while imports from Mexico decreased by less than one percent during the period.

Nonsubject imports decreased slightly, by 5.7 percent from 2007 to 2012. The leading sources of nonsubject imports during the period of review were South Africa, Italy, Peru, and Brazil. Imports from South Africa accounted for 12.9 percent of U.S. lemon juice imports in 2012, and were mainly concentrated frozen lemon juice. Imports from Peru grew substantially over the period, accounting for less than one percent of total imports in 2007, but for 6.7 percent of total imports in 2012.[6] Imports from Peru are mostly unfrozen and not concentrated. Italy is the next largest supplier, accounting for 2.2

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[1] Two firms responded that they had not imported lemon juice from any country at any time since January 1, 2007.

[2] Coverage is based on the quantity of imports reported in questionnaire responses (7.784 million gallons) versus official import statistics (16.057 million gallons) from 2007 to 2012.

[3] Coverage is based on the quantity of imports reported in questionnaires responses (1.220 million gallons) versus official import statistics (2.487 million gallons) for 2012.

[4] Coverage is based on the quantity of imports reported in questionnaires responses (177,000 gallons) versus official import statistics (918,000 gallons) for 2012.

[5] Responding importers accounted for between 50.9 and 96.8 percent of subject imports from Mexico in 2007-11. According to Customs data, the largest importer of lemon juice from Mexico in 2007-12 was ***.

[6] Although Peru exported products to the United States under four of the five subject HTS codes, their exports fall mainly under 2009.31.4000, which is a basket category covering juice of any single citrus fruit of less than 20 degrees Brix value and unconcentrated. For that reason, this number may include juice from other citrus fruits, but further information is unavailable.

percent of U.S. imports of lemon juice in 2012, most of which were NFCLJ. Imports from Brazil have dropped since 2007—they accounted for less than one percent of imports by volume in 2012.

Table IV-1
Lemon juice: U.S. imports by source, 2007-12

Item	Calendar year					
	2007	2008	2009	2010	2011	2012
Quantity (*1,000 gallons @ 400 GPL*)						
Argentina	471	1,328	1,026	1,309	3,410	2,487
Mexico	922	1,153	695	1,361	979	918
Subtotal, subject	1,392	2,481	1,720	2,669	4,389	3,405
All others	1,228	1,177	979	925	1,702	1,158
Total U.S. imports	2,620	3,658	2,699	3,594	6,091	4,562
Value (*1,000 dollars*)[1]						
Argentina	5,538	24,876	19,581	30,786	75,190	45,566
Mexico	6,003	18,335	10,300	29,969	18,199	10,182
Subtotal, subject	11,541	43,211	29,881	60,755	93,389	55,749
All others	14,788	23,107	17,843	22,010	37,607	25,567
Total U.S. imports	26,329	66,318	47,724	82,765	130,996	81,315
Unit value (*per gallon*)						
Argentina	11.77	18.73	19.09	23.53	22.05	18.32
Mexico	6.51	15.91	14.83	22.02	18.59	11.10
Average, subject	8.29	17.42	17.37	22.76	21.28	16.37
All others	12.05	19.64	18.23	23.80	22.10	22.09
Average, total imports	10.05	18.13	17.68	23.03	21.51	17.82
Share of quantity (*percent*)						
Argentina	18.0	36.3	38.0	36.4	56.0	54.5
Mexico	35.2	31.5	25.7	37.9	16.1	20.1
Subtotal, subject	53.1	67.8	63.7	74.3	72.1	74.6
All others	46.9	32.2	36.3	25.7	27.9	25.4
Total U.S. imports	100.0	100.0	100.0	100.0	100.0	100.0
Share of value (*percent*)						
Argentina	21.0	37.5	41.0	37.2	57.4	56.0
Mexico	22.8	27.6	21.6	36.2	13.9	12.5
Subtotal, subject	43.8	65.2	62.6	73.4	71.3	68.6
All others	56.2	34.8	37.4	26.6	28.7	31.4
Total U.S. imports	100.0	100.0	100.0	100.0	100.0	100.0

[1] Landed, duty-paid.

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

Source: Compiled from official import statistics, HTS subheadings 2009.31.4000, 2009.31.6020, 2009.31.6040, 2009.39.6020, and 2009.39.6040.

U.S. IMPORTERS' IMPORTS SUBSEQUENT TO DECEMBER 31, 2012

The Commission requested importers to indicate whether they had imported or arranged for the importation of lemon juice for delivery after December 31, 2012. Three of the seven responding importers indicated they had arranged for imports after this date. Data on the actual and arranged imports for 2013 are presented in table IV-2.

Table IV-2
Lemon juice: Arranged imports, 2013

Source	Jan-Mar 2013	Apr-Jun 2013	July-Sept 2013	Oct-Dec 2013	Total
			Quantity (*1,000 gallons @ 400 GPL*)		
Argentina	***	***	***	***	***
Mexico	***	***	***	***	***
Subtotal, subject	***	***	***	***	***
All others	***	***	***	***	***
Total U.S. imports	***	***	***	***	***

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

U.S. IMPORTERS' INVENTORIES

Table IV-3 presents data for inventories of U.S. imports of lemon juice from subject and nonsubject sources held in the United States. Five importers, ***, reported inventories of lemon juice from subject sources. Ending inventories of imports from subject sources increased from *** percent of reported U.S. imports in 2009 to *** percent of total reported subject imports in 2012. No importers reported inventories from nonsubject sources.

Table IV-3
Lemon juice: U.S. importers' end-of-period inventories of imports, by source, 2007-12

Item	Calendar year					
	2007	2008	2009	2010	2011	2012
Imports from Argentina						
Inventories (*1,000 gallons @ 400 GPL*)	***	***	***	***	***	***
Ratio to U.S. imports (*percent*)	***	***	***	***	***	***
Ratio to total shipments of imports (*percent*)	***	***	***	***	***	***
Imports from Mexico						
Inventories (*1,000 gallons @ 400 GPL*)	***	***	***	***	***	***
Ratio to U.S. imports (*percent*)	***	***	***	***	***	***
Ratio to total shipments of imports (*percent*)	***	***	***	***	***	***
Imports from all subject sources						
Inventories (*1,000 gallons @ 400 GPL*)	***	***	***	***	***	***
Ratio to U.S. imports (*percent*)	***	***	***	***	***	***
Ratio to total shipments of imports (*percent*)	***	***	***	***	***	***

[1] Not applicable

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

CUMULATION CONSIDERATIONS

In assessing whether subject imports are likely to compete with each other and with the domestic like product with respect to cumulation, the Commission generally has considered the following four factors: (1) the degree of fungibility, including specific customer requirements and other quality-related questions; (2) presence of sales or offers to sell in the same geographic markets; (3) common channels of distribution; and (4) simultaneous presence in the market.[7] Channels of distribution and fungibility (interchangeability) are discussed in Part II of this report. Both U.S. processors and U.S. importers reported distributing lemon juice geographically throughout the United States. Table IV-4, based on official Commerce statistics, show U.S. imports from the subject countries, by U.S. port of entry.

[7] For the purposes of its preliminary determinations in the original investigations, the Commission cumulated imports from Argentina and Mexico. *Lemon Juice from Argentina and Mexico, Investigation Nos. 731-TA-1105-1106 (Preliminary),* USITC Publication 3891, November 2006, p. 15.

Table IV-4
Lemon juice: U.S. imports, by subject countries and by customs districts, 2007-12

Country	Calendar year					
	2007	2008	2009	2010	2011	2012
Quantity (*1,000 gallons @ 400 GPL*)						
Argentina:						
New York, NY	85	551	429	397	1,778	1,574
Los Angeles, CA	25	67	20	37	360	243
Houston-Galveston, TX	1	59	12	78	103	160
Tampa, FL	50	60	218	171	164	158
Miami, FL	185	423	285	566	779	128
Baltimore, MD	0	0	0	13	61	61
Philadelphia, PA	50	31	14	0	60	54
Chicago, IL	0	0	20	11	0	52
San Francisco, CA	49	32	13	3	75	22
Buffalo, NY	9	16	11	5	7	17
Norfolk, VA	0	0	0	3	3	9
Savannah, GA	0	0	3	10	0	7
Detroit, MI	15	27	0	2	3	2
Ogdensburg, NY	0	0	1	0	0	1
Seattle, WA	0	4	0	0	0	0
Columbia-Snake, OR	0	49	0	0	0	0
St. Albans, VT	0	8	1	0	0	0
San Juan, PR	0	0	0	11	12	0
Charleston, SC	2	0	0	0	4	0
Total	471	1,328	1,026	1,309	3,410	2,487
Mexico:						
Laredo, TX	922	1,153	673	1,350	967	905
San Juan, PR	0	0	2	0	8	9
Tampa, FL	0	0	0	0	4	3
San Diego, CA	0	0	1	1	0	1
Buffalo, NY	0	0	18	0	0	0
Miami, FL	0	0	0	9	0	0
Total	922	1,153	695	1,361	979	918

Source: Compiled from official Commerce statistics.

Imports from Argentina and Mexico were present in every month of the period for which data were collected.[8]

[8] Official Commerce import statistics, HTS subheadings 2009.31.4000, 2009.31.6020, 2009.31.6040, 2009.39.6020, and 2009.39.6040

THE INDUSTRY IN ARGENTINA

Overview

Argentina is the world's largest lemon-growing country, and its production is increasing.[9] Between the 2000/01 and 2010/11 crop years, Argentine lemon production grew 27 percent to an estimated 1.6 million metric tons.[10] Planted area in 2011/12 rose to 49,000 hectares, up from 44,000 hectares in 2006/07.[11] This area expansion is partly being driven by a reduction in sugar plantings used for ethanol (an industry that is facing environmental contamination issues in Argentina), but also by the potential opening of new export markets for Argentine fresh lemons.[12] Contracts with major global soft drink manufacturers have been another contributing factor for the rise in lemon area—particularly the growth of leading beverage companies in Asia.[13] Currently, lemon production area is concentrated in the state of Tucumán (78 percent), followed by Corrientes (7 percent), Salta (5 percent), and Jujuy (3 percent).[14] Lemons are typically harvested between May and September.[15]

The Argentine lemon sector regulates the volume of lemons that are exported based on specific quality criteria—only the highest quality fresh lemons are exported.[16] This emphasis on quality for fresh lemon exports has pushed larger quantities of lemons into the processing sector. In crop year 2010/11, Argentina processed a record quantity of lemons.[17] Between crop years 2006/07 and 2011/12, an average of 73 percent of the country's lemon crop went to the processing sector versus an average of 70 percent in the five years between 2001/02 and 2005/06.[18]

The Argentine lemon sector is mostly composed of a small number of vertically-integrated companies that control every phase of production.[19] In Tucumán province, the industry is increasingly consolidated; small producers are exiting the industry, and minimum farm size is approaching 50 hectares. Medium (50-300 has) and large producers (500+ has) now account for around 90 percent of

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[9] FAO, FAOSTAT database, http://faostat.fao.org, (accessed March 31, 2013).

[10] In 2012, production fell to 1.3 million metric tons, a result of severe frost in July of 2011 and a drought in January-March of 2012. For more information, see USDA-FAS, Argentina Citrus Annual 2012, December 17, 2012, p. 3; USDA-FAS, PSD Online (accessed March 28, 2013).

[11] USDA-FAS, Argentina Citrus Annual 2012, December 17, 2012, p. 15; USDA-FAS, Argentina Citrus Annual 2008, October 28, 2008, p. 12.

[12] USDA-FAS, Argentina Citrus Annual 2012, December 17, 2012, p. 6.

[13] *Conditions of Competition for Certain Oranges and Lemons in the U.S. Fresh Market*, USITC Publication 3863. Washington, DC: USITC, 2005, p. 5-2; USDA-FAS, Argentina Citrus Annual 2012, December 17, 2012, p. 6.

[14] USITC staff calculations using FEDERCITRUS, The Argentine Citrus Industry 2012, April, 2012, p. 7.

[15] MECON-DIAR/DIAS, "Complejo Citrícola: Limón," April, 2011, p. 10.

[16] USDA-FAS, Argentina Citrus Annual 2012, December 17, 2012, p. 7-8.

[17] USDA-FAS, PSD Online, http://www.fas.usda.gov/psdonline/psdhome.aspx, (accessed March 28, 2013).

[18] Ibid.

[19] Conditions of Competition for Certain Oranges and Lemons in the U.S. Fresh Market, USITC Publication 3863. Washington, DC: USITC, 2005, p. 5-5.

production in the province.[20] Four firms alone account for almost 50 percent of total lemon acreage in Tucumán.[21]

Argentina currently has 35 citrus plants approved for export, with two new plants opening in 2012.[22] However, more than 50 percent of total production is processed by just four plants: three in Tucumán and one in Salta.[23] The largest exporting firms include S.A. San Miguel, Citrusvil, Citromax, Vicente Trapani, and Litoral Citrus.[24] Argentine exports of lemon juice enter the U.S. market at the MFN tariff rate of $0.034-$0.079/liter. Argentina's principal export markets for fresh lemons are the EU and Russia—the United States continues to ban shipments of Argentine fresh lemons for phytosanitary reasons.[25]

Lemon Juice Operations

At the time of the Commission's original investigations, usable questionnaire responses were received from five processor/exporters in Argentina.[26] In these reviews, the Commission issued foreign producer questionnaires to 11 Argentine firms believed to process lemon juice. Questionnaire responses were received from three firms that are believed to account for *** percent of Argentine exports of lemon juice to the United States in 2012.[27] Table IV-6 presents 2012 production and U.S. export data for the responding Argentine firms.

[20] MECON-DIAR/DIAS, "Complejo Citrícola: Limón," April, 2011, p. 5.

[21] Ibid.

[22] USDA-FAS, Argentina Citrus Annual 2012, December 17, 2012, p. 6.

[23] Ibid.

[24] MECON-DIAR/DIAS, "Complejo Citrícola: Limón," April, 2011, p. 7.

[25] USDA-APHIS continues to work with SENASA in developing a pest risk assessment for *Citrus Variegated Chlorosis* (CVC) and on developing a set of risk mitigation measures to allow the United States to safely import lemons from Argentina, but the issue is as yet unresolved. See Argentina USDA-FAS, *Argentina Citrus Annual 2012*, December 17, 2012, p. 10; FEDERCITRUS, *The Argentine Citrus Industry 2012*, April, 2012, p. 12.

[26] Those firms were: ***. Citrusvil and San Miguel accounted for *** percent of total production of all processed lemon products in 2004.

[27] Citromax reported that it represented *** percent of exports to the U.S. in 2012, Citrustvil reported *** percent, and San Miguel reported *** percent.

Table IV-6
Lemon juice: Responding Argentine producers' reported production and U.S. exports, by firm, 2012

Producer	Production (*1,000 gallons @ 400 GPL)*	Share of reported 2012 production (*percent*)	Exports to the U.S. (*1,000 gallons @ 400 GPL)*	Share of reported 2012 exports to the U.S. (*percent*)
Citromax	***	***	***	***
Citrusvil	***	***	***	***
San Miguel	***	***	***	***
Total	***	100.0	***	100.0
Source: Compiled from data submitted in response to Commission questionnaires.				

Argentine producers were asked to indicate whether their firms had experienced any plant openings, closing, relocations, expansions, acquisitions, consolidations, prolonged shutdowns or curtailments, revised labor agreements, or any other change in the character of their operations or organization relating to the production of lemon juice since 2007. San Miguel reported ***. Citromax ***. Information on reported Argentine producers' production capacity, production, shipments and inventories is presented in table IV-7.

All three responding producers reported producing other products on the same equipment and using the same workers used in the production of lemon juice. ***. Argentine firms reported that the production of lemon juice is dependent on the quantity of lemons grown. The constraints on lemon production include the number of productive lemon trees in existence as well as weather conditions affecting fruit productivity.[28]

In addition, the growing season is December through May and Argentine firms noted that peak production occurs during two to three months of the crop cycle for lemons. During that time, producers of lemon juice and oil must have sufficient capacity to process all available lemons to avoid fruit spoilage. As a result, productive facilities necessarily are not fully utilized at the beginning and end of the crop cycle, and are not utilized at all when no lemons are being produced.

Argentine firms report that they do not have the pasteurization equipment to manufacture NFCLJ or the facilities to store NFCLJ in Argentina or in the United States.[29] TCCC estimates a $9 million investment would be required in order to ship NFCLJ from Argentina to the United States. In addition, TCCC stated that ***.[30]

Table IV-7
Lemon juice: Argentina's reported capacity, production, shipments, and inventories, 2007-12

* * * * * * *

[28] Argentine producers also noted that lemon juice production can be dependent on demand for fresh lemons. A relatively high price for fresh lemons can cause some production to be diverted from lemon juice and lemon oils towards the sale of fresh lemons. Firms noted that the home market for fresh lemons is small. Since lemons are a perishable fruit, shipping costs and times make it difficult to export significant quantities of fresh lemons.

[29] Argentine Respondents' prehearing brief, p. 1.

[30] Joint Respondents' posthearing brief, Responses to Commissioner Questions, pp. 12-13.

THE INDUSTRY IN MEXICO

Overview

Although Mexico is a major grower of citrus fruits, the country's citrus industry is mostly dedicated to the production of oranges and limes—Mexico is a relatively small global supplier of lemons. Commercial lemon production is a recent phenomenon in Mexico. Large beverage bottlers (including Coca-Cola) encouraged the planting of lemons in the 1970s in order to ensure a supply of lemon oil and lemon juice for their products.[31] Planted area and production have increased substantially over the last decade, but various sources offer differing estimates on the exact size of the Mexican lemon crop. In 2011, the Mexican government estimated total lemon plantings in the country at 4,409 hectares and total lemon production at 78,378 metric tons, compared to 420 hectares and 1,680 metric tons in 2001.[32] In contrast, USDA's Foreign Agricultural Service estimated that Mexico's production of lemons was reportedly between 132,000 and 142,000 metric tons, although this was not an official estimate.[33] Industry experts in attendance at the hearing offered a third estimate of Mexican lemon production of 100,000 metric tons, plus or minus 25 percent.[34]

Lemons are principally grown in Eastern Mexico, with 52 percent of total area planted to lemons located in Yucatán, followed by Tamaulipas (29 percent), and San Luis Potosi (17 percent).[35] Initially, lemons were grown under contract for beverage bottling companies and were destined for processing. However, Mexican growers began exploring the possibility of moving their fresh lemons into the global market after the expiration of some of these contracts in 2006, and significant quantities[36] of Mexican fresh lemons have been exported since then.[37] Few Mexican-grown fresh lemons are sold domestically.[38]

Because Mexican trade data do not differentiate between lemons and limes, it is difficult to know with certitude what quantity of lemons is being processed versus exported. Producers in Tamaulipas indicate that 40 percent of their production is exported and 60 percent goes to processing, while producers in other states estimate that 35 percent of their production goes to fresh consumption.[39] U.S. imports of both lemon juice and fresh lemons from Mexico are duty-free.

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[31] *Conditions of Competition for Certain Oranges and Lemons in the U.S. Fresh Market*, USITC Publication 3863 (2005), p. 9-5; *Lemon Juice from Argentina and Mexico*, Inv. Nos. 701-TA-1105-1106 (Preliminary), USITC Publication 3891 (November 2006), p. VII-4.

[32] SIAP, Cierre de producción database, n.d. (accessed April 1, 2013).

[33] USDA-FAS, Mexico Citrus Annual 2012, Dec. 18, 2012, p. 5.

[34] Hearing transcript, pp. 233-234 (Martinez).

[35] Ibid.

[36] Procimart estimates that in 2012 almost 25 percent of the total production of lemons in Mexico went to the fresh market. Hearing transcript, p. 187 (Martinez).

[37] Although Mexico does not differentiate between fresh lemons and fresh limes in their trade data, it is possible to track most of the growth in Mexican fresh lemon exports by analyzing U.S. fresh lemon imports from Mexico since the United States is Mexico's principal fresh lemon export market. See GTIS, GTA database, n.d. (accessed April 3, 2013); USDA-FAS, *Mexico Citrus Annual 2012*, Dec. 18, 2012, p. 5.

[38] *Conditions of Competition for Certain Oranges and Lemons in the U.S. Fresh Market*, USITC Publication 3863 (2005), p. 9-6.

[39] USDA-FAS, *Mexico Citrus Annual 2012*, Dec. 18, 2012, p. 6.

Lemon Juice Operations

At the time of the Commission's original investigations, usable questionnaire responses were received from three processor/exporters in Mexico.[40] In these reviews, the Commission issued foreign producer questionnaires to six Mexican firms believed to process lemon juice. Questionnaire responses were received from two firms that are believed to account for *** percent of Mexican exports of lemon juice to the United States in 2012.[41] Table IV-8 presents 2012 production and U.S. export data for the responding Mexican firms.

Table IV-8
Lemon juice: Responding Mexican processors' reported production and U.S. exports, by firm, 2012

Producer	Production (*1,000 gallons @ 400 GPL*)	Share of reported 2012 production (*percent*)	Exports to the U.S. (*1,000 gallons @ 400 GPL*)	Share of reported 2012 exports to the U.S. (*percent*)
Procimart	***	***	***	***
TCCEC	***	***	***	***
Total	***	100.0	***	100.0

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

Mexican producers were asked to indicate whether their firms had experienced any plant openings, closing, relocations, expansions, acquisitions, consolidations, prolonged shutdowns or curtailments, revised labor agreements, or any other change in the character of their operations or organization relating to the production of lemon juice since 2007. Procimart reported that ***. TCCEC stated that ***. Information on reported Mexican producers' production capacity, production, shipments, and inventories is presented in table IV-9.

Table IV-9
Lemon juice: Mexico's reported capacity, production, shipments, and inventories, 2007-12

* * * * * * *

[40] Those firms were: ***. Their exports accounted for all U.S. lemon juice imports from Mexico in 2006.

[41] Procimart reported that it represented *** percent of exports to the U.S. in 2012, and TCCEC reported that it represented *** percent.

Procimart reported ***. Lemon juice represents *** percent of its annual sales. Procimart also indicated that ***. Mexican firms reported that the primary constraint on production is the availability of fruit for processing.[42] Factors such as weather and crop yield impact the number of fresh lemons available for processing. During the Mexican processing season, approximately August through January, fruit generally must be processed within 24 hours of arriving at the plant. Mexican respondents note that end-of-period inventories are highest in December since this is near the end of the processing season in Mexico. Lemon juice is sold out of inventory in the first nine months of the year until production starts again in July or August.[43]

ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS IN THIRD-COUNTRY MARKETS

There are no known antidumping or countervailing duty findings or remedies imposed on lemon juice in third-country markets.

GLOBAL MARKET

Global Supply

The world's largest lemon-producing nations in 2012 were Argentina, Turkey, the United States, Spain, Italy, and South Africa.[44] All of these countries are also exporters of fresh lemons or lemon products. Turkey focuses on fresh lemon exports, which represented 50 percent of the country's total production in marketing year ("MY") 2011/12.[45] In the EU-27, most lemon production is consumed domestically as fresh, but 25 percent of lemon production went to the processing sector in MY 2011/12.[46] In MY 2011/12, about 34 percent of South Africa's lemon crop went to the processing sector, while 62 percent of South African lemons were exported fresh.[47]

Global Demand

The European Union and the United States are the largest global importers of other citrus juices, including lemon juice. In 2012, the European Union accounted for 31.0 percent of global imports of

[42] Fruit of secondary quality that cannot be sold in the fresh market is sent for processing. In addition, if there is increased demand for fresh lemons, this will reduce the number of fresh lemons available for processing

[43] Mexican respondents' prehearing brief, p. 9.

[44] USDA, PSD Database (accessed April 17, 2013). USDA-FAS, *EU-27 Citrus Annual 2012*, January 9, 2013, http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Citrus%20Annual_Madrid_EU-27_1-9-2013.pdf.

[45] USDA, PSD Database (accessed April 17, 2013).

[46] USDA, PSD Database (accessed April 17, 2013).

[47] Ibid.

2009.39 (juice of any other single citrus fruit)[48], the United States accounted for 27.5 percent, and Japan accounted for 14.3 percent.[49]

Firms were asked how demand had changed outside the U.S. market and what changes in demand they anticipated (tables IV-10 and IV-11). There was no overall consensus. Most responding U.S. processors reported demand ***, half the responding importers reported demand was unchanged, of the five responding purchasers, two each reported demand had increased and that it had decreased, most responding foreign producers reported that demand was unchanged in their home market, and half the responding foreign producers reported that demand in other foreign markets had fluctuated. In contrast, most firms expected future demand would either increase or be unchanged. Both U.S. processors ***, and one U.S. purchaser was the only firm expecting demand to fluctuate.

Table IV-10
Lemon juice: Number of firms reporting actual changes in demand outside of the United States

Supplier	Increased	No change	Decreased	Fluctuated
U.S. processors	***	***	***	***
U.S. importers	1	2	0	1
U.S. purchasers	2	1	2	0
Foreign producers -- home market	1	3	1	0
Foreign producers -- other markets	1	0	1	2
Source: Compiled from data submitted in response to Commission questionnaires.				

Table IV-11
Lemon juice: Number of firms reporting anticipated changes in demand outside of the United States

Supplier	Increased	No change	Decreased	Fluctuated
U.S. processors	***	***	***	***
U.S. importers	1	2	0	0
U.S. purchasers	2	2	0	1
Foreign producers -- home market	1	4	0	0
Foreign producers -- other markets	2	2	0	0
Source: Compiled from data submitted in response to Commission questionnaires.				

[48] Global import numbers may be overstated because the HS number includes all traded juices of a single citrus fruit other than orange and grapefruit, including lemon, lime, and tangerine.

[49] Global Trade Atlas; HS number 2009.39, Juice Of Any Other Single Citrus Fruit, Not Fortified With Vitamins Or Minerals, Unfermented And Not Containing Added Spirits, Nesoi; accessed June 4, 2013.

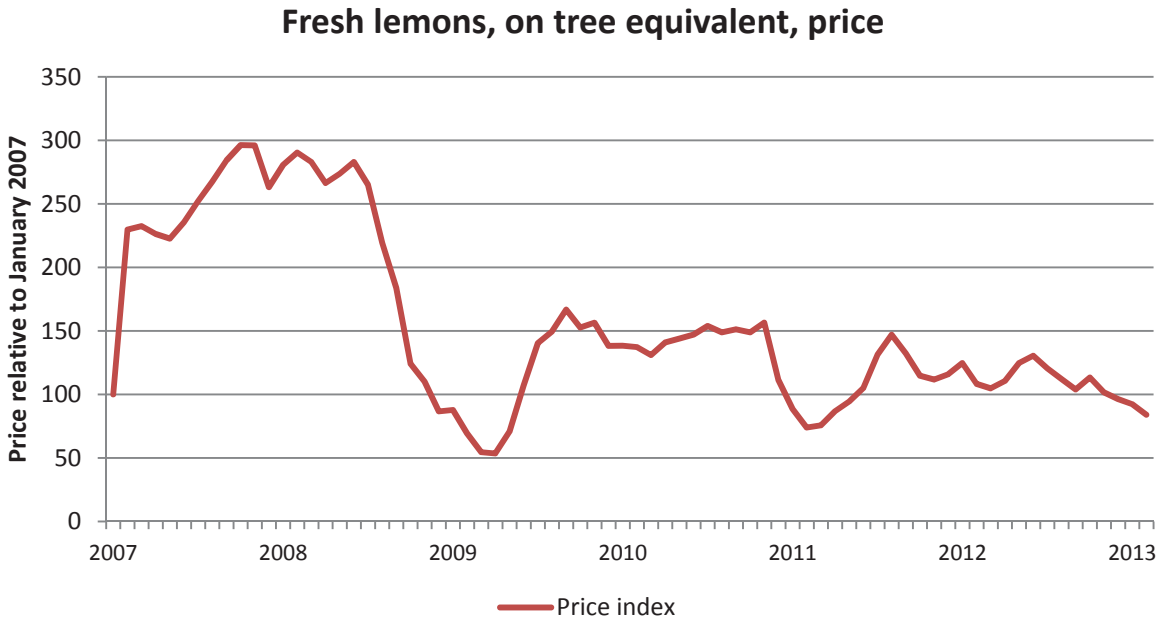
PART V: PRICING DATA

FACTORS AFFECTING PRICE

Raw Material Costs

The principal raw material used in the production of lemon juice is lemons. Other costs are equipment for which processors pay based on the level of production, labor, and energy. The price of lemons used in production of lemon juice is not publicly available;[1] however, the price of fresh lemons (those not used for processing) is available. The price of fresh lemons may be related to the availability of lemons for processing because periods of scarcity would reduce the supply of both and increase the price of fresh lemons. Figure V-1 is an index of the price of fresh lemons, on tree equivalent, from January 2007 to February 2013. The price of fresh lemons has fluctuated a great deal over the period, and was particularly high through most of 2007 and the first half of 2008.

Figure V-1
Fresh lemons: Price index for fresh lemons January 2007-February 2013



Source: *Fruit and Tree Nuts Outlook*/FTS-355/March 29, 2013 Economic Research Service, USDA p. 14 and FTS-331/March 27, 2008, page 13.

U.S. Inland Transportation Costs

U.S. processors report that *** cost of their U.S. shipments. Four of seven responding importers reported that the majority of their sales were on a delivered basis, and reported delivery costs ranged from 1.3 to 15 percent of the cost of lemon juice; with five of the seven reporting delivery costs were 5 percent or less of the cost of lemon juice. U.S. processors reported selling the majority (*** percent) of their product over 1,000 miles from their facilities, *** percent between 101 and 1,000 miles from their

[1] Because Sunkist is a cooperative, it did not pay directly for lemons.

facilities, and *** percent of their product within 100 miles from their facilities. In contrast, most importer sales (59.4 percent) are within 100 miles from their U.S. facilities or port of entry, 32.6 percent are between 101 and 1,000 miles from their U.S. facilities, and 8.0 percent are over 1,000 miles from their U.S. facilities.

PRICING PRACTICES

Pricing Methods

Both U.S. processors reported that they set prices for lemon juice on a ***. All seven responding importers reported setting prices on a transaction-by-transaction basis. Four importers also reported using contracts, and one reported pricing based on the international market.

U.S. processors reported selling most (*** percent) of their lemon juice under short-term contracts which ranged from *** days. ***. Sunkist had negotiated long-term contracts for lemon juice prior to the suspension agreement. These contracts prevented Sunkist from increasing prices covered by these contracts in 2007 and 2008 in spite of the freeze and the suspension agreement. In contrast, Ventura Coastal did not have any long-term contracts and was able to increase its prices when supply became tight.[2]

Importers reported selling mainly (84.8 percent) based on short-term contracts which lasted from 30 to 180 days. Prices were not renegotiated during the contract period, contracts typically fixed both price and quantity, and typically do not contain meet or release provisions. Foreign producers reported selling mainly (80 to 98 percent) under short-term contracts lasting from 60 to 360 days, with the remainder being spot sales. Prices were not negotiated during the contract, contracts typically fixed both price and quantity, and only one of five responding foreign producers reported contracts containing meet or release provisions.

Nine purchasers reported their frequency of lemon juice purchases: one purchased weekly, one purchased monthly, two purchased quarterly, three purchased annually, one purchased ***, and one purchased based on market conditions. Two of nine responding purchasers expected to change purchase patterns in the next two years. One of these gave a reason they expected change; it expected increased purchases with increased sales. Purchasers reported contacting between 1 and 6 suppliers before making a purchase with seven of the eight responding purchasers typically contacting 3 or more suppliers.

Pricing in Other Markets

Most foreign producers reported that prices in their home markets were similar to those in the U.S. One, however, reported that price differences reflect either Argentina's export tax[3] or the purchaser's technical specifications which increased costs. Another reported that U.S. prices have tended to be higher than in other countries, although this difference has been largely eliminated.

Sales Terms and Discounts

*** and all seven responding U.S. importers reported selling lemon juice mainly on net 30 days terms.

Ventura Costal reported *** while Sunkist reported that ***. No importer reported offering discounts.

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[2] Hearing transcript, pp. 93-94 (Borgers).

[3] Argentina's export tax would typically increase the price of exported lemon juice relative to the price of lemon juice in Argentina by the amount of the tax. The tax is 5 percent of the declared value of the juice. Respondents' posthearing brief, responses to Commissioner questions, p. 13.

Price Leadership

Six purchasers reported one or more price leaders. Three reported Ventura Coastal was a price leader,[4] three reported Sunkist was a price leader, and one reported that brokers representing foreign producers from Argentina, Mexico, and South Africa were price leaders.

PRICE DATA

The Commission requested U.S. processors and U.S. importers of lemon juice provide quarterly data for the total quantity and value of lemon juice that was shipped to unrelated customers in the U.S. market for the period January 2007–December 2012. The products for which pricing data were requested are as follows:

Product 1.—Cloudy frozen concentrated lemon juice, non-organic, for further manufacture[5]

Product 2.—Clarified frozen concentrated lemon juice, non-organic, for further manufacture[6]

Product 3.—Cloudy NFCLJ, non-organic, for further manufacture[7]

Two U.S. processors provided usable price data for sales of the three products, although neither firms report prices for ***. Five importers provided usable price data for product from Argentina for products 1 and 2. Four importers provided usable price data from Mexico for products 1 and 3. Product 1 made up the vast majority of the pricing product reported by U.S. processors (***) percent, Argentine importers (***) percent, and Mexican importers (***) percent.[8] Reported pricing products represented *** percent of U.S. shipments of U.S.-produced products, *** percent of the U.S. imports of product from Argentina, and *** percent of the U.S. imports of product from Mexico. Tables V-1 to V-3 and figures V-2 to V-4 show the prices and quantities of U.S.-produced and imported lemon juice.

Table V-1
Lemon juice: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 1,[1] margins of underselling/(overselling), by quarter, January 2007 to December 2012

* * * * * * *

Table V-2
Lemon juice: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 2,[1] margins of underselling/(overselling), by quarter, January 2007 to December 2012

* * * * * * *

[4] One of these (***) reported that Ventura Coastal was the price leader in sales of *** in the U.S. market. It did not perceive any price leader in the ***.

[5] Reported on a 400 grams per liter of anhydrous citric acid (GPL) basis.

[6] Ibid.

[7] Although firms were requested to report NFC lemon juice on a single strength juice equivalent (SSE) basis, all firms reported NFC lemon juice on a concentrate equivalent basis. Prices and quantities are therefore reported on a concentrate equivalent basis.

[8] ***.

Table V-3
Lemon juice: Weighted-average f.o.b. prices and quantities of domestic and subject imported product 3,[1] margins of underselling/(overselling), by quarter, January 2007 to December 2012

* * * * * * *

Figure V-2
Lemon juice: Weighted-average f.o.b. prices and quantities of domestic product 1, by quarter, January 2007-December 2012

* * * * * * *

Figure V-3
Lemon juice: Weighted-average f.o.b. prices and quantities of domestic product 2, by quarter, January 2007-December 2012

* * * * * * *

Figure V-4
Lemon juice: Weighted-average f.o.b. prices and quantities of domestic product 3, by quarter, January 2007-December 2012

* * * * * * *

U.S. prices for product 2 and 3 were typically higher than product 1 prices. At the beginning and end of the period of review, the price of U.S. product 3 tended to be higher than that of U.S. product 2. Between the third quarter of 2009 and the first quarter of 2012, however, the price of U.S. product 3 was higher than U.S. product 2 in only one quarter (figure V-5).

Figure V-5
Lemon juice: Weighted-average f.o.b. prices domestic products 1, 2, and 3, by quarter, January 2007-December 2012

* * * * * * *

Price Trends

Prices for all three types of lemon juice from all countries for which these data were available more than doubled between the beginning of 2007[9] and the last quarter of 2012. The prices of U.S. products 1 and 2 almost tripled over the same period and both product 1 and product 2 prices peaked in the third quarter of 2011.[10] Prices for Argentine products 1 and 2 were only available between the first quarter of 2008 and the final quarter of 2012 (with no price data in some quarters in this range). Prices

[9] Respondents report that prices in 2007 "were artificially depressed because of the bankruptcy of Citrico" and that Citrico's inventories included "a significant amount of Sunkist juice." Respondents' posthearing brief, p. 3.

[10] The lemon juice shortage in 2007-2008 did not appear to lead to as large an increase in U.S. prices as prices reported by subject imports. ***, reflecting the lower prices Sunkist had as a result of long-term contracts at the beginning of the period investigated. Hearing transcript, pp. 25-26 (Borgers)

for both products from Argentina more than doubled over this period. The price of Argentine product 1 was highest in the first quarter of 2011 and Argentine product 2's price was highest in the third quarter of 2010. The price of Mexican product 1 was over three times as high at the end of 2012 as it had been at the beginning of 2007, and was highest in the fourth quarter of 2010. Mexican product 3 price is available only in the third quarter of 2007.

Table V-4
Lemon juice: Summary of weighted-average f.o.b. prices for products 1, 2, and 3 by country

Item	Number of quarters	Low price (per gallon)	High price (per gallon)	Change in price[1] (percent)
U.S. product 1	24	***	***	196.1
Argentine product 1	20	***	***	--
Mexican product 1	21	***	***	268.9
U.S. product 2	19	***	***	196.8
Argentine product 2	13	***	***	--
U.S. product 3	24	***	***	101.8
Mexican product 3	1	***	***	--

[1] Price changes reported are from the first quarter of 2007 to the fourth quarter of 2012. Changes in price are only shown for data series with both 2007 and 2012 data. Percentage change is based on unrounded data.

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

Price Comparisons

Table V-5 summarizes the pricing overselling and underselling margins. Subject imports were priced lower than equivalent domestic products in 30 of 52 instances, by margins of 1.5 to 40.8 percent, and were higher than domestic products in 22 instances, by margins of 0.0 to 126.6 percent (tables V-1 to V-3).[11] Prices of Argentine and Mexican product 1 were higher than U.S. prices between the second quarter of 2008 and the third quarter of 2009 and between second quarter of 2010 and the first quarter of 2011. Since the second quarter of 2011, however, Argentine and Mexican product 1 prices have been consistently below U.S. prices. Argentine product 2 prices were typically below U.S. product 2 prices. The Mexican product 3 price was below the U.S. price in the only quarter in which the Mexican price was available.

[11] During the original investigations, prices were collected monthly rather than quarterly. Imports from subject countries were priced lower than domestic product in 72 of 112 comparisons. Specifically, imports from Argentina were priced lower than domestic products in 34 of the 69 price comparison and imports from Mexico were priced lower than domestic products in 38 of 43 price comparisons. Confidential staff prehearing report for the original investigations (memorandum INV-EE-120, September 4, 2007), table V-4.

Table V-5
Lemon juice: Instances of underselling/overselling and the range and average of margins 2007-2012

Country	Underselling number of instances	Underselling range (*percent*)	Underselling average margin (*percent*)	Overselling number of instances	Overselling range (*percent*)	Overselling average margin (*percent*)
Argentina product 1	9	1.5-23.2	10.4	11	0.0-76.4	42.7
Mexico product 1	11	8.4-28.1	18.1	10	0.1-126.6	43.8
Total product 1	20	1.5-28.1	14.7	21	0.0-126.6	43.2
Argentina product 2	9	20.8-40.8	27.1	1	0.1	0.1
Mexico product 3	1	***	***	0	--	--
Total	30	1.5-40.8	19.0	22	0.0-126.6	41.3

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

Purchaser Perceptions of Relative Price Trends

Purchasers were asked how the price of product from subject countries had changed relative to U.S. prices since 2007. One purchaser reported that prices had not changed since 2007. Four reported that U.S., Argentine, and Mexican prices have changed the same amount. Three of four responding purchasers reported that the U.S. price had increased both relative to the price of product from Argentina and the product from Mexico. The other purchaser reported that the price of product from Argentina and Mexico had increased relative to the U.S. price.

APPENDIX A

FEDERAL REGISTER NOTICES

The Commission makes available notices relevant to its investigations and reviews on its website, www.usitc.gov. In addition, the following tabulation presents, in chronological order, Federal Register notices issued by the Commission and Commerce during the current proceeding.

Citation	Title	Link
77 FR 45653, August 1, 2012	*Lemon Juice From Argentina and Mexico*	http://www.gpo.gov/fdsys/pkg/FR-2012-08-01/pdf/2012-18441.pdf
77 FR 45589, August 1, 2012	*Initiation of Five-Year ("Sunset") Review and Correction*	http://www.gpo.gov/fdsys/pkg/FR-2012-08-01/pdf/2012-18820.pdf
77 FR 67833, November 14, 2012	*Lemon Juice From Argentina and Mexico; Notice of Commission Determination To Conduct Full Five-Year Reviews*	http://www.gpo.gov/fdsys/pkg/FR-2012-11-14/pdf/2012-27640.pdf
77 FR 72384, December 5, 2012	*Lemon Juice From Argentina and Mexico; Scheduling of Full Five-Year Reviews Concerning the Suspended Investigations on Lemon Juice From Argentina and Mexico*	http://www.gpo.gov/fdsys/pkg/FR-2012-12-05/pdf/2012-29263.pdf
77 FR 73021, December 7, 2012	*Lemon Juice From Argentina: Final Results of the Expedited First Sunset Review of the Suspended Antidumping Duty Investigation*	http://www.gpo.gov/fdsys/pkg/FR-2012-12-07/pdf/2012-29666.pdf
77 FR 75998, December 26, 2012	*Lemon Juice from Mexico: Preliminary Results of Full Sunset Review of the Suspended Antidumping Duty Investigation*	http://www.gpo.gov/fdsys/pkg/FR-2012-12-26/pdf/2012-31101.pdf
Note.–The press release announcing the Commission's determinations concerning adequacy and the conduct of a full or expedited review can be found at http://usitc.gov/press_room/news_release/2012/er1105kk1.htm. A summary of the Commission's votes concerning adequacy and the conduct of a full or expedited review can be found at http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11513 and http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11515. The Commission's explanation of its determinations can be found at http://pubapps2.usitc.gov/sunset/caseProfSuppAttmnt/download/11514.		

APPENDIX B

HEARING WITNESSES

CALENDAR OF PUBLIC HEARING

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

Subject: Lemon Juice from Argentina and Mexico

Inv. Nos.: 731-TA-1105 and 1106 (Review)

Date and Time: May 16, 2013 - 9:30 a.m.

Sessions were held in connection with these investigations in the Main Hearing Room (room 101), 500 E Street, SW, Washington, D.C.

OPENING REMARKS:

In Support of Continuation (**Matthew T. McGrath**, Barnes, Richardson & Colburn, LLP)
In Opposition to Continuation (**Christopher Dunn**, Curtis Mallet-Prevost Colt & Mosle LLP)

In Support of the Continuation of Suspension Agreements:

Barnes, Richardson & Colburn, LLP
Washington, D.C.
on behalf of

Ventura Coastal, LLC
Sunkist Growers, Inc.

William Borgers, Chief Executive Officer, Ventura Coastal, LLC

Barbara Ratchford, Director, Production Scheduling and Planning, Ventura Coastal LLC

Michael J. Wootton, Senior Vice President, Sunkist Growers, Inc.

Amy Warlick, Economist, Barnes, Richardson & Colburn, LLP

Matthew T. McGrath)
) – OF COUNSEL
Stephen W. Brophy)

In Opposition to the Continuation of
Suspension Agreements:

Arent Fox LLP
Washington, D.C.
on behalf of

The Coca-Cola Company
The Coca-Cola Export Corporation, Mexico Branch ("TCCC")

Jim Horrisberger, North American Director, TCCC

Jason Maxfield, Procurement Manger, Odwalla

Matthew J. Clark)
) – OF COUNSEL
Nancy A. Noonan)

Curtis, Mallet-Prevost, Colt & Mose LLP
Washington, D.C.
on behalf of

Citromax, S.A.C.I., S.A. Miguel, and
Citrusvil S.A.

Suzy Nolan, Vice President, Commercial Operations,
Citromax, S.A.C.I.

Christopher Dunn) – OF COUNSEL

Dentons US LLP
Washington, D.C.
on behalf of

Procimart SA de CV and
The Citrus Team Company (collectively, "Procimart")

Federico Martinez, President and General Manager,
Procimart

Mark P. Lunn)
) – OF COUNSEL
Daniel Morris)

REBUTTAL/CLOSING REMARKS:

In Support of Continuation (**Matthew T. McGrath**,
Barnes, Richardson & Colburn, LLP *and* **William Borgers**
Ventura Coastal, LLC)
In Opposition to Continuation (**Mark P. Lunn**, Dentons US LLP *and*
Matthew J. Clark, Arent Fox LLP)

-END-

APPENDIX C

SUMMARY DATA

Table C-1

Lemon juice: Summary data concerning the U.S. market, 2007-12

(Quantity=1,000 gallons @ 400 GPL; Value=1,000 dollars; Unit values, unit labor costs, and unit expenses=dollars per gallon @ 400 GPL; Period changes=percent--exceptions noted)

	Reported data						Period changes					
Item	2007	2008	2009	2010	2011	2012	2007-12	2007-08	2008-09	2009-10	2010-11	2011-12
U.S. consumption quantity:												
Amount	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1) :												
Argentina	***	***	***	***	***	***	***	***	***	***	***	***
Mexico	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***
U.S. consumption value:												
Amount	***	***	***	***	***	***	***	***	***	***	***	***
Producers' share (1)	***	***	***	***	***	***	***	***	***	***	***	***
Importers' share (1) :												
Argentina	***	***	***	***	***	***	***	***	***	***	***	***
Mexico	***	***	***	***	***	***	***	***	***	***	***	***
All other sources	***	***	***	***	***	***	***	***	***	***	***	***
Total imports	***	***	***	***	***	***	***	***	***	***	***	***
U.S. imports from:												
Argentina:												
Quantity	471	1,328	1,026	1,309	3,410	2,487	428.4	182.2	-22.8	27.6	160.6	-27.1
Value	5,538	24,876	19,581	30,786	75,190	45,566	722.7	349.2	-21.3	57.2	144.2	-39.4
Unit value	$11.77	$18.73	$19.09	$23.53	$22.05	$18.32	55.7	59.2	1.9	23.3	-6.3	-16.9
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Mexico:												
Quantity	922	1,153	695	1,361	979	918	-0.4	25.1	-39.7	95.9	-28.1	-6.2
Value	6,003	18,335	10,300	29,969	18,199	10,182	69.6	205.5	-43.8	191.0	-39.3	-44.1
Unit value	$6.51	$15.91	$14.83	$22.02	$18.59	$11.10	70.4	144.2	-6.8	48.5	-15.6	-40.3
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All other sources:												
Quantity	1,228	1,177	979	925	1,702	1,158	-5.7	-4.2	-16.8	-5.5	84.1	-32.0
Value	14,788	23,107	17,843	22,010	37,607	25,567	72.9	56.3	-22.8	23.4	70.9	-32.0
Unit value	$12.05	$19.64	$18.23	$23.80	$22.10	$22.09	83.4	63.0	-7.2	30.6	-7.2	0.0
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
All sources:												
Quantity	2,620	3,658	2,699	3,594	6,091	4,562	74.1	39.6	-26.2	33.1	69.5	-25.1
Value	26,329	66,318	47,724	82,765	130,996	81,315	208.8	151.9	-28.0	73.4	58.3	-37.9
Unit value	$10.05	$18.13	$17.68	$23.03	$21.51	$17.82	77.4	80.4	-2.5	30.3	-6.6	-17.1
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
U.S. producers':												
Average capacity quantity	***	***	***	***	***	***	***	***	***	***	***	***
Production quantity	***	***	***	***	***	***	***	***	***	***	***	***
Capacity utilization (1)	***	***	***	***	***	***	***	***	***	***	***	***
U.S. shipments:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Export shipments:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Ending inventory quantity	***	***	***	***	***	***	***	***	***	***	***	***
Inventories/total shipments (1)	***	***	***	***	***	***	***	***	***	***	***	***
Production workers	***	***	***	***	***	***	***	***	***	***	***	***
Hours worked (1,000s)	***	***	***	***	***	***	***	***	***	***	***	***
Wages paid ($1,000)	***	***	***	***	***	***	***	***	***	***	***	***
Hourly wages	***	***	***	***	***	***	***	***	***	***	***	***
Productivity (gallons @ 400 GPL per 1,000 hours)	***	***	***	***	***	***	***	***	***	***	***	***
Unit labor costs	***	***	***	***	***	***	***	***	***	***	***	***
Net sales:												
Quantity	***	***	***	***	***	***	***	***	***	***	***	***
Value	***	***	***	***	***	***	***	***	***	***	***	***
Unit value	***	***	***	***	***	***	***	***	***	***	***	***
Cost of goods sold (COGS)	***	***	***	***	***	***	***	***	***	***	***	***
Gross profit or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
Capital expenditures	***	***	***	***	***	***	***	***	***	***	***	***
Unit COGS	***	***	***	***	***	***	***	***	***	***	***	***
Unit SG&A expenses	***	***	***	***	***	***	***	***	***	***	***	***
Unit operating income or (loss)	***	***	***	***	***	***	***	***	***	***	***	***
COGS/sales (1)	***	***	***	***	***	***	***	***	***	***	***	***
Operating income or (loss)/sales (1)	***	***	***	***	***	***	***	***	***	***	***	***

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

(2) 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 totals shown. Unit values and shares are calculated from the unrounded figures.

Source: Compiled from data submitted in response to Commission questionnaires and from official Commerce statistics.

APPENDIX D

RESPONSES OF U.S. PROCESSORS, U.S. IMPORTERS, U.S. PURCHASERS, AND FOREIGN PRODUCERS CONCERNING THE SIGNIFICANCE OF THE SUSPENSION AGREEMENTS AND THE LIKELY EFFECTS OF TERMINATION

U.S. PROCESSORS' COMMENTS REGARDING THE SIGNIFICANCE OF THE SUSPENSION AGREEMENTS AND THE LIKELY EFFECTS OF TERMINATION

The Commission requested U.S. processors to describe any changes in the character of their operations or organizations relating to the production of lemon juice in the future if the suspension agreements were to be terminated. The following are quotations from the responses of U.S. processors.

Sunkist	***.
Ventura Coastal	***.

The Commission requested U.S. processors to describe the significance of the suspended investigations on lemon juice from Argentina and Mexico in terms of its effect on their firm's production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values. The following are quotations from the responses of U.S. processors.

Sunkist	***.
Ventura Coastal	***.

The Commission requested U.S. processors to describe any anticipated changes in their production capacity, production, U.S. shipments, inventories, purchases, employment, revenues, costs, profits, cash flow, capital expenditures, research and development expenditures, and asset values relating to the production of lemon juice in the future if the suspended investigations on lemon juice from Argentina and Mexico were terminated. The following are quotations from the responses of U.S. processors.

Sunkist	***.
Ventura Coastal	***.

U.S. IMPORTERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE SUSPENSION AGREEMENTS AND THE LIKELY EFFECTS OF TERMINATION

The Commission requested U.S. importers to describe any anticipated changes to the character of their operations or organizations relating to the importation of lemon juice in the future if the suspension agreements were to be terminated. The following are quotations from the responses of U.S. importers.

2Skebengas dba InterGlobal Products	***.
Citrus Team Company	***.
Eastcoast Flavors	***.
Lucy's Enterprises	***.
Mitsui Foods	***.
TCCEC	***.
WEGO Chemical & Mineral	***.

The Commission requested U.S. importers to describe the significance of the existing suspension agreements on lemon juice from Argentina and Mexico in terms of its effect on their imports, U.S. shipments of imports, and inventories. The following are quotations from the responses of importers.

2Skebengas dba InterGlobal Products	***.
Citrus Team Company	***.
Eastcoast Flavors	***.
Lucy's Enterprises	***.
Mitsui Foods	***.
TCCEC	***.
WEGO Chemical & Mineral	***.

The Commission requested U.S. importers to describe any anticipated changes in their imports, U.S. shipments of imports, or inventories of lemon juice in the future if the suspended investigations on lemon juice from Argentina and Mexico were terminated. The following are quotations from the responses of importers.

2Skebengas dba InterGlobal Products	***.
Citrus Team Company	***.
Eastcoast Flavors	***.
Lucy's Enterprises	***.
Mitsui Foods	***.
TCCEC	***.
WEGO Chemical & Mineral	***.

U.S. PURCHASERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE SUSPENSION AGREEMENTS AND THE LIKELY EFFECTS OF TERMINATION

The Commission asked U. S. purchasers to identify and discuss any improvements/changes in the U.S. lemon juice industry since 2007 and explain the factors, including the suspended investigations under review, that were responsible for each improvement/change. Their responses are as follows.

* * * * * * *

The Commission asked U. S. purchasers to discuss any improvements/changes that they anticipate in the future in the U.S. lemon juice industry, and identify the time period and causes for these improvements/changes. Their responses are as follows.

* * * * * * *

The Commission asked U. S. purchasers to comment on the likely effect of the suspended investigations for imports of lemon juice from Argentina and Mexico. They were asked to discuss the potential effects of termination of the suspension agreements in terms of the *future activities of their firm*. Their responses are as follows.

* * * * * * *

The Commission asked U. S. purchasers to comment on the likely effect of the suspended investigations for imports of lemon juice from Argentina and Mexico. They were asked to discuss the potential effects of termination of the suspension agreements in terms of the *U.S. market as a whole*. Their responses are as follows.

* * * * * * *

FOREIGN PRODUCERS' COMMENTS REGARDING THE SIGNIFICANCE OF THE SUSPENSION AGREEMENTS AND THE LIKELY EFFECTS OF TERMINATION

The Commission requested foreign producers to describe any changes in the character of their operations or organizations relating to the production of lemon juice in the future if the suspended investigations on lemon juice from Argentina and Mexico were to be terminated. The following are quotations from the responses of foreign producers.

Citromax	***.
Citrusvil	***.
Procimart	***.
San Miguel	***.
TCCEC	***.

The Commission requested foreign producers to describe the significance of the existing suspended investigations on lemon juice from Argentina and Mexico in terms of its effect on their firm's production capacity, production, home market shipments, exports to the United States and other markets, and inventories. The following are quotations from the responses of foreign producers.

Citromax	***.
Citrusvil	***.
Procimart	***.
San Miguel	***.
TCCEC	***.

The Commission requested foreign producers to describe any anticipated changes in their production capacity, production, home market shipments, exports to the United States and other markets, or inventories relating to the production of lemon juice in the future if the suspended investigations on lemon juice from Argentina and Mexico were to be terminated. The following are quotations from the responses of foreign producers.

Citromax	***.
Citrusvil	***.
Procimart	***.
San Miguel	***.
TCCEC	***.

APPENDIX E

NORMAL VALUES ASSIGNED UNDER THE SUSPENSION AGREEMENTS

Table E-1
Lemon juice: Argentine normal values assigned by Commerce

Firm	2008	2009	2010	2011	2012
***	***	***	***	***	***
***	***	***	***	***	***
***	***	***	***	***	***

Note.—***.

Source: Supplemental Response of Argentine Respondents, June 12, 2013.

Table E-2
Lemon juice: Mexican normal values assigned by Commerce

Firm	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012
***	***	***	***	***	***
***	***	***	***	***	***

Source: Joint Respondents' Posthearing Brief, Response to Commissioner Questions, pp. 15-16.