

UNITED STATES INTERNATIONAL TRADE COMMISSION

Investigation No. 731-TA-1089 (Preliminary)

CERTAIN ORANGE JUICE FROM BRAZIL

DETERMINATION

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission (Commission) determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of certain orange juice,² provided for in subheadings 2009.11.00, 2009.12.25, 2009.12.45, and 2009.19.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).³

COMMENCEMENT OF FINAL PHASE INVESTIGATION

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the *Federal Register* as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

BACKGROUND

On December 27, 2004, a petition was filed with the Commission and Commerce on behalf of Florida Citrus Mutual, Lakeland, FL; A. Duda & Sons (d/b/a Citrus Belle) Oviedo, FL; Citrus World,

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 The imported product subject to this investigation is certain orange juice for transport and/or manufacturing, produced in two different forms: (1) frozen orange juice in a highly concentrated form, referred to as frozen concentrated orange juice for further manufacturing ("FCOJM"); and (2) pasteurized single-strength orange juice which has not been concentrated, referred to as not-from-concentrate orange juice ("NFCOJ").

³ Vice Chairman Deanna Tanner Okun, Commissioner Jennifer A. Hillman, and Commissioner Daniel R. Pearson find two domestic like products in this investigation - FCOJM and NFCOJ. They determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of FCOJM from Brazil. They also determine that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports of NFCOJ from Brazil.

Inc., Lake Wales, FL; Peace River Citrus Products, Inc., Arcadia, FL;⁴ and Southern Garden Citrus Processing Corp. (d/b/a Southern Gardens), Clewiston, FL, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of certain orange juice from Brazil. Accordingly, effective December 27, 2004, the Commission instituted antidumping duty investigation No. 731-TA-1089 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of January 4, 2005 (70 FR 387, January 4, 2005). The conference was held in Washington, DC, on January 19, 2005, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 7, 2005, and its views were transmitted on March 14, 2005. The views of the Commission are contained in USITC Publication 3757 (February 2005), entitled *Certain Orange Juice from Brazil: Investigation No. 731-TA-1089 (Preliminary)*.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: April 15, 2005

⁴ On January 31, 2005, petitioners submitted a letter to the Commission modifying the petition to remove Peace River as a petitioner. In a letter sent to Commerce on January 27, 2005, Peace River stated that it opposes the petition until resolution of the ongoing sunset review of the existing order on frozen concentrated orange juice from Brazil. It reserves its right to change its position on the petition based on the outcome of the sunset review.