STATEMENT BEFORE THE
U.S. INTERNATIONAL TRADE COMMISSION
CERTAIN ORANGE JUICE FROM BRAZIL
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My name is Amy Warlick. I'm an International Trade Economist with Barnes, Richardson & Colburn, counsel to Florida Citrus Mutual and the other petitioning parties in this investigation.

The U.S. orange juice industry has benefitted from the AD order imposed on subject Brazilian processors, and is highly vulnerable to the damage its termination would cause. The industry continues to deal with high and growing costs of production, exacerbated by the costs of battling citrus greening (HLB), canker and other citrus diseases. It also continues to suffer from the consequences of damaging weather events. These challenges are faced in the midst of declining U.S. OJ consumption and stiff competition from abroad. Under these conditions, the industry is grateful for the price discipline brought by the AD order. It has allowed orange and wholesale OJ prices to move more freely and fairly in response to supply and demand forces. When global supplies increase, prices decline, but have not become deep, multi-year troughs as they did before the order. When global supplies decrease, prices are allowed to rise to higher levels than before the order so that growers and processors can recoup enough gross earnings to stay afloat, despite their higher costs and lower production.

We did not file this case out of greed for greater profits. We filed this case so that we could have profits, which was not the case in 2005. The industry is using these new profits to invest heavily in research and day-to-day citricultural practices to solve the ills of greening, canker, and other diseases that plague our groves. U.S. state and federal governments have also invested in the future of our industry via funding for disease research and recovery in the wake of the powerful and bacteria-spreading hurricanes in '04 and '05. We have focused our efforts on the replanting of dying groves with clean nursery stock and do not, yet, have the confidence to expand our groves. However, we are confident enough to say that it is realistic to believe that the U.S. orange juice industry is sustainable into the future and could grow if this order is maintained.

By contrast, Respondents have declared that the U.S. orange juice industry is "highly profitable," has "extremely high" earnings, has experienced both "revitalization" and "rejuvenation," and is "not vulnerable." They have even gone so far as to say that it's "impossible" that material injury will recur. This is not the experience of 99 percent of U.S. orange growers, and it's not the experience of U.S. or even Brazilian citrus processors in Florida.

Let's examine U.S. processors' financial status. First, Citrus World's data cannot be fairly aggregated with corporate processors, since their co-op structure does not account for orange costs the same way. The remaining U.S. processors can in no way be characterized as highly profitable. They struggle with high orange, factory and labor costs. Yes, they have been more profitable since the imposition of the order, but those profits are based almost entirely on the current high price of bulk OJ, which is not sustainable given projections for Brazil's next two bumper crops.

Similarly, U.S. orange growers have been more profitable since the imposition of the order, but those profits are also based almost entirely on the current high price of oranges, which is also not sustainable. Over the last nine years, U.S. growers' costs of production have soared.

See Exhibit 1 and 2. Both the questionnaire data, as well as the public data published by the University of Florida show grower costs per box of oranges rising from roughly $5 for both Valencia and Hamlin oranges in 03/04 to about $7.50 for Hamlins and $8 for Valencias during the past few years --- a 50 to 60 percent average increase, with individual growers here today having experienced a doubling of costs! Fortunately, temporarily lower Brazilian orange supplies in 09/10 and 10/11 coupled with the effects of the dumping order have boosted the prices of both OJ and oranges, enabling Hamlin growers to earn a small profit and Valencia growers to earn a moderate profit since the order was imposed. See Exhibit 3. So long as orange prices remain above the rising costs of producing oranges, orange growers stand a chance at turning a profit. However, impending large supplies in Brazil threaten to depress prices and eliminate our profits in the immediate future.

In their prehearing brief, Respondents paint a picture of dwindling Brazilian production, capacity, and inventories, and dismiss the US market as "an afterthought."

According to the GAIN Report released last December, Brazilian production capacity actually grew by 5 million bearing trees between 05/06 and 10/11, and is estimated to have grown by another 4 million bearing trees in the current 11/12 marketing year. Brazil does have disease problems just like we do in Florida. However, while both countries share the disease problems, we do not share the solutions enjoyed by Brazil. Last September, Food News reported a ***$3 billion*** Brazilian government effort to begin irrigating for orange production semi-arid parts of Brazil, away from the disease contaminated tropical regions. See Exhibit 4.

Second, Respondents' alleged lack of interest in the U.S. market, relative to the EU and Asian markets, is disingenuous considering that the United States remained the world's largest consumer of processed OJ in 10/11, accounting for 38 percent of world consumption. All 27 EU countries together consumed 40 percent, and Japan, China and S. Korea together only consumed 7 percent. In addition to its value as a large and lucrative market for Brazil, the United States has also served as an important outlet for Brazil's residual supplies of orange juice, which they don't want to dump in the EU market, where they enjoy high prices and little competition..

Third, Respondents claim that Brazilian production and inventories are so low that "there is simply no juice available for Brazilian producers to export to the United States." This is absurd. They are currently harvesting 506 million boxes of oranges, which is a 34 percent increase over last year. Yes, 10/11 was an unusually short crop for Brazil and that marketing year is the last in the period of review. But they are now harvesting one of their largest crops ever. See Exhibit 5.

Brazilian orange growers are also projected to send 35 percent more oranges to Brazilian processers this year, and those processors are projected to produce 36 percent more orange juice. According to the questionnaires, Brazilian processors have been operating at only 57 to 70 percent of their production capacity during the last 6 years.[1] In addition, the questionnaires show "an increase in capacity for total subject certain orange juice by over 5 percent from 05/06 to 10/11."[2]

By June 30th of this year, Brazil is expected to hold record inventories. The GAIN Reports only collect inventory data on what processors hold in their tank farms in Sao Paulo. So,

[1] ITC Prehearing Staff Report, p. IV-16.
[2] ITC Prehearing Staff Report, p. IV-10.

the 205,000 metric tons at 65° brix expected on June 30th of this year, up from only 15 thousand last June, is only a portion of the total amount of Brazilian orange juice that will be held. They also have tank farms elsewhere in Brazil, the EU, Japan, and the United States. To accommodate the increase in inventories, according to the Staff Report, "Four Brazilian processor/extractors reported increases of juice storage capacity."[3]

But wait. There's more. Brazilian juice is also being stockpiled under the CONSECITRUS program. CONSECITRUS is not mentioned in the Staff Report, nor has it been discussed in Respondents' briefs. But, it is essential that the Commission understands the details and ramifications of this Brazilian government-funded program, which was implemented on July 1, 2011.[4] CONSECITRUS involves up to $200 million in low-interest funds granted by Brazil's government to its OJ processors to purchase oranges, subject to reference prices, and processed them into OJ that is required to be stockpiled for at least a year.[5] According to reports, the new credit line was created to finance the stockpiling of up to 240,000 metric tons of orange juice at 65° brix,[6] which is 17 percent of Brazil's anticipated OJ production in 11/12, and equivalent to 37 percent of U.S. OJ production in 10/11. According to the latest report, so far this 11/12 marketing season, Brazil's OJ industry has already used $131 million of this credit line to buy oranges that will be processed into 100,000 metric tons of OJ at 65° brix for stockpiling until July 1, 2012.[7]

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[3] ITC Prehearing Staff Report, p. IV-9.

[4] "Brazilian government implements minimum processing orange price," FoodNews, Vol. 39, Issue 25, June 24, 2011.

[5] "Brazilian government implements minimum processing orange price," FoodNews, Vol. 39, Issue 25, June 24, 2011.

[6] "Brazilian government implements minimum processing orange price," FoodNews, Vol. 39, Issue 25, June 24, 2011.

[7] "Brazil will withhold 100 000 tonnes of FCOJ for next year release," FoodNews, Vol. 39, Issue 51, Dec. 23, 2011.

So, this stockpiled 100,000 metric tons will be held **in addition** to the 205,000 metric tons held by processors in Sao Paulo and the unknown amounts held by those processors outside of Sao Paulo. In sum, within 6 months, Brazilian inventories will likely be at least 305,000 metric tons, at least half of what Florida produces in a year.[8]

So, now, what happens to current high global prices when all that juice is eventually released onto the world market? It could be released as early as July 1, 2012, the beginning of the harvest of Brazil's next large crop. However, the Brazilian industry has an incentive to release these price-depressing volumes during the harvest and marketing of Florida's 12/13 crop next January.

Whenever they are released, access to Brazil's tremendous accumulated stocks will cause the FCOJ futures and orange prices to drop precipitously, returning to Florida processors and growers much lowered profits, if any profits at all. To Florida growers and processors struggling with the multiple threats of disease, weather events, and reduced demand from the Brazilian carbendazim event, the specter of those huge Brazilian OJ stockpiles flooding the world market is alarming.

So, contrary to Respondents' brief, Brazilian OJ inventories are currently growing and are projected to reach the highest levels Brazil has ever had. And when that juice arrives in the United States, expanded Brazilian-owned storage facilities will be ready to receive it. In January 2010, $15.5 million in U.S. federal stimulus bond funds were granted to Citrosuco North America (soon to include Citrovita) to expand its terminal facility at the Port of Wilmington by constructing juice storage tanks capable of storing over 10 million gallons of imported Brazilian

[8] "Brazil will withhold 100 000 tonnes of FCOJ for next year release," FoodNews, Vol. 39, Issue 51, Dec. 23, 2011.

orange juice. Cleary, the Brazilian industry understands that these higher volumes of imports from Brazil are inevitable and they are planning for them.

In its final determination in these sunset reviews, the U.S. Department of Commerce concluded that, if the orders were revoked, dumping would recur at rates ranging from 12 to 60 percent.[9] To project the impact of such an event, we've made the conservative assumption that dumping will recur at an average rate of 15 percent, which is essentially a license to reduce U.S. prices by 15 percent without antidumping consequences. A 15 percent decline in 10/11 average futures prices of $1.72/ps is equal to 26¢/ps. See Exhibit 6.

Meanwhile, however, according to the questionnaire data, growers' production costs have increased by 56¢/ps between the pre-order period (02/03 to 04/05), and 10/11. The resumption of dumping and potential decline in price of 26¢/ps would undercut growers' ability to recover these additional 56¢/ps costs. So, growers' operating income of 24¢/ps in 10/11 would be entirely eliminated by the recurrence of 15 percent dumping, and growers would fall deeply into red ink.

Coke has argued that dumping should be allowed to recur and that it won't cause injury because the United States has "residual demand," that it cannot satisfy on its own. The problem is that when ITC's residual demand calculations from the remand investigation are applied to data during the POR, "residual demand" is only found in 06/07, a year affected by the hurricanes. See Exhibit 7. So, Coke added exports into the equation as unavailable U.S. supplies. However, they used inflated export data from a USDA website, called PS&D Online, instead of the U.S. processors' questionnaires. The exports they used include both retail-

[9] Certain Orange Juice from Brazil: Final Results of the Expedited Sunset Review of the Antidumping Order, 76 Fed. Reg. 30655 (May 26, 2011).

packaged juice and imported juice that is re-exported. When this calculation is performed using the more accurate export data reported in the U.S. processors' questionnaires, only a small amount of residual demand results in one additional year, 05/06 --- the other year affected by the hurricanes.

All this tells us is that we weren't able to fulfill the needs of every orange juice processor in the United States after we took direct hits by 4 catastrophic hurricanes in 2 years. Our industry's occasional need for foreign orange juice supplies during a crisis does not entitle Brazil to dump in our market. Brazilian juice is often imported at prices that undersell U.S. prices, it enters in volumes that far exceed residual demand, it enters in years where no residual demand exists, and it enters regardless of whether or not U.S. imports from 3rd countries have already satisfied any residual demand.

Finally, respondents also allege that "One of the more remarkable untold stories about the revitalization of the domestic industry is its vastly increased ability to export abroad." As discussed previously, the exports they are referring to are total exports from PS&D Online, which include retail-packaged orange juice, U.S. juice blended with Brazilian juice, and even straight Brazilian orange juice.

The data source closest to presenting a true picture of how much U.S.-produced juice was exported is the U.S. Processors' Questionnaire data. Those data show a moderate decline in FCOJM exports during the first half of the POR, then a moderate increase during the second. The U.S. Processors' questionnaire data also show a moderate increase in NFCOJ exports during the first 5 seasons of the POR, then a decline in 10/11.

Mr. Caspar has explained that much of the OJ that has been exported from the United States during recent years was exported by Brazilian-owned U.S. importers and processors transferring Brazilian and U.S. stocks to the EU to fulfill customers' orders. U.S. processors that are not Brazilian-owned still have minimal and slow-growing export shipments and, quite unfortunately, their ability to export has not been revitalized. There is no "remarkable untold story" here.

Respondents will tell you that "Market conditions governing the production of orange juice in the U.S. have changed enormously." Not really. Low supplies still result in higher prices and high supplies still result in lower prices. What has changed is that the AD order has enforced price discipline on subject Brazilian processors, so that they cannot depress prices unnecessarily when supplies are high, and they cannot suppress prices when supplies are tight. Instead, prices are allowed to fluctuate more naturally and more appropriate to global market conditions. For these reasons, we oppose removal of the antidumping duty orders.

Thank you for your attention, and I would be pleased to answer any questions you may have.