FROZEN CONCENTRATED ORANGE JUICE FROM BRAZIL

Determination of the Commission in Investigation No. 701-TA-184 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. 701-TA-184 (Preliminary)

FROZEN CONCENTRATED ORANGE JUICE FROM BRAZIL

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission determines, 2/ pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Brazil of frozen concentrated orange juice, provided for in item 165.35 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Brazil.

Background

On July 14, 1982, a petition was filed with the Commission and the Department of Commerce by Florida Citrus Mutual alleging that imports of frozen concentrated orange juice from Brazil are being subsidized by the Government of Brazil within the meaning of section 701 of the Tariff Act of 1930 (19 U.S.C. § 1671). Accordingly, effective July 14, 1982, the Commission instituted a preliminary countervailing duty investigation under section 703(a) of the Act (19 U.S.C. § 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an

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

2/ Commissioners Calhoun and Haggart did not participate. Commissioner Stern found only a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Brazil of frozen concentrated orange juice.

industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigation and of a 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, D.C., and by publishing the notice in the Federal Register on July 28, 1982 (47 F.R. 32666). The conference was held in Washington, D.C., on August 10, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

VIEWS OF THE COMMISSION

The record of this investigation provides a reasonable indication that an industry in the United States is materially injured or threatened with material injury 1/ by reason of imports from Brazil of frozen concentrated orange juice which are allegedly being subsidized by the Government of Brazil.

Domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." 2/ "Like product" is defined as a product which is like, or in the absence of like, most similar in characteristics and uses with, the article under investigation. 3/

The imported product under investigation is frozen concentrated orange juice (FCOJ) from Brazil. 4/ FCOJ is produced by extracting the juice from fresh oranges, evaporating natural moisture from the juice until a desired level of concentration is achieved, and then freezing the concentrate. 5/ Oranges used in the production of orange juice are called "round oranges" and

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1/ Commissioner Stern found only a reasonable indication of threat of material injury. Commissioners Calhoun and Haggart did not participate in this determination.

2/ 19 U.S.C. § 1677(4)(A).

3/ 19 U.S.C. § 1677(10).

4/ The term FCOJ is sometimes used interchangeably with FCOJM, frozen concentrated orange juice for manufacturing. The distinction between FCOJ and FCOJM is the degree of concentration. FCOJ requires a 3 to 1 dilution with water to reach single strength for human consumption; FCOJM requires a 7 to 1 dilution with water. Report at A-2-3.

5/ Report at A-2-5.

can be distinguished from eating oranges. FCOJ can be distinguished from fresh or canned orange juice, neither of which is imported from Brazil.

Domestic FCOJ is virtually the same as the imported product. Although differences in quality were alleged, 6/ these differences do not appear such as to render domestic orange juice a different product. For the purposes of this preliminary investigation, we therefore find the like product to be FCOJ.

Determining the appropriate industry against which the impact of allegedly subsidized imports is to be measured presents a special problem in this case as it does in many agricultural product cases. These problems were foreseen by Congress and discussed in the Senate Finance Committee report on the Trade Agreements Act of 1979:

> Because of the special nature of agriculture, . . . special problems exist in determining whether an agricultural industry is materially injured. For example, in the livestock sector, certain factors relating to the state of a particular industry within that sector may appear to indicate a favorable situation for that industry when in fact the opposite is true. Thus, gross sales and employment in the industry producing beef could be increasing at a time when economic loss is occurring, i.e., cattle herds are being liquidated because prices make the maintenance of the herds unprofitable. 7/

In the discussion cited above, it is clear that Congress contemplated that the producers of beef and the cattle growers be included in one industry for purposes of analyzing the effect of subsidized or dumped meat imports on that sector of the economy. The passage refers to the "industry producing beef," clearly implying meat processors, and "cattle herds," and clearly involving ranchers and feeders, in the context of analyzing material injury to an industry by reason of subsidized imports. Thus, Congress recognized the

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6/ Id. at A-3.
7/ S. Rep. No. 96-249, 96th Cong., 1st sess. 88 (1979).

difficulty of analyzing injury to agricultural industries. Moreover, by the assumptions made in the above example, it is clear that Congress recognized the highly interdependent nature of the livestock sectors of the economy, and did not intend the statutory definition of industry to preclude an assessment of material injury to an adversely impacted sector of a meat producing industry.

It does not necessarily follow that in all agricultural commodity cases the domestic industry should be defined to include both processors and growers. For example, the Commission has distinguished between those agricultural cases in which there is a highly integrated structure with all parts contributing to one end product 8/ and those in which the growers are selling their product to different processors or various end markets. 9/ 10/ In Lamb Meat, we found the growers to be part of the domestic industry since they formed part of the "continuous line of production" for one primary product. 11/

8/ Lamb Meat from New Zealand, Inv. No. 701-TA-80 (Preliminary), USITC Pub. No. 1191 (1981). Certain Fish and Certain Shellfish from Canada, Inv. No. 303-TA-9, USITC Pub. No. 966 (1979). Fish, Fresh, Chilled or Frozen, Whether or Not Whole, But Not Otherwise Prepared or Preserved from Canada, Inv. No. 701-TA-40 (Final), USITC Pub. No. 1066 (1980). Sugar from the European Community, Inv. No. 104-TAA-7, USITC Pub. No. 1247 (1982).

9/ Frozen French Fried Potatoes from Canada, Inv. No. 731-TA-93 (Preliminary), USITC Pub. No. 1259 (1982). Instant Potato Granules from Canada, Inv. No. AA1921-97, USITC Pub. No. 509 (1972). Canned Hams and Shoulders from Belgium, Denmark, the Federal Republic of Germany, France, Ireland, Italy, Luxembourg, the Netherlands and the United Kingdom, Inv. No. 701-TA-31-39 (Final), USITC Pub. No. 1082 (1980). Mushrooms, Inv. No. TA-201-43, USITC Pub. No. 1089 (1980).

10/ Commissioner Frank notes he relies on a different view than the Commission with regard to Frozen French Fried Potatoes from Canada, Inv. No. 731-TA-93 (Preliminary), USITC Pub. No. 1259 (1982). See Views of Commissioner Eugene J. Frank at 12-22.

11/ Lamb Meat, supra note 8, Views of Vice Chairman Calhoun and Commissioners Bedell, Eckes, and Frank at 7 and Views of Chairman Alberger and Commissioner Stern at 19.

Our respective "like product" and "industry" analyses in this investigation closely correspond with those undertaken in the Lamb Meat investigation. The highly integrated and interdependent economic structure of the FCOJ industry is evident in the unique pricing systems for oranges used in the domestic production of FCOJ. Eighty percent of all oranges are handled on a non-priced basis; only 20 percent is purchased outright for a specified price on a spot or contract basis. Non-priced fruit is processed by either grower-owned, non-profit cooperatives or independent, privately-owned processing plants under what is known as a "participation plan." 12/

Specific contractual arrangements vary with participation plans. Under some plans, the grower's price for the fruit is figured on the profit remaining after subtracting either the actual cost of processing the fruit or a specified amount (sometimes known as a "toll charge") previously arranged for in the contract for processing the fruit. Under other participation plans, the grower's return is determined by an agreed-upon formula based on the final selling price of the FCOJ. 13/

Under either the cooperative or the participation plan, at the time the fruit is delivered to the processing plant, the grower neither receives immediate cash nor a guarantee of a specified price to be paid at a later date. Only after the fruit is processed and sold is an allocation made to the grower from the net return of the processed product. This allocation is based on the quantity of fruit, as measured by the pounds of orange solids contained in the produce delivered by the grower for processing. 14/ The operation of

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12/ Report at A-8.
13/ Id.
14/ Id.

these plans is such that growers and processors share the risk in the marketplace.

Domestic FCOJ growers and processors also have a high level of interlocking ownership. 15/ Many of the processors own orange groves and approximately 30 percent of the grove owners also own cooperatives. This means that around half the domestic FCOJ production involves interlocking ownership. 16/

For the above reasons, we find the domestic industry to include both growers of "round oranges" and processors involved in the production of FCOJ. 17/

Since the record indicates that domestic processors import Brazilian FCOJ, we have considered the related parties provision of the statute, which states:

> When some producers are related to the exporters or importers, or are themselves importers of the allegedly subsidized or dumped merchandise, the term "industry" may be applied in appropriate circumstances by excluding such producers from those included in that industry. 18/

Consideration of this question involves two steps. The first step is to determine whether the domestic producers are importers of the allegedly dumped articles or are related to exporters or importers of the merchandise. The second step is to determine whether appropriate circumstances exist for excluding the related parties from the domestic industry.

15/ Report at A-8-9. See Lamb Meat, supra note 8, Views of Vice Chairman Calhoun and Commissioners Bedell, Eckes, and Frank at 8 and Views of Chairman Alberger and Commissioner Stern at 19.

16/ Report at A-8-9.

17/ Growers of "round" oranges in all states, including Florida, California, Texas, and Arizona, are considered a part of the domestic industry.

18/ Section 771(4)(B); 19 U.S.C. § 1677(4)(B).

We determine that the record in this preliminary investigation is insufficient to determine the nature and extent of any "relationship" between processors and any exporters or importers, and we do not reach any further issue of whether appropriate circumstances exist for excluding any related parties. 19/ 20/

Reasonable indication of material injury or threat of material injury by reason of subsidized imports.

FCOJ imports from Brazil have increased in terms of absolute volume from 152 million gallons in 1979 and 98 million gallons in 1980 to 203 million gallons in 1981. 21/ This trend has continued through the first half of 1982 to reach 165 million gallons compared with 98 million gallons for the period of January through June 1981, an increase of 69 percent. 22/

19/ Commissioner Stern notes that it is established that the domestic producers are the importers of the allegedly dumped FCOJ. In fact, the largest importers of FCOJ from Brazil are the major producers of FCOJ in Florida (Report at A-10). However, the record is insufficient to determine whether the appropriate circumstances exist for excluding related parties. While it is possible to identify those processors who the petitioner argues should be considered related and those who the petitioner argues should not be considered related, it is not possible, on the basis of the record, to distinguish between them for purposes of applying "appropriate circumstances". While some processors import large quantities to lower their cost, they also do so to supplement their supply or to hedge against crop-damaging freezes in Florida or elsewhere. Other processors import smaller quantities but for many of the same reasons as the larger importers. In any case, the preliminary record indicates that the importer status of domestic producers does not appear to isolate any particular segment of the domestic industry from potential injury due to the allegedly dumped FCOJ. See note 51 infra.

20/ Commissioner Frank notes that his recent views on the related parties provision are found in his views in Prestressed Concrete Steel Wire Strand from Brazil, France, and the United Kingdom, Inv. Nos. 701-TA-152-153 and 731-TA-89 (Preliminary), USITC Pub. No. 1240 at 13-28 (1982) and in Prestressed Concrete Steel Wire Strand from Spain, Inv. No. 701-TA-164 (Final), USITC Pub. No. 1281 at 13-20 (1982).

21/ Report at A-20-21.

22/ Id.

An analysis of market penetration by comparison of the absolute increase in imports with apparent consumption is not possible. Given the fact that unknown quantities of imported orange juice are subsequently exported by U.S. producers, we are unable to arrive at an apparent consumption figure. 23/ Therefore, we have compared imports with total available FCOJ rather than apparent domestic consumption. Comparisons of imports from Brazil with either total available FCOJ in the United States, or with production from the Florida crop, show that the penetration of Brazilian FCOJ has increased in 1980-81: the percentage that imports from Brazil represent of total available FCOJ went from 14.1 percent in 1978-79 to 7.2 percent in 1979-80 and to 16.6 percent in 1980-81; 24/ the percentage that imports from Brazil represent to production from the Florida orange crop went from 20.1 percent in 1978-79 to 9.6 percent in 1979-80 and to 27.7 percent in 1980-81. 25/ This increase is even more significant in view of the fact that U.S. exports of FCOJ declined by 13 percent from the January through June 1981 level of 39.2 million gallons to the January through June 1982 level of 34.3 million gallons, 26/ indicating that imports are remaining in the U.S. market in increasing amounts.

Available profit-and-loss data for processors show that profits have decreased in the first six months of 1982. The nine U.S. producers providing data account for approximately 47 percent of total U.S. FCOJ

23/ Id. at A-22.
24/ Id. at A-23, Table 10.
25/ Id. at A-23, Table 11.
26/ Id. at A-14 and A-15, Table 6.

production. 27/ 28/ The five reporting corporate firms showed aggregate net pre-tax losses exceeding $3.3 million in January through June 1982 compared to a net pre-tax profit of almost $3.4 million for the corresponding period of 1981. 29/ The aggregate operating profit during this period of January through June 1982 was $101,000, compared with almost $7.3 million in January through June 1981. 30/ Operating profit as a percent of net sales and net profit as a percent of net sales, of original cost, of fixed assets, and of book value of fixed assets have all radically decreased in the first half of 1982 in comparison with the same 1981 period. 31/ Four out of the five reporting corporations show net losses for the January through June period of 1982 compared to none reporting net losses for that period in 1981 and only 1 in the whole year of 1981. 32/

Net profits before taxes for cooperatives supplying data were also down during this time period. Pre-tax net proceeds from member and non-member sales went from over $195.4 million in January through June 1981 to $190.6 million in January through June 1982. 33/ Non-members showed a loss of $490,000 dollars for the January through June 1982 period compared to a profit of $3.9 million in the previous January through June period. 34/ The percent that pre-tax net proceeds represents of members' and non-members' net sales

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27/ Id. at A-16. Five of the nine processors are corporations; four are cooperatives.

28/ Commissioner Stern notes that because the large, independent producers did not provide profit and loss data, this information presents the best case for the petitioner as it does not include those parties which the petitioner argues should be excluded as "related" parties.

29/ Id. at A-16 and A-17, Table 7.

30/ Id. at A-17, Table 7.

31/ Id.

32/ Id. at A-18 and A-17, Table 7.

33/ Id. at A-17, Table 7.

34/ Id.

dropped from 62.3 percent in the first half of 1981 to 55.5 percent in first half of 1982. 35/ 36/

It is expected that prices at both the grower and processor level will rise after a freeze. The extent of a given price increase will depend on the relationship among many factors in the market, including the severity of freeze damage and the existence of carry-over stock. This historical pattern has been followed in all of the previous freezes in the last two decades. Freezes occurred during the 1962-63, 1970-71, 1976-77, 1980-81, and 1981-82 seasons. Accordingly, the average spot and contract grower prices for 90-pound boxes of oranges for the season went from $2.71 to $5.25 after the 1962-63 freeze; from $2.07 to $2.91 after the 1970-71 freeze; from $2.59 to $5.42 after the 1976-77 freeze; and from $5.55 to $6.49 after the 1980-81 freeze. 37/ The increase after the 1980-81 freeze was the lowest increase on a percentage basis. There is no information on the record indicating that following the second successive freeze, 1981-82, that prices will correspond with the historical pattern of increases.

Average prices received by processors per dozen 6-ounce cans are also expected to rise, although not as much, following a freeze. 38/ Prices following the 1980-81 freeze have only risen 2 percent from $3.91 39/ to

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35/ Id.

36/ There is no financial information for the individual "round" orange growers.

37/ Id. at A-26, Table 12. This price reflects 20 percent of total grower's oranges.

38/ Id. at A-27, Table 13.

39/ The $3.91 is probably slightly depressed because in the previous year, 1979-80, growers had a high-yield crop and processors were selling off carry-over stock.

$4.00. In fact, during the last 3 months, the prices have returned to the prefreeze level. 40/ There are indications that prices are not rising as the historical pattern would suggest should be the case. Between the 1978-79 season and the first 8 months of the 1981-82 season, the average price of FCOJ rose by 14 percent while the consumer price index for other canned fruit juices, nectars and concentrate increased by 22 percent. 41/ Although the current recession may account for some flatness in the price, expectation based on historical trends in this market would be for higher prices after two seasons of freezes and increased costs of production.

In addition to the less than expected increases in the price of round oranges and FCOJ, preliminary data indicate that imports of FCOJM from Brazil have consistently undersold domestically-produced FCOJM from 1978-79 through June 1982. 42/ The margin of underselling increased from 10 percent during December through June 1980-81 to 14 percent during December through June 1981-82, at the same time that imports from Brazil increased from 98 million gallons to 166 million gallons during the comparable period. 43/ Although a number of factors influence price movement in an agricultural commodity market, the dramatic increase in imports and the sustained and increasing margin of underselling contributed to the apparent price suppression exhibited in 1981-82.

Brazil has the ability to further expand its exports of FCOJ. The Brazilians have already shown their ability to increase substantially exports

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40/ Report at A-28.
41/ Id. at A-27.
42/ Id. at A-24. The figure for the domestic FCOJ is a reflection of a blend, in unknown quantities, of domestically produced and lower-priced Brazilian FCOJ.
43/ Report at A-24 and 28.

to the United States on a short-term basis by increasing exports from 97.3 million gallons in 1980 to 218.5 million gallons in 1981. 44/ The United States Department of Agriculture estimates that a record orange crop in Brazil combined with large current inventories will make 852 million gallons of FCOJ available in the 1982-83 season, the highest volume to date. 45/ This is based on a production forecast of over 250 million boxes of oranges, 10 percent above the 1981 level. 46/ The capacity of Brazilian processors is 1.0 billion gallons of orange juice per season. 47/ Historically, ninety-five percent of this Brazilian production of FCOJ is exported. 48/

The United States is Brazil's largest export market. Current world demand, particularly in Western Europe, is somewhat softer this year because of increased inventories there and because of a general weakness in the European economies. 49/ It is likely that the largest percentage of any increased exports will be directed toward the United States. 50/

Conclusion

For the above reasons, we have determined that there is a reasonable indication that the domestic FCOJ industry is being materially injured 51/ or

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44/ Id. at A-30, Table 15.
45/ Id. at A-29.
46/ Id.
47/ Id. at A-30.
48/ See Id. at A-10.
49/ Id. at A-30.
50/ The Government of Brazil sets a global export quota. For the year beginning June 1, 1982, it is set in the 557-613 million gallon range, but will be subject to periodic adjustments as the year progresses and is expected to be readjusted upwards to 723 million gallons. Report at A-10 and A-29-30.
51/ Commissioner Stern found only a reasonable indication of a threat of material injury. She notes that in light of the recent freezes many of the traditional indicators of injury look good for this industry through the period of investigation. She further notes that the negative trends in profit
(Footnote continued)

is threatened with material injury by reason of allegedly subsidized imports from Brazil.

(Footnote continued)
and loss data for processors in the first six months of 1982 is an indication that threat may be imminent, but does not support a finding of a reasonable indication of present injury. This data reflects the conditions of domestic processors which account for approximately 40 percent of FCOJ production and notably excludes the three largest processors which did not respond to the Commission's request for information on financial performance. Moreover, this data excludes the financial performance of round orange growers. Because of the time lag in return to growers for fruit provided to processors under cooperative or participation plans, it is apparent that the growers financial performance does not yet fully reflect conditions at the processor level. If the data indicating a decline in profitability at the processor level proves applicable to that entire segment of this industry, it eventually will be reflected in the future financial performance of the growers.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On July 14, 1982, the U.S. International Trade Commission and the U.S. Department of Commerce (Commerce) received a petition from counsel on behalf of Florida Citrus Mutual (FCM), a nonprofit cooperative marketing association made up of citrus growers, alleging that subsidies are being paid with respect to the manufacture, production, or exportation of frozen concentrated orange juice (FCOJ) 1/ imported from Brazil. The Commission therefore instituted a preliminary countervailing duty investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports. The statute directs that the Commission make its determination within 45 days of its receipt of the petition, or in this case, by August 30, 1982. 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, D.C., and by publishing the notice in the Federal Register on July 28, 1982 (47 F.R. 32666). 2/ The public conference was held in Washington, D.C., on August 10, 1982. 3/ The briefing and vote in this investigation were held on August 25, 1982.

Nature and Extent of Alleged Subsidies

The petition alleges that the Government of Brazil provides certain subsidies to processors and exporters of FCOJ as follows: 4/

Subsidized production financing

Under this program, the Government provides low-interest loans to processors of FCOJ for export. A processor is allowed to borrow a set percentage of the value of its exports during the previous year at a subsidized interest rate.

1/ FCOJ is classifiable under item 165.35 of the Tariff Schedules of the United States (TSUS).

2/ A copy of the Commission's notice of institution is presented in app. A.

3/ A list of witnesses appearing at the conference is presented in app. B.

4/ The Government of Brazil had disputed these allegations, stating, in part, that the orange-concentrate industry is not eligible to receive the export credit premium specified below, that non-excessive rebates of the State value-added tax are not countervailable under U.S. law, and that excessive rebates of the State value-added tax were abolished in 1979. See letter of August 9, 1982, from Carlos Viacava, Secretary General, Ministry of Finance, Government of Brazil, to Mr. Lionel Olmer, Department of Commerce. Post Conference Submission on Behalf of ABRASSUCOS, pp. xvii-xxi.

Tax benefits

Profits earned by processors of FCOJ on their export sales are exempt from the 35-percent Brazilian Federal income tax on corporate profits. Additionally, exporters are exempt from the 8-percent Federal value-added tax on processed goods, and also can receive an export credit premium. Finally, processors of oranges produced in Sao Paulo for export are exempt from payment of that State's 14-percent value-added tax on processed goods.

Export tax credit

In the past, exporters of FCOJ received an export tax credit. This credit was based on a set percentage of the f.o.b. value of export sales or shipments. The petition states that this program was phased out by early 1980, but could be reinstated.

The Product

Description and uses

Orange juice is derived from the fruit of subtropical evergreen trees of the sweet orange species, genus Citrus, family Rutaceae. The principal varieties of sweet oranges used for processing into juice differ by growing area, and include the Pineapple and Valencia 1/ in Florida and the Valencia and some Washington navel in California. The composition (i.e., color, flavor, fragrance, juice content) of fresh oranges is affected by such factors as growing conditions, various treatments and horticultural practices, maturity, rootstock and variety, and climate. Thus, the juice produced from the same variety in different growing areas will commonly vary in composition.

FCOJ is produced by extracting the juice from fresh oranges, evaporating natural moisture from the juice until a desired level of concentration is achieved, and then freezing the concentrate. 2/ FCOJ is usually produced in a super concentrated form referred to as frozen concentrated orange juice for manufacturing (FCOJM). FCOJM is the principal product stored at a processing facility and also is the principal product shipped in bulk. The use of FCOJM in these applications saves space and weight, respectively, over FCOJ. However, FCOJM is not sold at the retail or institutional level. Instead, FCOJM is reprocessed through the addition of water into FCOJ before being packaged in retail-size or institutional-size containers for shipment. The most popular retail-size containers are 6, 12, and 16 ounces; institutional containers are generally 24 and 32 ounces.

1/ These varieties of oranges are referred to in the trade as "round" oranges, as compared to eating oranges (such as temple and navel) and speciality fruit such as tangerines and tangelos, which are called "zipper" fruit because of their ease of peeling.

2/ This process is more fully described in the "Manufacturing processes" section of this report.

The concentration level of FCOJ and FCOJM is expressed by Brix value. 1/ Single strength orange juice is rated at 11.8° Brix; FCOJ is generally rated at 41.8° to 47.0° Brix; and FCOJM is concentrated above 47.0° Brix, usually at 65.0°. 2/ For human consumption, FCOJ requires a 3-to-1 dilution with water to reach single strength. By comparison, FCOJM requires approximately a 7-to-1 dilution with water.

All FCOJ which is prepared in the United States must meet the Food and Drug Administration's (FDA) Standards of Identity. 3/ By comparison, all FCOJ prepared in Florida must meet Florida Citrus Code Standards, which are much more exacting then those promulgated by the FDA. 4/ For example, the FDA standards include no requirements regarding minimum maturity, flavor, color, oil content, or gelation, and the Florida standards do. The Florida standards are enforced by Florida Department of Agriculture inspectors who inspect the fruit both when it enters the processing plant and when it has been converted to FCOJ. 5/

Although the majority of the imported product is blended with the domestic product, it is sometimes repacked and shipped to consumers without blending. Fourteen of sixteen processors that responded to a question in the Commission's questionnaire relating to quality differences between the two products stated that the Brazilian product is inferior to the domestic, and 11 of these respondents cited taste as the reason.

Manufacturing process

Oranges used in the production of FCOJ come from two sources--directly from the grove or from eliminations at a fresh-citrus packinghouse. The majority of the oranges in Florida are hand harvested and transferred to large trailers for hauling to the processing plant.

At the processing plant, oranges are dumped, inspected, and tested for solids content (fig. 1). They are then run through an extractor which squeezes the juice from the orange and removes seeds, pulp, and other extraneous matter. The juice then moves to an evaporator, which reduces the juice to approximately 25 percent of its original volume. During the evaporating process, much of the volatile essence which gives the taste and fragrance to fresh juice evaporates. This is distilled from the vapors and returned to the concentrate. Some fresh juice may be mixed with the concentrate to improve the flavor. The mixture is then cooled until partially

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1/ Brix value is the refractometric sucrose value (sugar content of oranges expressed in percent by weight of solids), as measured in air at 20° centigrade and adjusted for the acid correction of the solids.

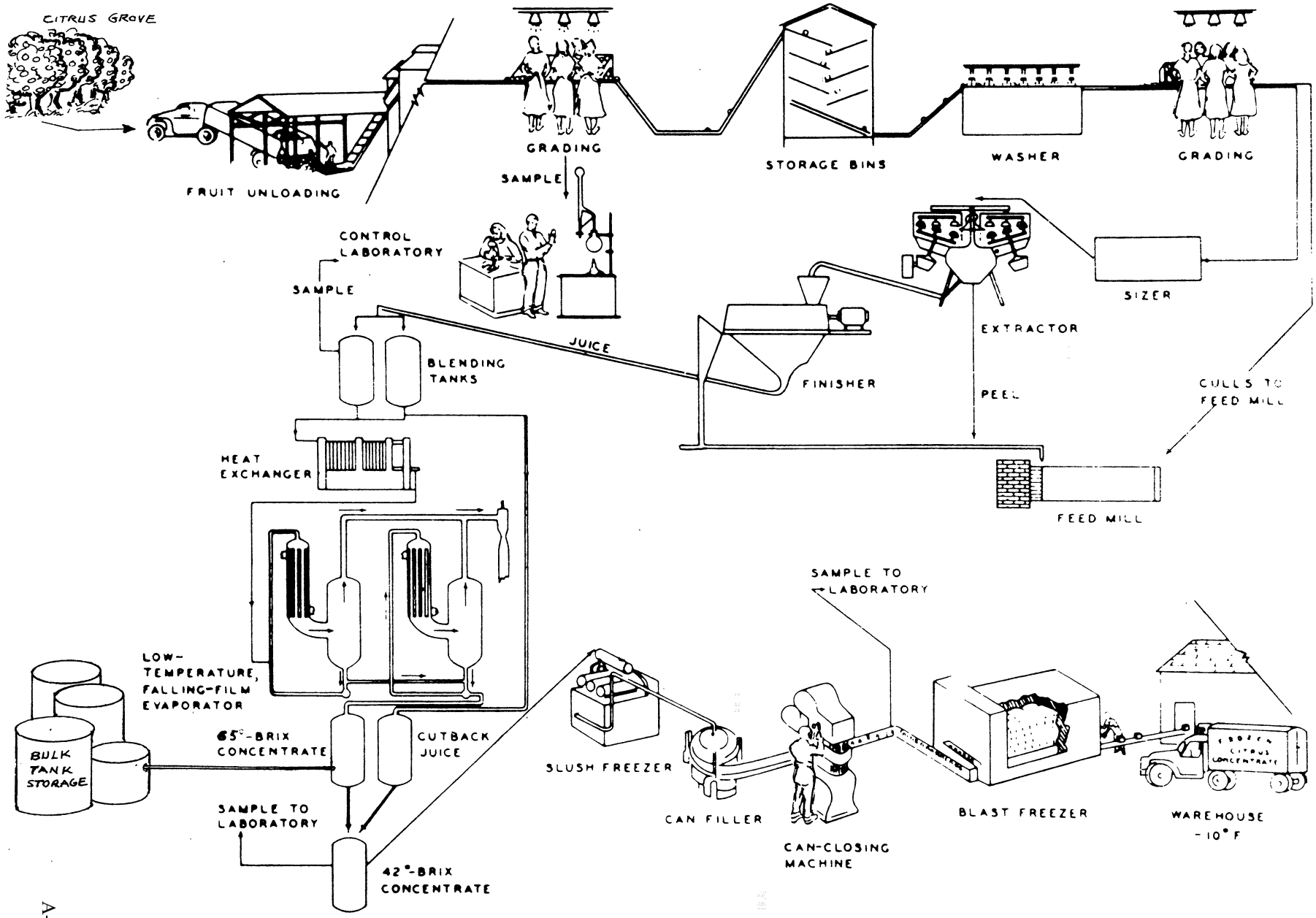
2/ FCOJM is rarely stored at a concentration level above 65° Brix because of quality changes.

3/ A copy of the FDA's Standards of Indentity for FCOJ is presented in app. C.

4/ A copy of the Florida Citrus Code Standards for FCOJ is presented in app. D.

5/ These inspection programs are financed by assessments levied on boxes of fresh fruit and on cases of FCOJ.

Figure 1.-- ***Manufacturing FCOJ - Flow Chart***



Source: Florida Citrus Mutual.

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frozen and may be packed in retail- and institutional-size containers at about 42° Brix for shipment or placed in bulk storage tanks at 65° Brix. The concentrate is stored at approximately 0° F. As the product is needed for filling orders, it is drawn from bulk storage tanks and blended to meet the specifications of the purchaser. The blending process is carefully monitored to insure the desired flavor and other qualities in the final product.

U.S. tariff treatment

U.S. imports of FCOJ are classified under item 165.3540 of the Tariff Schedules of the United States Annotated (TSUSA). Imports from Brazil and all other countries receiving the column 1 rate of duty 1/ are dutiable at 35 cents per gallon 2/ (42.1 percent ad valorem equivalent in 1981). This rate has been in effect since 1948 and is not scheduled for reduction. Imports from countries receiving the column 2 rate of duty are dutiable at 70 cents per gallon. Imports are not eligible for duty-free entry under the GSP, nor for reduced rates if entered from LDDC's.

Processors that both import and export FCOJ are eligible to obtain a refund on certain import duties paid, which is called drawback. Under the law, a manufacturer that imports merchandise and then exports articles which were produced with the imported merchandise is eligible to receive a refund on the duties paid on the imports, less 1 percent (19 U.S.C. 1313(a)). 3/

1/ The rates of duty in rate of duty column numbered 1 are most-favored nation rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "Least Developed Developing Country" (LDDC) rate of duty column. The GSP, under title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985, unless modified by the President or terminated. The LDDC rates of duty are preferential rates reflecting the full U.S. Multilateral Trade Negotiations concession rate without staging for a particular item and are applicable to products of the LDDC's designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the LDDC column for a particular item, the rate of duty provided in col. 1 applies.

2/ The per-gallon duty rate is applicable to juice in its natural unconcentrated form. If the juice is concentrated, the duty is calculated on the number of gallons of reconstituted single-strength juice which can be made from a gallon of the concentrate (see headnotes 3 and 4, subpt. A, pt. 12, of schedule 1 of the TSUSA concerning "reconstituted" juice, which are presented in app. E).

3/ This refund also applies to any dumping and countervailing duties paid on imports (Customs Regulations, 19 CFR. 22.41).

Additionally, if both imported and domestic materials of the same kind and quality are used to produce a product, some of which is exported, drawback equal to 99 percent of the duty paid on the imported material is payable on the exports. Under this section, called the "substitution provision," it does not matter whether the actual imported material or similar domestic material was used to produce the exported article (19 U.S.C. 1313(b)). 1/

According to the U.S. Customs Regional Headquarters in Miami, Fla., orange processors filing claims in that region received * * * in drawback in 1981. As drawback may be claimed in any customs region, the total drawback paid to processors was undoubtedly higher.

U.S. Market and Channels of Distribution

Apparent U.S. consumption

The major portion of imported FCOJ is consumed at the processor level, where it, FCOJ produced from round oranges, and carryover stock are combined in varying proportions to yield total available FCOJ, from which demand (domestic shipments and exports) is filled.

Table 1.--FCOJ: Production from Florida crop, imports, carryover stock, and total available FCOJ, by crop years, 1978/79 through 1980/81

(In millions of gallons 1/)

Crop year	Production from Florida crop 2/	Imports 3/	Carryover stock 4/	Total available FCOJ
1978/79	758.2	160.0	163.8	1,082.0
1979/80	1,012.9	100.0	240.3	1,353.2
1980/81	733.1	214.2	278.7	1,226.0

1/ Single-strength equivalent.
2/ On a crop-year basis, which runs from Dec. 1 through Nov. 30.
3/ Imports are on a calendar-year basis.
4/ From prior season.

Source: Compiled from official statistics of the U.S. Department of Commerce and from statistics of the Florida Citrus Processors Association.

1/ To claim drawback, exports must be made within 5 years of the date of importation, and the product to be exported must be produced during the first 3 of those years. Also, claims for drawback must be filed within 3 years of the date of exportation.

Total available FCOJ 1/ increased from 1.1 billion gallons in crop year 1978/79 2/ to 1.4 billion gallons in 1979/80, but then decreased to 1.2 billion gallons in 1980/81 (table 1). Total available FCOJ in 1980/81 was influenced by the large carryover in that year from 1979/80 (an excellent crop year), as well as sharply higher imports, without which the decline would have been much greater.

Of the total available FCOJ, about 5 percent is exported, thus yielding the estimates of apparent U.S. consumption shown in the following tabulation:

Crop year	Quantity (billion gallons) 1/
1978/79	1.0
1979/80	1.3
1980/81	1.2

1/ Single strength equivalent.

Consumption of single-strength frozen orange juice (FOJ), on a per capita basis, as reported by the U.S. Department of Agriculture (USDA), is presented in the following tabulation:

Year	FOJ consumption (pounds per person)
1979	30.5
1980	31.9
1981	30.3

Assuming that an average gallon of orange juice weighs approximately 8 pounds, per capita consumption over the period averaged about 3.8 gallons per year.

U.S. producers

Growers.--U.S. orange growers are located almost entirely in the States of Florida, California, Texas, and Arizona. From crop years 1976/77 to 1980/81, Florida accounted for 90 percent of the oranges that were used for processing. Almost all of the oranges processed in Florida are utilized in the production of FCOJ. It is estimated that there were nearly 18,000 growers in Florida producing oranges on a total of 573,000 acres in crop year 1980/81 (table 2).

1/ Calculated on the basis of production of FCOJ from the Florida crop only, which accounts for over 90 percent of all domestically produced FCOJ.

2/ Trade data in this report are generally reported on a crop-year (December-November) basis.

Table 2.--Florida, California/Arizona, and Texas acreage in oranges, by crop years, 1976/77 through 1980/81

State	1976/77	1977/78	1978/79	1979/80	1980/81
	1,000 acres				
Florida	594.3	579.0	571.5	576.6	573.4
California/Arizona	213.5	204.2	199.6	201.5	196.0
Texas	28.2	28.2	27.8	27.8	25.3

Source: Compiled from official statistics of the Florida Crop & Livestock Reporting Service and the California Crop & Livestock Reporting Service.

Growers may choose to sell their fruit through a cooperative, through a "participation plan," or in the cash market. Approximately half of the Florida orange crop is owned by packers or processors, or by growers that are members of a packing or processing cooperative. It is estimated that 30 percent of the growers choose to sell their fruit under a "participation plan," and 20 percent of the growers sell their product in the cash market.

Growers that are members of a cooperative deliver all their fruit to the cooperative-owned processing plant, where it is processed and marketed. The members receive the net proceeds after the sale of the FCOJ, allocated according to the number of boxes of oranges delivered by each member and the pounds of solids in each member's oranges. In addition to processing and marketing, the cooperative may provide grove care and maintenance services and harvesting services for its members.

Under a "participation plan," a nonmember of a cooperative agrees to deliver all his fruit to a cooperative or corporate processor. The grower's return is determined by an agreed-upon formula based on the final selling price of the FCOJ. This type of arrangement provides the grower with the security of a "home" for his fruit, and also allows him the freedom to search for the best deal available each year. Additionally, the cooperative or processor may provide the grower with grove-care services, and will harvest the fruit. 1/

Cash-market sales may be made directly to a processor or to an intermediate handler called a "bird dog." A bird dog locates fruit for processors, buys it on the tree, harvests it with his own crew, and delivers the fruit to the processing plant. Purchases may be on a bulk basis, in which all the fruit in the grove is sold for an agreed-upon price, or the fruit may be bought at a set price per box or per pound of solids. Growers that sell on

1/ After a freeze, damaged fruit must be harvested quickly to be usable. Under a "participation plan," the grower is assured that his salvagable fruit will be harvested and processed.

the cash market can seek the highest offer for their fruit, but are subjected to price fluctuations. Also, they have no set "home" for their fruit, and can expect neither assistance in harvesting nor a "home" for their fruit after a freeze. 1/

Orange growers are provided no supports by the Government. At the present time, it is estimated that the average established grove is 50 acres and costs $12,000 per acre to purchase. Additionally, it takes approximately 4 years for a new tree to produce fruit and 10 to 12 years for it to reach maturity. Some growers are absentee owners 2/ that contract with a firm to provide care and maintanence services for their grove if such services are not provided by their cooperative or under their participation plan.

Processors.--The number of firms processing FCOJ in Florida, as reported by the Florida Canners Association, has remained relatively constant, as shown in the following tabulation:

Crop year	Processing firms
1978/79	38
1979/80	36
1980/81	37
1981/82	37

Data on the number of processing plants in other States are not available, but they are believed to total less than 15. Many of these firms process only frozen concentrate and single-strength orange juice products. However, some processors are parts of large food-processing conglomerates for which orange juice processing is only a small part of total operations.

The processing of oranges into FCOJ is seasonal. The processing of early and midseason orange varieties begins in September and October; the main processing season does not begin until December (when the Valencia variety is ripe) and continues through the following June. Although no orange processing occurs during July and August, most processing plants blend FCOJ for packing of retail and institutional orders or for bulk shipment to other processors during this period.

Most processing plants in Florida are either owned by growers or cooperatives. In each of these instances, the processing plant is viewed as an extension, or marketing arm, of the growing operation. An exception is * * *, which owns no groves and is not a cooperative, and thus is concerned only with its return on the processing operation.

1/ Cash growers' fruit is the last accepted for processing following a freeze, and the fruit may spoil before processors are able to process it, assuming they choose to accept the damaged fruit.

2/ Petitioner estimates that 10 percent of Florida's growers are out-of-state absentee owners.

U.S. importers

The largest U.S. importers of FCOJ from Brazil are the major U.S. processors of FCOJ in Florida: * * *. Many U.S. importers have imported FCOJ from Brazil for a long time, and some have purchased FCOJ from Mexico and other Central American countries as well. In addition to U.S. processors, repackers of FCOJ into single-strength orange juice products in consumer markets have begun to import directly from Brazil in recent years.

Foreign producers

Brazil.--Brazil is one of the world's largest producers of oranges and is the world's leading producer of FCOJ. The Brazilian orange products industry is characterized by an abundance of fresh oranges, an ability to increase orange production, and an efficient processing sector with modern equipment.

Brazil's production of FCOJ (single-strength equivalent) increased steadily from 294 million gallons in 1976/77 1/ to an estimated 794 million gallons in 1981/82. During the same period, Brazil's exports of FCOJ increased from 273 million gallons in 1976 to 766 million gallons in 1981/82. The U.S. Department of Agriculture (USDA) forecasts that a record 820 million gallons of FCOJ will be produced in Brazil during the 1982/83 season, 2/ but that Brazilian exports of FCOJ will decline to 723 million gallons owing to changes in the Brazilian Government's export marketing policy. According to the USDA, a global export quota was established for the year beginning June 1, 1982. It is expected that the total quota will be between 557 million and 613 million gallons and will be subject to periodic adjustments as the year progresses. Quotas have been assigned to individual exporters based on recent market shares. Exports of FCOJ to new markets are not part of the quota system, nor are shipments of single-strength juice.

There are about 15 processing plants in Brazil producing FCOJ, one of which has the world's largest single evaporator. It is estimated that four firms account for nearly 90 percent of FCOJ exports. The majority of the exports of FCOJ are in 55-gallon drums filled with 52 to 53 gallons of FCOJ. However, bulk transportation in tank trucks and tank ships is becoming increasingly important.

Other countries.--Production of FCOJ for export is very limited except for Brazil and the United States. Israel, Italy, Morrocco, Spain, and Mexico all produce limited quantities of FCOJ for export.

1/ The marketing year for FCOJ in Brazil is from July 1 to the following June 30.

2/ USDA Publication FHORT 1-82.

The Question of a Reasonable Indication of Material Injury

Orange growers

U.S. production and shipments.--U.S. production of round oranges increased from 210.6 million boxes 1/ in 1978/79 to 273.6 million boxes in 1979/80, but then declined to 245.6 million boxes in 1980/81 (table 3). Total production mirrors trends exhibited by the Florida crop (fig. 2).

Florida production accounts for about 85 to 90 percent of all oranges used in processing in the United States. Approximately 94 percent of the Florida crop is used in processing, 85 percent of which is used to produce FCOJ.

Florida production increased from 164.0 million boxes in 1978/79 to 206.7 million boxes in 1979/80, but then declined to 172.4 million boxes in 1980/81 following a freeze. Production decreased further in 1981/82 to 125.8 million boxes, the result of an even more severe freeze. 2/ The 1981/82 crop was the smallest since 1967/68.

Table 3.--U.S. production of round oranges, 1/ by States and crop years, 1978/79 through 1981/82

(In millions of 90-pound boxes)

Crop year	Florida 2/	California	Arizona	Texas	Total
	Production				
1978/79	164.0	37.3	2.9	6.4	210.6
1979/80	206.7	59.4	3.5	4.0	273.6
1980/81	172.4	66.3	2.6	4.3	245.6
1981/82	125.8	3/	3/	3/	3/
	Processed 4/				
1978/79	152.3	12.5	1.3	4.3	170.4
1979/80	195.7	19.2	1.3	2.0	218.9
1980/81	164.1	27.6	.9	1.5	194.1
1981/82	3/	3/	3/	3/	3/

1/ Excludes tangelos, tangerines, and tangors, but includes temples and navels.

2/ Excludes temples, production of which totaled 4.7 million, 6.0 million, 3.6 million, and 3.2 million boxes in 1978/79, 1979/80, 1980/81, and 1981/82, respectively.

3/ Not available.

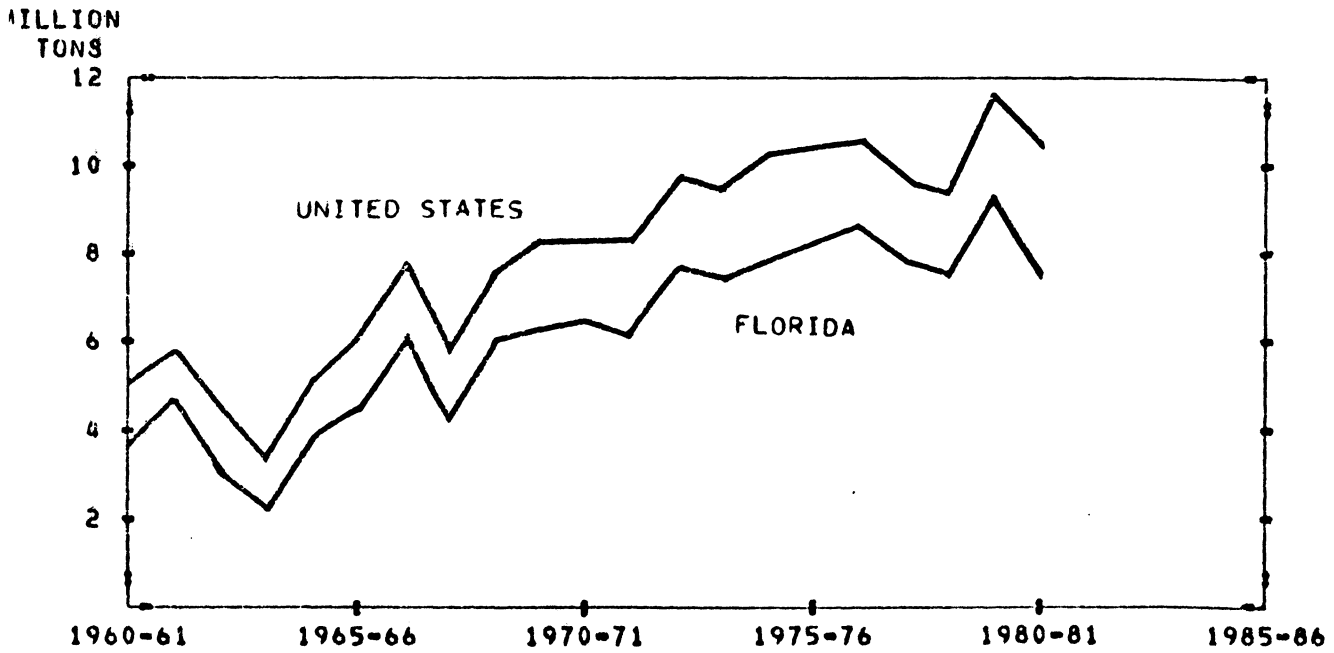
4/ Processed into all juice products.

Source: Florida Crop & Livestock Reporting Service, 1981 Citrus Summary.

1/ One box weighs 90 pounds.

2/ These two back-to-back freezes represent the first time in history that the orange crop has suffered freezes in consecutive years. The 1980/81 freeze cut the estimated crop size by 15 percent, and the 1981/82 freeze cut the estimated crop size for that year by 22 [illegible]

Figure 2.--Oranges: Production for the United States and Florida, crop years 1960/61 through 1980/81



Source: Florida Crop and Livestock Service, 1981 Citrus Summary.

Orange processors

U.S. production.--U.S. production of FCOJ from fresh Florida oranges 1/ increased from 758.2 million gallons (single-strength equivalent) in 1978/79 to 1.0 billion gallons in 1979/80, but then declined to 733.1 million gallons in 1980/81, a freeze year (table 4). Data on 1981/82 production will not be available until late 1982.

Table 4.--FCOJ: U.S. production from Florida orange crop, 1978/79 through 1980/81

Crop year	Production of FCOJ from Florida orange crop
	--------Million gallons 1/--------
1978/79	758.2
1979/80	1,012.9
1980/81	733.1

1/ Single-stength equivalent.

Source: Compiled from statistics of the Florida Citrus Processors Association.

Capacity.--To prevent spoilage, orange processors run their operation continuously when fresh fruit is ready for processing. After the processing season, the equipment sits idle until the following year. Thus, capacity may be measured in two ways: hourly capacity to extract juice from fresh fruit, and hourly capacity to evaporate water from fresh juice (table 5). These data reveal trends relating to expansion or reduction of facilities.

Table 5.--FCOJ: U.S. capacity to extract juice and U.S. capacity to evaporate water, 1979-82

Year	Juice-extracting capacity	Water-evaporating capacity
	----------Million pounds per hour----------	
1979	4.2	1.5
1980	4.3	1.6
1981	4.5	1.8
1982	4.5	1.8

Source: Compiled from data received in response to questionnaires of the U.S. International Trade Commission.

1/ Florida oranges account for over 90 percent of total production.

The hourly juice-extracting capacity of 16 U.S. processors that accounted for about 52 percent of fresh oranges purchased for production into FCOJ in 1980/81 increased steadily from 4.2 million pounds in 1979 to 4.5 million pounds in 1981, and then remained at about the same level in 1982.

Water-evaporating capacity of these producers increased throughout the period, rising from 1.5 million pounds per hour in 1979 to 1.8 million pounds per hour in 1982.

Capacity utilization.--As mentioned, processing plants operate at full capacity until all fresh fruit is processed, and then close their fresh-fruit-processing operations until the following season.

U.S. producers' shipments

Domestic shipments.--Shipments of FCOJ to the domestic market accounted for about 94 percent of total shipments from 1978/79 through 1980/81. As shown in the following tabulation, compiled from Florida Citrus Processors Association data, domestic shipments of FCOJ increased by 6 percent during that period:

Crop year	Domestic shipments 1/ (1,000 gallons 2/)
1978/79	836,595
1979/80	953,311
1980/81	884,029

1/ Excludes product delivered in fulfillment of futures contracts.
2/ Single-strength equivalent.

Shipments increased by 14 percent from 1978/79 to 1979/80 primarily due to the increase in available FCOJ in that year and the lowering of prices.

U.S. exports.--As mentioned in the section of this report on U.S. tariff treatment, the import duty on FCOJ is substantial (42 percent ad valorem equivalent in 1981). This provides importers/processors with a strong incentive to export FCOJ and take advantage of the drawback provisions of section 22.41 of Customs regulations. As drawback can be collected on exports of either imported or domestically produced FCOJ, and because the great majority of FCOJ produced by importer/processors is blended (i.e., part domestic and part imported), it is not possible to determine what portion of exported FCOJ consists of the imported product.

The United States exports FCOJ to over 70 countries located in all areas of the world. U.S. exports of FCOJ increased from 43 million gallons (single-strength equivalent) in 1979 to 66 million gallons in 1980 and to 75 million gallons in 1981, or by 76 percent over the period (table 6). However, this trend reversed in January-June 1982, when exports declined by 13 percent from the level in January-June 1981.

Table 6.--FCOJ: U.S. exports, by markets, 1979-81, January-June 1981, and January-June 1982

Market	1979	1980	1981	January-June--	
				1981	1982
	Quantity (1,000 gallons) 1/				
Canada	27,696	33,743	35,293	17,182	14,577
Netherlands	2,482	4,752	9,520	4,482	3,015
West Germany	1,722	5,240	5,411	2,785	2,402
Sweden	3,425	4,311	3,126	1,980	1,292
France	692	1,767	2,432	1,337	1,289
Other	6,846	16,427	19,484	11,507	11,774
Total	42,863	66,240	75,266	39,273	34,349
	Value (1,000 dollars)				
Canada	49,441	58,364	62,214	29,592	31,075
Netherlands	5,406	5,884	8,821	4,218	2,741
West Germany	3,897	5,864	6,371	3,256	2,464
Sweden	4,323	5,079	4,162	2,589	1,687
France	910	2,136	2,733	1,478	1,449
Other	16,924	22,589	27,329	15,675	15,561
Total	80,901	99,916	111,630	56,808	54,977
	Unit value (per gallon)				
Canada	$1.79	$1.73	$1.76	$1.72	$2.13
Netherlands	2.18	1.24	.93	.94	.91
West Germany	2.26	1.12	1.18	1.17	1.03
Sweden	1.26	1.18	1.33	1.31	1.31
France	1.32	1.21	1.12	1.10	1.12
Other	2.47	1.38	1.40	1.36	1.32
Average	1.89	1.51	1.48	1.45	1.60

1/ Single-strength equivalent.

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

The average unit value of U.S. exports followed an opposite trend than that of quantity, continually declining from $1.89 in 1979 to $1.48 in 1981, or by 21 percent. The average unit value then increased from $1.45 in January-June 1981 to $1.60 in January-June 1982, or by 10 percent.

Financial experience of U.S. producers

Concentrated orange juice operations.--Financial data were received from nine U.S. producers (five corporations and four cooperatives) on their concentrated orange juice operations (table 7). These producers accounted for approximately 47 percent of U.S. production of concentrated orange juice in 1981. Because the accounting methods of corporations and cooperatives differ significantly, the data for these two types of organizations are shown separately in the table. Four of the five corporations' operations on concentrated orange juice represent between 84 and 95 percent of their firm's overall operations in 1981. Hence, their overall operations, which include sales of by products such as citrus feed, are presented in the table.

Aggregate net sales of the five corporations increased from $91.5 million in 1979 to $108.2 million in 1981, or by 18 percent. Aggregate net sales of four cooperatives increased from $319.4 million in 1979 to $385.5 million in 1981, or by 21 percent. In the same period, combined total net sales increased by 20 percent. For the interim period ending June 30, net sales of corporations dropped by 14 percent from $72.6 million in 1981 to $62.1 million in 1982. In the same period, net sales of cooperatives increased by 9 percent from $313.8 million to $343.2 million. The operating profit of five corporations on their concentrated orange juice operations increased from $4.5 million (or 4.9 percent of net sales) in 1979, to $7.9 million (or 7.3 percent of net sales) in 1981, or by 75 percent. Cost of goods sold as a share of net sales declined from 92.4 percent in 1979 to 89.6 percent in 1981. As a share of net sales, general, selling, and administrative expenses increased from 2.7 percent in 1979 to 3.1 percent in 1981. Interest expenses almost doubled from $3.4 million (3.7 percent of net sales) in 1979 to $6.7 million (6.2 percent of net sales) in 1981. After taking into consideration interest expense and other income or expense, net profit before income taxes increased by 70 percent from $1.1 million, or 1.2 percent of net sales, in 1979, to $1.9 million, or 1.9 percent of net sales, in 1980, and then dropped to $302,000, or 0.3 percent of net sales, in 1981. The profit picture worsened in the interim period ending June 30, 1982; operating profit fell by 99 percent, and the five firms reported aggregate net losses of $3.3 million, representing 5.4 percent of net sales, compared with the operating profit of $7.3 million and pretax net profit of $3.4 million (4.7 percent of net sales) for the corresponding period of 1981.

All responding firms, except * * *, reported increasing operating profit in 1981 compared with that in 1980. * * *.

Table 7.--Selected financial data of 9 U.S. producers on their concentrated orange juice operations, accounting years 1979-81, and interim accounting years ending June 30, 1981, and June 30, 1982

Item	1979	1980	1981	Interim period ended June 30--	
				1981	1982
	Operations of 5 U.S. corporations				
Net sales----1,000 dollars--	91,488	97,012	108,211	72,558	62,146
Cost of goods sold----do----	84,505	88,400	96,906	63,029	59,572
Gross profit----------do----	6,983	8,612	11,305	9,529	2,574
General, selling, and administrative expenses 1,000 dollars--	2,457	2,943	3,370	2,277	2,473
Operating profit------do----	4,526	5,669	7,935	7,252	101
Interest expense------do----	3,393	4,062	6,746	4,098	3,489
Other income (expense) do----	(24)	277	(887)	240	40
Net profit (loss) before income taxes-1,000 dollars--	1,109	1,884	302	3,394	(3,348)
Cash flow (deficit) from operations-1,000 dollars--	2,384	3,307	2,210	4,907	(1,361)
Fixed assets:					
Original cost-------do----	17,407	26,422	33,950	28,918	34,434
Book value----------do----	13,910	20,521	26,142	22,061	24,900
Ratio of operating profit to net sales-----percent--	4.9	5.8	7.3	10.0	.2
Ratio of net profit (loss) before income taxes to--					
Net sales--------percent--	1.2	1.9	.3	4.7	(5.4)
Original cost of fixed assets---------percent--	6.4	7.1	.9	11.7	(9.7)
Book value of fixed assets----------do----	8.0	9.2	1.2	15.4	(13.4)
Number of firms reporting operating losses----------	1	0	0	0	3
Number of firms reporting net losses----------	1	2	1	0	4
	Operations of 4 U.S. cooperatives				
Net sales----1,000 dollars--	319,374	358,646	385,488	313,806	343,202
Costs and expenses----do----	112,212	140,560	144,060	118,435	152,570
Net proceeds resulting from member and nonmember sales before income taxes------1,000 dollars--	207,162	218,086	241,428	195,371	190,632
Net profit (loss) from nonmember business before income taxes-1,000 dollars--	1,780	458	4,996	3,883	(490)
Ratio of net proceeds resulting from member and nonmember sales before income taxes to net sales percent--	64.9	60.8	62.6	62.3	55.5

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

If * * *'s financial data are excluded from the aggregate data, operating profit margins show an increasing trend as do pretax net profit margins, rising from * * * percent in 1979 and * * * percent in 1980 to * * * percent in 1981, and dropping from * * * percent in the interim period of 1981 to a negative * * * percent in the interim period of 1982.

Cash flow from operations increased from $2.4 million in 1979 to $3.3 million in 1980, and then declined to $2.2 million in 1981. The ratios of net profit (loss) before income taxes to original cost and book value of fixed assets followed the same trend as did the ratios of net profit (loss) before income taxes to net sales.

The number of firms reporting net losses increased from one each in 1979 and 1981 to two in 1980. Four out of five firms sustained net losses during the interim period of 1982 compared with none during the corresponding period of 1981.

Aggregate net proceeds of four U.S. cooperatives on their concentrated orange juice operations increased from $207.2 million in 1979 to $241.4 million in 1981, but the ratio of net proceeeds to net sales declined irregularly from 64.9 percent in 1979 to 62.6 percent in 1981. The trend in net proceeds margins for cooperatives are different than profit margins reported by corporations during 1979-81. For the interim period ending June 30, 1982, net proceeds declined by 2 percent to $190.6 million from $195.4 million for the corresponding period of 1981. In the same period, net proceeds margins dropped by 6.8 percentage points to 55.5 percent from 62.3 percent. Pretax net profit from nonmember business increased from $1.8 million in 1979 to $5.0 million in 1981 after declining to $458,000 in 1980, and turned into a net loss of $490,000 in the interim period of 1982 compared with the pretax net profit of $3.9 million in the interim period of 1981.

* * * reported that a freeze in Florida in January 1981 influenced its cost and volume, and * * * reported a loss of * * * due to frozen citrus trees in 1981. All other producers reported no effect of the freeze on their operations.

Overall operations of establishments.--Selected financial data for the overall operations of establishments within which concentrated orange juice is produced are presented in table 8. The overall establishment operations of corporations generally followed similar trends in net sales, operating profit, pretax net profit (loss), and return on fixed assets, as did the operations on concentrated orange juice discussed earlier. The overall cooperative operations also followed the same trends in net sales, net proceeds, and net proceeds margins as did cooperative operations on concentrated orange juice. Net profit from nonmembers increased from $2.7 million in 1979 to $4.7 million in 1980, before declining to $2.3 million in 1981.

Table 8.--Selected financial data of 9 U.S. producers on the overall operations of establishments within which concentrated orange juice is produced, accounting years 1979-81, and interim accounting years ending June 30, 1981, and June 30, 1982

Item	1979	1980	1981	Interim period ended June 30--	
				1981	1982
	Operations of 5 U.S. corporations				
Net sales----1,000 dollars--	99,723	108,446	119,796	82,946	70,031
Cost of goods sold----do----	90,750	97,577	107,296	72,372	66,653
Gross profit----------do----	8,973	10,869	12,500	10,574	3,378
General, selling, and administrative expenses 1,000 dollars--	2,749	3,314	3,783	2,587	2,783
Operating profit------do----	6,224	7,555	8,717	7,987	595
Interest expense------do----	3,537	4,252	6,967	4,264	3,649
Other income (expense) do----	(4)	324	(918)	217	40
Net profit (loss) before income taxes-1,000 dollars--	2,683	3,627	832	3,940	(3,014)
Cash flow (deficit) from operations-1,000-dollars--	4,392	5,465	3,163	5,772	(711)
Fixed assets:					
Original cost-1,000-dollars--	22,952	32,435	39,994	34,962	40,701
Book value----------do----	18,073	24,862	30,195	26,114	29,166
Ratio of operating profit to net sales-----percent--	6.2	7.0	7.3	9.6	.8
Ratio of net profit (loss) before income taxes to--					
Net sales--------percent--	2.7	3.3	.7	4.8	(4.3)
Original cost of fixed assets---------percent--	11.7	11.2	2.1	11.3	(7.4)
Book value of fixed assets----------do----	14.8	14.6	2.8	15.1	(10.3)
Number of firms reporting operating loss----------	1	0	0	0	3
Number of firms reporting net loss----------	1	2	1	0	4
	Operations of 4 U.S. cooperatives				
Net sales----1,000 dollars--	511,960	564,921	589,293	198,757	215,017
Costs and expenses----do----	155,106	192,783	190,065	113,765	134,781
Net proceeds resulting from member and nonmember sales before income taxes------1,000 dollars--	356,854	372,138	399,228	84,992	80,236
Net profit (loss) from nonmember business before income taxes-1,000 dollars--	2,651	4,652	2,301	2,909	115
Ratio of net proceeds resulting from member and nonmember sales before income taxes to net sales 1,000 dollars--	69.7	65.9	67.7	42.8	37.3

Source: Compiled from data submitted in response to questionnaires of the U.S.

Research and development expenses.--Only 3 of the 19 U.S. producers of concentrated orange juice that responded to the Commission's questionnaire reported research and development expenses, which are shown in the following tabulation:

Period	Research and development expenses (1,000 dollars)
1979	***
1980	***
1981	***
1982 (January-June)	***

Almost all of the reported research and development expenses were incurred by * * *. Research and development expenses increased from * * * in 1979 to * * * in 1981 and amounted to * * * in January-June 1982. Further research and development is performed by State agencies and grower associations on behalf of Florida citrus growers.

The Question of the Causal Relationship Between Alleged Material Injury and Allegedly Subsidized Imports From Brazil

U.S. imports

U.S. imports of FCOJ 1/ from Brazil declined from 152 million gallons in 1979 to 98 million gallons in 1980, but then rose to 203 million gallons in 1981, or by 33 percent over the period (table 9). Imports continued this trend in 1982, rising from 98 million gallons in January-June 1981 to 165 million gallons in January-June 1982, or by 69 percent.

Total imports mirrored the same general trend exhibited by imports from Brazil, 2/ declining from 160 million gallons in 1979 to 100 million gallons in 1980, and then rising to 214 million gallons in 1981, or by 34 percent over the period. Total imports increased from 105 million gallons in January-June 1981 to 173 million gallons in January-June 1982, or by 65 percent.

The petitioner has noted a trend toward the importation of FCOJ into States outside of Florida for conversion into reconstituted juice. 3/

1/ All quantity data on imports of FCOJ are collected and reported in single-strength-equivalent form.

2/ Brazilian imports accounted for between 93.4 (Jan.-June 1981) and 97.7 percent (1980) of total imports during the period under investigation.

3/ See "An Appraisal of Recent Domestic and International Trade Developments in Orange Juice; Implications for U.S. Growers and Processors", pp. 13-15.

Table 9.--FCOJ: U.S. imports for consumption, by principal sources, 1979-81, January-June 1981, and January-June 1982

Source	1979	1980	1981	January-June-- 1981	January-June-- 1982
	Quantity (1,000 gallons) 1/				
Brazil	152,310	97,676	203,104	97,705	165,479
Mexico	7,376	2,171	6,960	2,866	4,538
Belize	0	0	2,621	2,475	1,662
Argentina	2/	0	1,514	1,514	550
Canada	2/	0	22	13	195
Israel	0	0	6	2	3
West Germany	3	107	3	3	88
Other	329	60	1	1	30
Total	160,018	100,014	214,231	104,579	172,545
	Value (1,000 dollars)				
Brazil	103,630	64,753	168,870	82,568	131,548
Mexico	6,041	1,506	5,738	2,372	4,309
Belize	-	-	2,297	2,162	1,479
Argentina	1	-	1,268	1,268	386
Canada	3/	-	76	20	182
Israel	-	-	5	1	3
West Germany	60	287	15	15	323
Other	235	38	2	1	44
Total	109,967	66,584	178,271	88,407	138,274
	Unit value (per gallon)				
Brazil	$0.68	$0.66	$0.83	$0.85	$0.80
Mexico	.82	.69	.82	.83	.95
Belize	-	-	.88	.87	.89
Argentina	1.42	-	.84	.84	.70
Canada	5.02	-	3.83	1.50	.93
Israel	-	-	.85	.80	.85
West Germany	18.94	2.67	4.54	4.54	3.66
Other	.71	.63	2.00	1.00	1.47
Average	.69	.67	.83	.85	.80

1/ Single-strength equivalent.
2/ Less than 500 gallons.
3/ Less than $500.

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

The portion of imports of FCOJ which were entered through Florida during the period covered by this investigation is presented (in precent) in the following tabulation (as compiled from Department of Commerce data):

Period	Imports of FCOJ from Brazil entered through Florida ports	Imports of FCOJ from other sources entered through Florida ports	Total imports of FCOJ entered through Florida ports
1979	80	35	77
1980	75	22	74
1981	80	86	81
January-March--			
1981	84	0	81
1982	86	78	86

As shown, the vast majority of both imports from Brazil and total imports enter through Florida ports. However, the portion of total imports from non-Brazilian sources entered through Florida ports has varied considerably, increasing from 35 percent in 1979 to 86 percent in 1981.

Market penetration

As mentioned earlier, it is not possible to determine the portion of exported FCOJ that consists of imported product. This casts doubt on the meaningfulness of traditional market penetration analysis (i.e., the ratio of imports to apparent U.S. consumption) since at least some imported FCOJ, and possibly a significant amount, is known to be exported. Such exports of imported FCOJ should be subtracted from total imports before analyzing market penetration. However, since most imported FCOJ is blended with the domestic product, albeit in varying proportions, processors are generally unable to determine the specific composition of each shipment. In this section, therefore, the quantity of imports from Brazil is compared with total available FCOJ (U.S. production plus imports plus carryover stock) and with total U.S. production.

The ratio of imports from Brazil to total available FCOJ decreased from 14.1 percent in 1978/79 to 7.2 percent in 1979/80, and then rose to 16.6 percent in 1980/81 (table 10). Over the period, the penetration level was highest in the worst domestic crop year (1980/81) and lowest in the best crop year (1979/80). This trend is illustrated in the table 11, which compares imports from Brazil with production from the Florida crop.

Table 10.--FCOJ: Imports from Brazil and total available FCOJ, crop years 1978/79 to 1980/81

Period	Imports from Brazil	Total available FCOJ	Ratio of imports from Brazil to total available FCOJ
	Million gallons		Percent
1978/79	152.3	1,082.0	14.1
1979/80	97.7	1,353.2	7.2
1980/81	203.1	1,226.0	16.6

Source: Compiled from official statistics of the U.S. Department of Commerce and data of the Florida Citrus Processors Association.

Table 11.--FCOJ: Imports from Brazil and production from Florida crop, crop years 1978/79 to 1980/81

Crop year	Imports from Brazil	Production from Florida crop	Ratio of imports from Brazil to production from Florida crop
	Million gallons		Percent
1978/79	152.3	758.2	20.1
1979/80	97.7	1,012.9	9.6
1980/81	203.1	733.1	27.7

Source: Compiled from official statistics of the U.S. Department of Commerce and from data of the Florida Citrus Processors Association.

Prices

Direct comparisons of FCOJ prices for imported and domestically produced products are difficult to make since most domestic FCOJ is, in fact, a blend made by combining imported FCOJ with concentrate made from U.S. oranges. Further, as mentioned earlier (see page A-3), most U.S. processors believe that Brazilian FCOJ is inferior in quality to FCOJ produced from domestic oranges. Nevertheless, U.S. processors were asked to provide information on the value of their purchases of FCOJM from Brazil and from U.S. sources (typically the blended product). Their data are summarized below (in dollars per gallon, single-strength equivalent).

Period	From Brazil	From U.S. sources
1978/79----	$0.82	$1.00
1979/80----	.72	.86
1980/81----	.99	1.16
Dec.-June--		
1980/81--	1.01	1.12
1981/82--	1.07	1.25

As shown, both value series follow the same trend, and the value of the product from Brazil was consistently below that purchased from U.S. sources. The difference in value between the two products has narrowed, however, as the Brazilian product's value was 18 percent below that from U.S. sources in 1978/79, 16 percent below that in 1979/80, and 14 percent below in 1980/81 and December 1981-June 1982.

Economic studies have indicated that the retail demand for FCOJ is fairly price elastic. 1/ Though estimates of the elasticity have varied, the findings have generally suggested that for any given increase in the price of FCOJ, the percentage decline in consumption would be greater than the percentage price rise. Thus, assuming that the retail price increased by 10 percent, consumption could be expected to decline by more than 10 percent if all other factors are held constant. This suggests that a sharp rise in the price of FCOJ within a short time period would result in a significant decline in retail sales volume. In turn, shipments from orange juice processors to retailers could also be expected to plummet.

Though the demand for FCOJ seems to be sensitive to changes in its own price, the studies found no indication that consumption of FCOJ is affected by changes in prices of either canned single-strength orange juice or chilled orange juice. This suggests that consumers do not consider either of these products to be close substitutes for FCOJ.

1/ Ward, Ronald and Daniel S. Tilley, "Time Varying Parameters with Random Components: The Orange Juice Industry," Southern Journal of Agricultural Economics, December 1980.

Ward, Ronald M. and Richard Kilmer, "The U.S. Citrus Subsection: Organization, Behavior and Performance," N.C. 117 Mono Ser. 1979.

Data on domestic round orange and FCOJ prices are published by the Florida Citrus Processors Association. A discussion of these reported prices follows.

Average prices received by growers on sales of oranges to processors for use in FCOJ are presented in table 12 for the past 21 seasons. The cash transactions on which these prices are based have typically accounted for about 20 percent of the total shipments from growers to processors in recent years. As shown in the table, average prices during the second half of the marketing season have usually been higher than the average during the first half due to the fact that the quality of the fruit improves as the season progresses.

Although it is evident that prices have risen significantly from an average of $2.25 per box in the 1961/62 season to an average of $6.49 per box in the 1981/82 season, these prices have often fluctuated sharply from year to year as a result of short-run demand and supply influences. Prices of oranges have usually increased during seasons in which freezes have caused damage to the orange crop, and they have always increased much more significantly in the following season. As shown in table 12, freezes occurred during the 1962/63 season, the 1970/71 season, the 1976/77 season, and in 1980/81 and 1981/82. Prices during 1962/63 rose to $2.71 per box, representing a 20 percent increase over that in the previous year. In the following year, the price nearly doubled, reaching an average of $5.25 per box. Similarly, the price increase during the 1971/72 season was larger than the increase in 1970/71 when the freeze occurred. During the 1976/77 season, prices actually declined from the average level in the previous year, despite the freeze. However, during the next season, they climbed sharply by over 100 percent to $5.42 per box. During 1980/81, the average price rose by 8 percent, and then increased by an additional 17 percent in the following year. If past patterns continue, prices could be expected to increase significantly during the 1982/83 season as a result of the continuing effects of damage caused by the freeze during 1981/82.

Despite the impact of freezes, the overall increase in the average price of fresh oranges during the last three seasons has been minimal. After reaching an alltime high of $6.42 per box in 1978/79, prices fell sharply to $5.16 in the following year and then recovered during the next 2 years, reaching $6.49 in 1981/82--an amount that was only 7 cents higher than the 1978/79 average.

Average f.o.b. prices received by processors for sales of FCOJ in 6-ounce cans are presented in table 13. As shown in the table, FCOJ prices have usually moved in the same direction as prices of fresh oranges during the past two decades, though the magnitudes of the fluctuations from season to season have generally been smaller than for fresh oranges. FCOJ prices have also consistently increased during seasons in which freezes occurred and in the seasons immediately following the freezes. However, the effect of the freezes on FCOJ prices has been small in some cases. For example, between the 1980/81 season and the first eight months of the 1981/82 season, the average price of FCOJ increased by only 9 cents, from $3.91 per dozen 6-ounce cans to $4.00 per dozen 6-ounce cans, despite freezes in both seasons.

Table 12.--Fresh oranges: Average spot and contract prices received by growers, by seasons, 1/ 1961/62 through 1981/82

(Per 90-pound box)

Crop year	Average price in first half of season	Average price in second half of season	Average price for entire season
1961/62	$2.54	$1.91	$2.25
1962/63 2/	1.61	3.81	2.71
1963/64	5.16	5.32	5.25
1964/65	3.46	3.24	3.37
1965/66	1.92	2.58	2.28
1966/67	1.17	1.46	1.29
1967/68	2.55	2.98	2.76
1968/69	2.56	2.92	2.70
1969/70	1.90	1.99	1.94
1970/71 2/	1.52	3.02	2.07
1971/72	2.87	2.95	2.91
1972/73	2.27	2.50	2.36
1973/74	2.49	2.71	2.58
1974/75	2.27	2.74	2.41
1975/76	2.91	3.44	3.11
1976/77 2/	1.88	3.41	2.59
1977/78	5.06	5.88	5.42
1978/79	6.26	6.66	6.42
1979/80	4.97	5.43	5.16
1980/81 2/	4.30	7.23	5.55
1981/82 2/	6.27	6.90	6.49

1/ A season denotes the period from December of a given year through July of the following year.

2/ Season in which a freeze occurred.

Source: Compiled from data provided by Florida Citrus Processors Association.

Table 13.--FCOJ: Average prices received by processors, by seasons, 1/ 1962/63 through 1981/82

(Per dozen 6-ounce cans)

Season	Price	Season	Price
1961/62	$1.39	1972/73	$1.74
1962/63 2/	2.29	1973/74	1.80
1963/64	2.35	1974/75	2.03
1964/65	1.62	1975/76	2.00
1965/66	1.62	1976/77 2/	2.45
1966/67	1.19	1977/78	3.30
1967/68	1.62	1978/79	3.50
1968/69	1.78	1979/80	3.04
1969/70	1.46	1980/81 2/	3.91
1970/71 2/	1.60	1981/82 2/	3/ 4.00
1971/72	1.88		

1/ A season includes the period from December of a given year through November of the following year.

2/ Season in which a freeze occurred.

3/ Represents the average for December 1981-July 1982.

Source: Compiled from data developed by the Florida Citrus Processors Association.

Although prices of FCOJ have increased moderately in recent years, they failed to sustain an increase during the first 8 months of the 1981/82 season. Between the 1978/79 season and the first 8 months of the 1981/82 season, the average price of FCOJ rose by 14 percent from $3.50 per dozen 6-ounce cans to $4.00. This was not out of line with price increases for related products. During this period, the Producer Price Index for all processed foods increased by 13 percent, and the index for canned fruit juices, nectars, and concentrates increased by 22 percent. 1/ However, during recent months, prices of FCOJ have failed to sustain an increase, whereas prices of related products have moved upward. As shown in table 14, FCOJ prices rose from $3.95 in December to $4.25 in February as a result of the freeze, and then declined during the next 2 months before leveling off at $3.95 during May, June, and July. In contrast, the average price of processed foods rose steadily by 5 percent between December 1981 and June 1982, and the average price of canned fruit juices, nectars, and concentrates increased by 4 percent during this period.

1/ Developed from data provided by the Bureau of Labor Statistics of the U.S. Department of Labor.

Table 14.--FCOJ: Average prices received during the 1981/82 season, 1/ by months, December 1981-July 1982

(Per dozen 6-ounce cans)

Season	Price
1981: December	$3.95
1982:	
January	4.03
February	4.25
March	4.08
April	3.79
May	3.95
June	3.95
July	3.95

1/ A season includes the period from December of a given year through November of the following year.

Source: Compiled from data developed by the Florida Citrus Processors Association.

Lost sales

There have been no allegations of lost sales by growers.

The Question of a Reasonable Indication of the Threat of Material Injury

The rate of increase of imports from Brazil

As shown in the following tabulation, imports of FCOJ from Brazil have increased irregularly but sharply from January 1979 through June 1982:

Period	Imports from Brazil (million gallons) 1/	Percentage change
1979	152.3	2/
1980	97.7	-35.8
1981	203.1	107.9
January-June--		
1981	97.7	2/
1982	165.5	69.4

1/ Single-strength equivalent.
2/ Not available.

Imports increased by 33 percent from 1979 to 1981, and by 69 percent from January-June 1981 to January-June 1982.

Changes in import levels have occurred in relation to domestic production of fresh oranges, as shown in the following tabulation:

Crop year	Imports of FCOJ from Brazil 1/		Florida production of round oranges	
	Million gallons 2/	Index 3/	Million boxes	Index 3/
1978/79---------	152.3	100	164.0	100
1979/80---------	97.7	64	206.7	126
1980/81---------	203.1	133	172.4	105
1981/82---------	4/ 165.5	109	125.8	77

1/ Imports are on a calendar-year basis.
2/ Single-strength equivalent.
3/ 1978/79=100.
4/ Data available only for January-June 1982.

As shown, imports decreased in 1979/80 from those in the previous year, coinciding with a good crop year. Imports increased in 1980/81, when the crop was lower, and seem destined to rise even further in 1981/82 in response to the small crop.

The capacity of Brazil to generate exports and the availability of other export markets

According to data of the USDA, 1/ Brazil will displace the United States as the world's largest producer of oranges in 1982. Brazil's production is forecast at over 250 million boxes, 10 percent above the production of a year earlier. About 70 percent of the Brazilian orange crop is utilized in the production of FCOJ, which will be an estimated 820 million gallons 2/ in 1982. New growth in Brazil's productive capacity is outpacing the expansion in world demand for FCOJ. The inability to move export supplies of FCOJ has translated into burdensome stocks and an oversupply of oranges. Brazil's efforts to expand domestic consumption and exports of fresh oranges are expected to help reduce the quantity of fruit that would be available for processing in 1982. The USDA estimates that large beginning inventories and a record orange crop will produce a record FCOJ availability of 852 million gallons in the 1982 season (beginning July 1). Exports of FCOJ are estimated at 723 million gallons if the current export quota of 557 million gallons is revised upward during the year. Even then, ending inventories for the 1982 season are expected to be more than double last year's level.

1/ USDA publication FHORT 1-82.
2/ Single-strength equivalent.

The outlook for Brazil's orange crop and FCOJ production in 1983 and the mid-1980's is for a more moderate growth than experienced in the past decade. Brazil's processors now have the capacity to produce as much as 1.0 billion gallons per season.

As shown in the table 15, the United States is one of Brazil's largest markets for FCOJ.

Table 15.--FCOJ: Brazil's exports, by selected markets, 1978-80

(In millions of gallons 1/)

Year	European Community	United States	Canada	Other Western Europe	Australia	Japan
1978	117.1	139.3	50.1	54.1	4.0	1.2
1979	171.2	151.9	48.9	59.8	16.6	4.0
1980	222.9	97.3	46.0	69.5	5.7	2.8
1980	2/	218.5	68.3	2/	2/	4.0

1/ Single-strength equivalent.
2/ Not available.

Source: Compiled from data published by the USDA.

Current world demand for FCOJ is showing signs of being somewhat softer than it was last year, particularly in Western Europe, because of increased inventories of FCOJ and the general weakness of the European economies. Hence, increased supplies of Brazilian FCOJ will be available in 1982 for shipment to other markets, including the United States. However, actual export shipments will remain dependent on the export quotas mentioned previously on page A-10.

APPENDIX A

COMMISSION'S NOTICE OF INSTITUTION

[Investigation No. 701-TA-184 (Preliminary)]

Frozen Concentrated Orange Juice From Brazil

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: July 14, 1982.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of an investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of frozen concentrated orange juice, provided for in item 165.35 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Brazil.

FOR FURTHER INFORMATION CONTACT: Mr. David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed July 14, 1982, on behalf of the Florida Citrus Mutual of Lakeland, Florida. A copy of this petition is available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by August 30, 1982 (19 CFR 207.17). Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), on or before August 4, 1982. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of Documents

The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR § 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of this investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written Submissions

Any person may submit to the Commission on or before August 16, 1982, a written statement of information pertinent to the subject matter of this investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 20.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on August 10, 1982, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. Lynn Featherstone, telephone 202–523–0242, not later than August 5, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, 47 FR 6182, February 10, 1982), and part 201, subparts A through E (19 CFR part 201, 47 FR 6182, February 10, 1982). Further information concerning the conduct of the conference will be provided by Mr. Featherstone.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 21, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–20441 Filed 7–27–82; 8:45 am]

BILLING CODE 7020–02–M

APPENDIX B

WITNESSES APPEARING AT THE CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Investigation No. 701-TA-184 (Preliminary)

FROZEN CONCENTRATED ORANGE JUICE FROM BRAZIL

Those listed below appeared as witnesses at the United States International Trade Commission conference held in connection with the subject investigation on August 10, 1982, in the Commission's Sunshine Room, 701 E Street, NW., Washington, D.C.

In support of the imposition of countervailing duties

Barnes, Richardson & Colburn
Washington, D.C.
on behalf of

Florida Citrus Mutual

Bobby F. McKown, Executive Vice President, Florida Citrus Mutual
Philip Herndon, Director and Sales Manager, Algoma Packing Co., Inc.
William Raley, President, Florida Citrus Mutual

James H. Lundquist)
Matthew T. McGrath) --OF COUNSEL

In opposition to the imposition of countervailing duties

Arter, Hadden & Hemmendinger
Washington, D.C.
on behalf of

ABRASSUCOS (organization of Brazilian exporters of frozen concentrated orange juice)

Noel Hemmendinger--OF COUNSEL

APPENDIX C

FDA STANDARDS OF IDENTITY FOR FCOJ

§ 146.146 Frozen concentrated orange juice.

(a) Frozen concentrated orange juice is the food prepared by removing water from the juice of mature oranges as provided in § 146.135, to which juice may be added unfermented juice obtained from mature oranges of the species *Citrus reticulata*, or hybrids thereof, or of *Citrus aurantium*, or both. However, in the unconcentrated blend the volume of juice from *Citrus reticulata* shall not exceed 10 percent and from *Citrus aurantium* shall not exceed 5 percent. The concentrate so obtained is frozen. In its preparation, seeds (except embryonic seeds and small fragments of seeds that cannot be separated by good manufacturing practice) and excess pulp are removed, and a properly prepared water extract of the excess pulp so removed may be added. Orange oil, orange pulp, orange essence (obtained from orange juice), orange juice and other orange juice concentrate as provided in this section or concentrated orange juice for manufacturing provided in § 146.153 (when made from mature oranges), water, and one or more of the optional sweetening ingredients specified in paragraph (b) of this section may be added to adjust the final composition. The juice of *Citrus reticulata* and *Citrus aurantium*, as permitted by this paragraph, may be added in single strength or concentrated form prior to concentration of the *Citrus sinensis* juice, or in concentrated form during adjustment of the composition of the finished food. The addition of concentrated juice from *Citrus reticulata* or *Citrus aurantium*, or both, shall not exceed, on a single-strength basis, the 10 percent maximum for *Citrus reticulata* and the 5 percent maximum for *Citrus aurantium* prescribed by this paragraph. Any of the ingredients of the finished concentrate may have been so treated by heat as to reduce substantially the enzymatic activity and the number of viable microorganisms. The finished food is of such concentration that when diluted according to label directions the diluted article will contain not less than 11.8 percent by weight of orange juice soluble solids, exclusive of the solids of any added optional sweetening ingredients. The dilution ratio shall be not less than 3 plus 1. For the purposes of this section and § 146.150, the term "dilution ratio" means the whole number of volumes of water per volume of frozen concentrate required to produce orange juice from concentrate having orange juice soluble solids of not less than 11.8 percent by weight exclusive of the solids of any added optional sweetening ingredients.

(b) The optional sweetening ingredients referred to in paragraph (a) of this section are sugar, sugar sirup, invert sugar, invert sugar sirup, dex-

trose, corn sirup, dried corn sirup, glucose sirup, and dried glucose sirup.

(c) If one or more of the sweetening ingredients specified in paragraph (b) of this section are added to the frozen concentrated orange juice, the label shall bear the statement "——— added", the blank being filled in with the name or an appropriate combination of names of the sweetening ingredients used. However, for the purpose of this section, the name "sweetener" may be used in lieu of the specific name or names of the sweetening ingredients.

(d) The name of the food concentrated to a dilution ratio of 3 plus 1 is "frozen concentrated orange juice" or "frozen orange juice concentrate". The name of the food concentrated to a dilution ratio greater than 3 plus 1 is "frozen concentrated orange juice, ——— plus 1" or "frozen orange juice concentrate, ——— plus 1", the blank being filled in with the whole number showing the dilution ratio; for example, "frozen orange juice concentrate, 4 plus 1". However, where the label bears directions for making 1 quart of orange juice from concentrate (or multiples of a quart), the blank in the name may be filled in with a mixed number; for example, "frozen orange juice concentrate, 4⅓ plus 1". For containers larger than 1 pint, the dilution ratio in the name may be replaced by the concentration of orange juice soluble solids in degrees Brix; for example, a 62° Brix concentrate in 3½-gallon cans may be named on the label "frozen concentrated orange juice, 62° Brix".

(e) Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements specified in this section for naming the optional ingredients used shall immediately and conspicuously precede or follow the name of the food, without intervening written, printed, or graphic matter.

(f) Nothing in this section is intended to interfere with the adoption and enforcement by any State, in regulating the production of frozen concentrated orange juice in such State, of State standards, consistent with this section, but which impose higher or more restrictive requirements than those set forth in this section.

§ 146.148 Reduced acid frozen concentrated orange juice.

(a) Reduced acid frozen concentrated orange juice is the food that complies with the requirements for composition and label declaration of optional ingredients prescribed for frozen concentrated orange juice by § 146.146, except that it may not contain any added sweetening ingredient. A process involving the use of anionic ion-exchange resins permitted by § 173.25 of this chapter is used to reduce the acidity of the food so that the ratio of the Brix reading to the grams of acid, expressed as anhydrous citric acid, per 100 grams of juice is not less than 21 to 1 or more than 26 to 1.

(b) The name of the food is "Reduced acid frozen concentrated orange juice".

[45 FR 12414, Feb. 26, 1980]

EFFECTIVE DATE NOTE: Section 146.148 becomes effective July 1, 1981.

APPENDIX D

FLORIDA CITRUS CODE STANDARDS FOR FCOJ

601.9909
Page 1

601.9909 FROZEN CONCENTRATED ORANGE JUICE; REQUIREMENTS; LABELING.--

Subject to the provisions of ss. 601.9913 and 601.9914, no frozen concentrated orange juice shall be sold, offered for sale, shipped, or offered for shipment which:

(1) Is concentrated to less than 41.8 or more than 47 degrees Brix. The Brix reading, if determined refractometrically, shall include corrections for citric acid.

(2) Has a lower ratio of total soluble solids to anhydrous citric acid of less than 12 to 1 or a higher ratio of total soluble solids to anhydrous citric acid than 19.5 to 1.

(3) Contains more than 0.120 milliliters of recoverable oil per 100 grams of concentrate.

(4) Contains any additives of any kind.

(5) Does not taste essentially the same as freshly expressed orange juice of similar quality and is not completely free of all fermented, cooked, terpeny, or other off-flavors; or does not meet all requirements of the rules of the Department of Citrus regarding color, absence of defects, taste, and flavor; unless the immediate container thereof shall be labeled in accordance with rules of the Department of Citrus, and there shall appear on such label the word "substandard" in bold type not less than one-fourth inch high printed or stamped diagonally thereon.

History.--s. 108, ch. 25149, 1949; s. 1, ch. 29759, 1955; s. 1, ch. 61-67; s. 22, ch. 71-186; s. 1, ch. 77-6; s. 161, ch. 79-164.

Note.--Former s. 501.0108.

20-64.07 **Frozen concentrated orange juice:** Florida State Grades shall be identical with current United States Department of Agriculture adopted U.S. Grades, with the exception that frozen concentrated orange juice sold, shipped, or offered for sale or shipment in retail or institutional size containers, shall meet the following additional requirements:

(1) Product shall meet the minimum requirements of subsections (1) through (5) of Section 601.9909, Florida Statutes, except that:

(a) 1. Percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, shall be not less than 44.8 percent nor more than 47 percent. This Brix provision shall not apply to frozen concentrated orange juice packed and certified for shipment outside the United States and Canada.

2. Section (1)(a)1. notwithstanding, effective July 15, 1980, the minimum percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for product produced to fill Federal government purchase contracts shall be identical to the Food and Drug Administration Standard of Identity for Frozen Concentrated Orange Juice.

3. Section (1)(a)1. notwithstanding, effective December 1, 1980, the minimum percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for product packed and certified for shipment to Canada and other export markets shall be identical to the Food and Drug Administration Standard of Identity for Frozen Concentrated Orange Juice.

4. Section (1)(a)1. notwithstanding, effective December 1, 1980, the percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for product for sale or shipment within the United States shall be not less than 43.2 percent nor more than 47 percent.

5. Section (1)(a)1. and 4. notwithstanding, effective December 1, 1981, the minimum percent by weight of orange juice soluble solids as provided by Section 601.9909(1), Florida Statutes, for all product shall be identical to the then current Food and Drug Administration Standard of Identity for Frozen Concentrated Orange Juice.

(b) The Brix-acid ratio as provided in Section 601.9909(2), Florida Statutes, shall not be less than thirteen to one, nor more than nineteen and one-half to one, except that, where a permit is approved by the Commission for the production and sale of limited quantities of a frozen concentrated orange juice manufactured by a separate process involving the reduction of naturally occurring acid of the product without the use of additives of any kind, the product shall have a ratio of not less than twenty-one to one nor more than twenty-six to one.

(c) Oil content as provided in Section 601.3909(3), Florida Statutes, shall be not less than .010 percent and not more than .035 percent by volume on a reconstituted basis.

(2) **Flavor:**

The product shall be a flavor which is fine, distinct, and substantially typical of orange juice extracted from fresh, mature, sweet oranges, and scores not less than 36 points as defined in current United States Standards for Grades of Frozen Concentrated Orange Juice.

(3) **Washed pulp solids:**

The product shall not contain soluble solids recovered by aqueous extraction or washing of fruit pulp.

(4) **Hard finishing:**

The product shall contain no more than 12% sinking pulp, composed of particles of membrane, core, juice cells, peel and other materials removed by centrifuging by the following method:

(a) Remove non-sinking pulp by pouring the product, reconstituted to 11.8°Brix and brought to 80°F., through a 20/mesh 304 stainless steel screen (Citrus Strainer SK-1027 RC) or a standard Ecko type screen.

(b) Place the product in a table model International Clinical Centrifuge 11½ inches in diameter and equipped with the following:

1. Variable voltage transformer
2. Either a strobe light tachometer or a vibration tachometer with a gauge measuring at least 1500 revolutions per minute and graduated in increments of 25 RPM. or less
3. Electric timer with automatic cut-off switch
4. Short conical 50 Ml. graduated tubes

(c) Adjust the centrifuge speed to 1500 revolutions per minute and centrifuge for exactly ten minutes.

(d) After centrifuging, the militer reading at the top of the layer of pulp in the tube is multiplied by two to determine the percentage of sinking pulp.

(5) **Fruit to be used — quality and type:**

(a) A composite sample of each load of fruit intended for use or ultimately used in any way in the production of frozen concentrated orange juice shall be drawn pursuant to Section 20-61.03. If the Brix-acid ratio of the juice extracted from the composite sample is less than ten to one, except tangerines (other than Honey Tangerines) which shall be not less than nine to one, the fruit in such load shall not be used in the production of frozen concentrated orange juice.

(b) Citrus fruit not identifiable as being of the species Citrus sinensis, Citrus reticulata or hybrids thereof, and Citrus aurantium, shall not be used in the production of frozen concentrated orange juice.

(6) **Bulk citrus juice used in production of frozen concentrated orange juice:**

All bulk frozen concentrated citrus juice, concentrated citrus juice, frozen citrus juice, and concentrated citrus juice for manufacturing used in the production of frozen concentrated orange juice shall:

(a) Conform to the subjective (i.e. exclude ratio) flavor requirements of U.S. or Florida Grade A for each respective product involved. If no such grade standard has been adopted for a given product, that product shall have a reasonably good flavor, characteristic of the type or types of fruit from which the product was made. This subsection shall not apply to product made solely from C. aurantium.

(b) Have a Brix-acid ratio of not less than eleven to one. However, this subsection shall not apply to product made solely from tangerines or Citrus aurantium.

(c) Have been produced from citrus fruit conforming to the requirements of subsection 20-64.07(5).

(d) Conform to the requirements of subsection 20-64.07(3).

(e) Not be made from a blend containing any product which, if graded separately, fails to meet any of the foregoing subjective flavor (i.e. exclude ratio) requirements.

(7) **Gel test:** All frozen concentrated orange juice, regardless of container type, shall be tested for degree of gelation. No product shall have a No. 3 or greater gel, as determined by the following standard method for gel test, with no tolerance allowed:

(a) A six-ounce can of product shall be placed undisturbed in running tap water, 70° to 80°F., for 30 minutes, and then placed in a water bath maintained at 80°F., plus or minus 2°F., for 24 hours. Minimum space between cans in the water bath shall be ¼ inch. The can shall be taken without agitation from the water bath and the concentrate removed and examined in the following manner: carefully cut and remove one end of the can; place an inverted transparent container, not over 4 inches inside diameter and not over 2 inches in height, over the open end of the can and, keeping the container tightly against the can, invert the can without allowing any of the concentrate to escape. Punch a small hole in the end of the can and remove the can, allowing the concentrate to flow slowly into the container.

(b) The degree of gelation shall be designated as:

1. Zero (0) gel - Concentrate is uniform in appearance and contains no gelled lumps.

2. Number 1 gel - Concentrate contains a few small gelled lumps, however is completely fluid and has no tendency to mound.

3. Number 2 gel - Concentrate contains many gelled lumps and show resistance of flow, however no portion of the concentrate retains the shape of any part of the can. When poured, concentrate has a tendency to mound.

4. Number 3 gel - Definite degree of gel formation is evident in the concentrate as indicated by any portion of the product showing and retaining the shape of any part of the can.

5. Number 4 gel - Extreme degree of gel formation is evident as indicated by over 75% of the concentrate retaining the shape of the can.

(c) When frozen concentrated orange juice is to be packed in containers other than six ounce, and not in excess of one gallon, at the time of filling a representative sample of the product shall be sealed in six ounce cans and the product frozen. These cans shall then be used for the required gel test.

(d) To determine the degree of gelation in frozen concentrated orange juice in containers larger than one gallon, a representative sample shall be taken, reconstituted to 41.8° Brix with distilled water, and sealed in six ounce cans. This sample shall be tested by the standard method of gel test described above. Should fermentation, as indicated by an increase in pressure within the can, occur during storage of the sample in the water bath at 80°F. for 24 hours, or should the product, upon examination, show a Number 3 gel or more, a retest for degree of gelation shall be made using the standard method, except that the can of concentrate, thawed to 40°F., shall be held at 40°F., plus or minus 2°F. for six days.

General Authority: 601.10(7), 601.11, 601.24, F.S. Law Implemented: 601.10(7), 601.11, 601.24, 601.48, 601.9904, 601.9909, 601.9914(5), F.S. History: Formerly 105-1.19(1)(e); revised 1/1/75; §(1) amended 7/14/80; amended 3/1/82.

20-64.08 Concentrated orange juice for manufacturing: Florida State Grades shall be identical with current U.S. Department of Agriculture adopted U.S. Grades with the following exceptions:

(1) Product shall be exempt from the requirements of subsection 601.9909(1), Florida Statutes, but shall meet all other requirements of Section 601.9909, Florida Statutes.

(2) The product shall be tested for degree of gelation as provided in subsection 20-64.07(7).

Specific Authority: 601.10(7), 601.11, F.S. Law Implemented: 601.10(7), 601.11, 601.48, 601.9904, 601.9909, 601.9914(5), F.S. History: Formerly 105-1.19(1)(f); revised 1/1/75, amended 1/1/82.

APPENDIX E

TSUSA ITEM 165.3540 AND HEADNOTES

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1982)

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 12. - Beverages

1 - 12 - A
165.15 - 165.35

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1	Rates of Duty LDDC	Rates of Duty 2
			3. For the purposes of this subpart -- (a) the term "gallon" in the "Rates of Duty" column of the provisions applicable to fruit juices means gallon of natural unconcentrated juice or gallon of reconstituted juice; (b) the term "reconstituted juice" means the product which can be obtained by mixing the imported concentrate with water in such proportion that the product will have a Brix value equal to that found by the Secretary of the Treasury from time to time to be the average Brix value of like natural unconcentrated juice in the trade and commerce of the United States; and (c) the term "Brix value" means the refractometric sucrose value of the juice, adjusted to compensate for the effect of any added sweetening materials, and thereafter corrected for acid. 4. In determining the number of gallons of reconstituted fruit juice which can be obtained from a concentrate, the degree of concentration shall be calculated on a volume basis to the nearest 0.5 degree, as determined by the ratio of the Brix value of the imported concentrated juice to that of the reconstituted juice, corrected for differences of specific gravity of the juices. Any juice having a degree of concentration of less than 1.5 (as determined before correction to the nearest 0.5 degree) shall be regarded as a natural unconcentrated juice. 5. In determining the degree of concentration of mixed fruit juices (item 165.65), the mixture shall be considered as being wholly of the component juice having the lowest Brix value. Subpart A statistical headnote: 1. For the purposes of statistical reporting in this subpart, the term "gallon" in the "Units of Quantity" column means gallon of natural unconcentrated juice or gallon of reconstituted juice (as defined in headnote 3(b) above).				
			Fruit juices, including mixed fruit juices, concentrated or not concentrated, whether or not sweetened:				
			Not mixed and not containing over 1.0 percent of ethyl alcohol by volume:				
	165.15	00	Apple or pear	Gal.	Free 1/		5¢ per gal.
			Citrus fruit:				
	165.25		Lime		10¢ per gal. 1/		70¢ per gal.
		20	Not concentrated	Gal.			
		40	Concentrated	Gal.			
			Other:				
	165.30	00	Not concentrated	Gal.	20¢ per gal. 1/		70¢ per gal.
	165.35		Concentrated		35¢ per gal. 1/		70¢ per gal.
		40	Orange	Gal.			
		70	Other	Gal.			

1/ Imports under this item may be subject to Federal Excise Tax (26 U.S.C. 5001 and 5041) as follows:
A) If containing distilled spirits, a tax of $10.50 per proof gallon and a proportionate tax at the all fractional parts of a proof gallon.
B) If containing wine, a tax of --
1) 17¢ per wine gallon on still wines containing not more than 14% of alcohol by volume;
2) 67¢ per wine gallon on still wines containing more than 14% and not exceeding 21% of alcohol by volume;
3) $2.25 per wine gallon on still wines containing more than 21% and not exceeding 24% of alcohol by volume;
4) $3.40 per wine gallon on champagne and other sparkling wines; and
5) $2.40 per wine gallon on artificially carbonated wines.