

FROZEN CONCENTRATED ORANGE JUICE FROM BRAZIL

**Determination of the Commission in
Investigation No. 731-TA-326
(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Note: Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report.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, DC

Investigation No. 731-TA-326 (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 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of frozen concentrated orange juice, provided for in item 165.29 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 9, 1986, a petition was filed with the Commission and the Department of Commerce by Florida Citrus Mutual, Lakeland, Florida, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of frozen concentrated orange juice from Brazil. Accordingly, effective May 9, 1986, the Commission instituted preliminary antidumping investigation No. 731-TA-326 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 21, 1986 (51 F.R. 18671). The conference was held in Washington, DC, on June 2, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

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

2/ Commissioner Stern dissenting.

VIEWS OF VICE CHAIRMAN BRUNSDALE, COMMISSIONER ECKES,
COMMISSIONER LODWICK, AND COMMISSIONER ROHR

We determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen concentrated orange juice (FCOJ) from Brazil that are allegedly sold at less than fair value (LTFV).

Successive frosts have left the domestic FCOJ industry in a vulnerable state. In addition, Brazilian FCOJ imports have come to play a major role in the U.S. FCOJ market, and importers of FCOJ are developing new channels of distribution that bypass the traditional processing industry. It is against this background that we make our affirmative preliminary determination. This determination is based on the decline in profitability of the domestic industry, the volume of Brazilian imports, and the price behavior of the imports.

Domestic industry and like product

The term "industry" is defined in section 771(4)(A) of the Tariff Act of 1930 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." ^{1/} The term "like product," in turn, is defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation." ^{2/}

^{1/} 19 U.S.C. § 1677(4)(A).

^{2/} 19 U.S.C. § 1677(10).

Like product - The imported article subject to this investigation is highly concentrated frozen concentrated orange juice, sometimes referred to as frozen concentrated orange juice for manufacturing (FCOJM). ^{3/} Domestic processors make both FCOJM and FCOJ, but only the latter is sold at the retail or institutional level. All FCOJM is reprocessed into FCOJ through the addition of water, and is then packaged in retail-sized or institutional-sized containers for shipment. ^{4/} There appears to be no significant difference between domestic FCOJ and FCOJ made from Brazilian FCOJM. ^{5/ 6/}

^{3/} 51 Fed. Reg. 20321 (June 4, 1986). FCOJM is a highly concentrated form of FCOJ. All the Brazilian imports enter the U.S. in the form of FCOJM. In previous FCOJ investigations, the article subject to investigation was FCOJM, but was simply referred to as FCOJ. Since all of the Brazilian imports enter the U.S. in the form of FCOJM, the same article is subject to this investigation as was the subject of the previous FCOJ investigations.

^{4/} Report of the Commission (Report) at A-3.

^{5/} Both FCOJ and FCOJM are formed by removing water from orange juice and freezing the remaining concentrate. The resulting concentrate can be reconstituted into orange juice by adding water. In order to reconstitute FCOJ into single-strength orange juice, three units of water are added to each unit of FCOJ. By comparison, FCOJM is reconstituted into single-strength orange juice by adding seven units of water to each unit of concentrate. Thus, the only difference between standard FCOJ and FCOJM is the amount of water that needs to be added to form reconstituted orange juice. Id. at A-3.

^{6/} Vice Chairman Brunsdale takes note of evidence that Brazilian FCOJ is imported in order to be blended with domestic FCOJ to produce a superior retail product. See, e.g., Frozen Concentrated Orange Juice from Brazil, Investigation No. 751-TA-10, at 11, n.16 (Views of Commissioners Eckes, Lodwick, and Rohr): "most processors import FCOJ from Brazil in order to blend for quality." This suggests to her that there may be significant differences between the domestic and imported product. Moreover, the comparability of the physical product does not preclude the possibility that domestic consumers perceive significant differences between the two products. Some of these differences are reliability of supply, delivery time, quality control, and ability to recover if the seller should be liable for the consequences of product defects. Should there be a final investigation, the Vice Chairman will examine these differences further based on additional information to be developed by staff.

In our previous investigations of FCOJ from Brazil, we defined the like product to be FCOJ. ^{7/} None of the parties has argued that this definition of the like product should be changed, nor has any party argued that FCOJ is not like FCOJM. ^{8/} Therefore, we have again defined the like product to be FCOJ. ^{9/}

Domestic Industry - Domestic FCOJ is produced in the final stage of production by processors who take "round oranges" and process them into concentrate. In the previous FCOJ investigations, the Commission defined the relevant domestic industry to include growers of round oranges as well as processors involved in the production of FCOJ. ^{10/} In defining the industry in that manner, the Commission looked at two factors: (1) whether there is a single, continuous line of production from round oranges to FCOJ, and (2) whether there is a commonality of economic interests between the growers and

^{7/} See Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-184 (Preliminary), USITC Pub. 1283, at 4 (1982); Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-184 (Final), USITC Pub. 1406, at 3 (1983) (Views of Chairman Eckes); *id.* at 18 (Views of Commissioner Stern); Frozen Concentrated Orange Juice from Brazil, Inv. No. 751-TA-10, USITC Pub. 1623, at 11 (1984) (Views of Commissioners Eckes, Lodwick, and Rohr); *id.* at 28 (Views of Chairwoman Stern); *id.* at 44 (Views of Vice Chairman Liebler).

For convenience, the three previous FCOJ investigations will hereinafter be referred to as: FCOJ (P), FCOJ (F), and FCOJ Review respectively.

^{8/} See Post Conference Brief on behalf of Cargill Citro-America *et al.* at 3.

^{9/} Since the only difference between FCOJ and FCOJM is their respective concentrations, we will refer to both as FCOJ throughout the rest of the opinion unless the context requires us to do otherwise.

^{10/} See FCOJ (P) at 7; FCOJ (F) at 3 (Views of Chairman Eckes); *id.* at 20 (Views of Commissioner Stern); FCOJ Review at 11 (Views of Commissioners Eckes, Lodwick, and Rohr); *id.* at 30 (Views of Chairwoman Stern); *id.* at 45 (Views of Vice Chairman Liebler).

the processors. ^{11/} These are the same factors that the Commission examined in past investigations involving processed agricultural products to determine whether to include both growers and processors within the definition of the domestic industry. ^{12/ 13/}

There appears to be a single, continuous line of production from round oranges to FCOJ. Approximately 94 percent of the Florida round orange crop is processed, and 85 percent of that is processed to produce FCOJ. ^{14/} Nationwide, about 70 percent of all round oranges are used in processing. ^{15/} Having found that the first factor in our analysis is satisfied, we now examine whether there is a commonality of economic interests between the growers and the processors.

^{11/} Vice Chairman Brunsdale agrees with her colleagues in the majority that the appropriate definition of the domestic industry in this case is growers and FCOJ processors of round oranges. She believes that the Commission faces an issue of fundamental importance when it decides whether to include in its industry definition the domestic resources employed in producing products that are the raw material inputs into the like product. She also believes that her colleagues have raised useful points. However, she respectfully disagrees with their views because they do not present a clear analytical framework. The majority's presentation argues that there is a single, continuous line of production from round oranges to FCOJ, and that there is a commonality of economic interests between the growers and the processors. However, this presentation does not clearly identify the underlying method of analysis used. In the Vice Chairman's approach, the appropriate framework focuses attention on the prospect of adverse effects on domestic raw material suppliers as a result of less-than-fair-value imports of the article subject to investigation. Accordingly, the essential factor in deciding whether to include growers in the domestic industry is the likelihood that a decline in the demand for U.S. FCOJ will result in a significant decline in the price of round oranges. She finds that there is ample evidence to support this conclusion (Report at A-24-A-25, especially figure 1) and thus determines that there is a single industry comprised of processors and growers.

^{12/} See, e.g., Certain Fresh Atlantic Groundfish From Canada, Inv. No. 701-TA-257 (Final), USITC Pub. 1844 (1986).

^{13/} Vice Chairman Brunsdale notes that, in indicating the factors the Commission shall, or may, consider in defining an industry, the antidumping statute does not distinguish between agricultural and non-agricultural industries.

^{14/} Report at A-10.

^{15/} Id.

In previous FCOJ investigations, the Commission found that the processors and the growers had common economic interests because of the pricing arrangements that exist between growers and processors. The majority of round oranges were found to be sold either through cooperatives or "participation plans," rather than through the cash market. ^{16/} Growers that are members of a cooperative deliver their oranges to a cooperative-owned processing plant for processing and marketing, and in payment receive the net proceeds from the sale of the FCOJ. ^{17/} Under a participation plan a grower agrees to sell all of his oranges to a single processor, and his return is determined by an agreed upon formula based, at least in part, on the final selling price of the FCOJ. ^{18/} Thus, growers that sell their round oranges by either of these methods have direct economic links to the processors, since the price they receive for their oranges is directly tied to the final selling price of FCOJ.

In past FCOJ investigations, the Commission found that 80 percent of all round oranges were sold through either a cooperative or a participation plan, while only 20 percent were sold on a cash basis. In this investigation, it appears that, in the two most recent crop years, as many as 40 percent of all round oranges purchased for processing were sold on a cash basis. ^{19/} ^{20/} It is unclear, however, whether this change reflects a temporary or long-term

^{16/} Id. at A-6.

^{17/} Id. at A-7.

^{18/} Id.

^{19/} Id. at A-6.

^{20/} We note that the methodology used in this investigation to determine the percentage of round oranges sold on a cash basis is the same as that used in previous FCOJ investigations.

change in the relationship between processors and growers. ^{21/} Thus, for purposes of this preliminary investigation, we find that the growers and processors have sufficiently common economic interests to have both included within the definition of the domestic industry. ^{22/}

We have considered whether this case presents appropriate circumstances for applying the related parties provision. ^{23/} Analysis of the related parties issue is complicated here by the fact that most of the the domestic processors import Brazilian FCOJ. ^{24/} Thus, if those processors were excluded from the domestic industry, the domestic industry would consist almost exclusively of growers. Moreover, we have determined that including economic data on the domestic processors that import Brazilian FCOJ will not skew the economic data of the domestic industry as a whole.

21/ Should this investigation return to the Commission for a final investigation, we would closely examine whether the change in the percentage of cash sales represents a temporary change in the relationship between the growers and the processors or whether that figure represents a permanent change that could require the Commission to reexamine its definition of the domestic industry.

22/ During the course of this investigation, the domestic FCOJ processors that process about half of all round oranges which are processed expressed their opposition to the present antidumping petition. Such opposition may be some evidence that the economic interests of the growers and processors are different. See, e.g., Certain Fresh Atlantic Groundfish From Canada, Inv. No. 701-TA-257 (Final), USITC Pub. 1844 (1986) at 8-9. Based on the facts of this investigation, however, we have determined that the processors' opposition alone is insufficient to show that the economic interests of the growers and processors have actually become divergent since the time of our previous FCOJ investigations. While this expression of opposition has not affected our definition of the domestic industry, in any final investigation we will reexamine whether the opposition expressed by the processors should affect our definition of the domestic industry. See also our discussion in note 70, infra.

23/ See 19 U.S.C. § 1677(4)(B).

24/ Report at A-8-A-9.

Processors appear to import FCOJ from Brazil in order to blend for quality and to supplement domestic supply. We therefore conclude that appropriate circumstances for the exclusion of those domestic processors that import Brazilian FCOJ do not exist. In any final investigation we will reexamine this question, especially with regard to the large corporate processors.

Therefore, for purposes of this preliminary investigation, we define the domestic industry to include both FCOJ processors and growers of round oranges.

Condition of the domestic industry

In examining the condition of the domestic industry, the Commission considered, among other factors, consumption, production, sales, market penetration, and profitability of the domestic industry. ^{25/ 26/} At the outset we note that the condition of the domestic industry has weakened in recent years, in part because of the effects of freezes in Florida and Texas. In four of the last six crop years ^{27/} round orange groves in those states have suffered freezes of varying severities ^{28/} that caused the industry to lose both oranges and orange trees.

Apparent U.S. consumption of FCOJ, as measured by total available FCOJ, ^{29/} remained relatively constant throughout the period under

^{25/} See 19 U.S.C. § 1677(7)(C)(iii).

^{26/} We recognize that because of the nature of this industry some of the statistical indicators will not immediately reflect changes in market conditions as they would in other industries. In this case, indicators, such as production, may lag behind market conditions by several years due to the time between the planting of orange trees and the time they bear fruit.

^{27/} The Florida crop year runs from December 1 through November 30.

^{28/} The most recent freezes occurred in the 1980/81, 1981/82, 1983/84, and 1984/85 growing seasons.

^{29/} See Report at A-21 for the reasons that total available FCOJ is used in this calculation.

investigation. Total available FCOJ went from 1.3 billion gallons in 1982/83 ^{30/} to 1.2 billion gallons in 1983/84 to 1.3 billion gallons in 1984/85. ^{31/} The figures for December to March show a decline from 809 million gallons in 1984/85 to 689 million gallons during the same period of 1985/86. ^{32/}

Approximately 15,000 growers in Florida produced round oranges on a total of 420,100 acres in 1984/85. ^{33/} That acreage figure reflects a 22 percent decline in Florida's orange bearing acreage since 1982/83. ^{34/} U.S. production of round oranges decreased from 225.2 million boxes in 1982/83 ^{35/} to 169.5 million boxes in 1983/84 to 158.4 million boxes in 1984/85. ^{36/} However, production is expected to increase to 179.0 million boxes in 1985/86 as the orange groves continue to recover from the most recent freezes.

U.S production of FCOJ from Florida oranges decreased from 685 million gallons in 1982/83 to 479 million gallons in 1984/85. ^{37/} Figures for the 1985/86 December to March period indicate that the decline in FCOJ production continued. ^{38/} Recent information, however, shows that FCOJ production is

^{30/} All gallon figures referred to in this opinion refer to single-strength equivalent gallons.

^{31/} Report at A-5, and Table 1.

^{32/} Id.

^{33/} Id. at A-6.

^{34/} Id. at A-7, Table 2.

^{35/} One box weighs 90 pounds in Florida, 85 pounds in Texas, and 75 pounds in Arizona and California.

^{36/} Report at A-10, Table 3. Moreover, the freezes that occurred in 1983 and 1985 created a 1984/85 Florida round orange crop that was the smallest since 1967/68. Id. at A-11.

^{37/} Id. at A-11, Table 4.

^{38/} Id.

now increasing as the supply of round oranges has increased. ^{39/}

Domestic shipments have also declined steadily since 1982/83. ^{40/} By 1984/85 they had dropped to 871 million gallons from 965 million gallons in 1982/83. ^{41/} Shipments in the December 1985-March 1986 period declined by 3 percent from shipments in the December 1984-March 1985 period. ^{42/} As domestic round orange production increases, however, domestic shipments are also expected to increase.

The domestic industry's profitability declined during the period of investigation. In analyzing the domestic industry's profitability, three different segments of the industry must be examined: corporate processors, cooperatives, and growers. ^{43/} We shall discuss each in turn.

For corporate processors, net sales decreased from \$748 million in 1984 to \$744 million in 1985. ^{44/} Figures for interim 1986 show that net sales declined to \$206 million from \$251 million during interim 1985. ^{45/} Corporate operating profits decreased from \$38 million in 1984 to \$16 million in 1985, ^{46/} and during interim 1986 dropped from an operating profit of \$4.9 million in the year-earlier period to an operating loss of \$9.9

^{39/} The capacity to extract juice from fresh oranges declined from 4.8 million pounds in 1984 to 4.6 million pounds in 1986. Id. at A-12, Table 5. This decline, however, appears to be due to the loss of some freeze damaged orange groves in Northern Florida which caused some processors to close their facilities due to lack of oranges available for processing. Water-evaporating capacity remained relatively stable during that same period. Id.

^{40/} Id. at A-12.

^{41/} Id.

^{42/} Id.

^{43/} Corporate processors are examined separately from cooperatives because their accounting methods differ significantly. Id. at A-13.

^{44/} Id. at A-17, Table 8. The corporate net sales numbers are for retail FCOJ that contains both domestic and Brazilian concentrate. See id. at A-33, n.1; see also the discussion in note 70, infra.

^{45/} Id. at A-17.

^{46/} Id.

million. ^{47/} Likewise, the ratio of operating income to net sales decreased from 6.4 percent in 1983 to 2.2 percent in 1985, ^{48/} and during interim 1986 went from 2.0 percent in the year-earlier period to negative 4.8 percent. ^{49/}

For cooperatives, net sales went from \$185 million in 1983 to \$206 million in 1984 to \$172 million in 1985. ^{50/} Net sales further decreased from \$34 million in interim 1985 to \$28 million in interim 1986. The net pre-tax proceeds for cooperatives decreased from \$130 million in 1983 to \$121 million in 1984 to \$108 million in 1985. ^{51/} Those figures increased to \$12.6 million in interim 1986 from \$11.8 million in interim 1985. ^{52/} The ratio of net pre-tax proceeds to net sales varied irregularly throughout the period under investigation. ^{53/}

For growers, the best information available to the Commission on their financial performance in this preliminary investigation is orange prices. ^{54/} The on-tree orange prices ^{55/} rose from 1982/83 to 1984/85, before falling sharply in 1985/86. ^{56/} The spot prices for oranges showed a similar trend, rising in 1982/83 to 1984/85 before falling sharply in 1985/86. ^{57/} Both of these trends indicate that the growers are receiving

^{47/} Id.

^{48/} Id.

^{49/} Id.

^{50/} Id.

^{51/} Id.

^{52/} Id.

^{53/} Id. Data regarding the performance of cooperatives requires unique analysis, so the Commission will more thoroughly develop such an analysis in a final investigation.

^{54/} In any final investigation, the Commission will seek more information about the financial condition of the growers. Such information would include not only prices, but more complete revenue and cost information.

^{55/} The "on-tree orange prices" are estimates of the unit value of oranges that are still on trees.

^{56/} Report at A-24, Figure 1.

^{57/} Id.

lower returns for their oranges. The apparent decline in the growers' profitability may also be affecting individual grower's decisions regarding the rehabilitation of damaged groves. ^{58/}

Based on our overall assessment of the condition of the domestic industry, we conclude that there is a reasonable indication that the domestic industry is materially injured.

Reasonable indication that the domestic industry is materially injured by reason of the Brazilian imports

We examined a number of factors in determining that there is a reasonable indication that the domestic industry is materially injured by reason of the Brazilian imports. These factors include the volume and market penetration of the Brazilian FCOJ imports, the price behavior, and the inventories of Brazilian FCOJ in the United States.

FCOJ imports from Brazil increased in volume from 349 million gallons in 1982/83 to 510 million gallons in 1983/84 to 578 million gallons in 1984/85. ^{59/} However, these imports declined from 235 million gallons during December 1984-March 1985 to 161 million gallons during December 1985-March 1986. ^{60/} Similarly, the market penetration of Brazilian FCOJ rose from 27.3 percent in 1982/83 to 44.6 percent in 1984/85, ^{61/} and thereafter declined from 29.0 percent for interim 1984/85 to 23.3 percent for

^{58/} Petitioner's Post Conference Brief at 18.

^{59/} Report at A-21, Table 10.

^{60/} Id.

^{61/} Id. Market penetration is the ratio of imported Brazilian FCOJ to total available FCOJ. See id. at A-21.

interim 1985/86. ^{62/} While these figures have declined recently, they remain significant. ^{63/} The ratio of Brazilian FCOJ imports to FCOJ production from the Florida crop has also remained significant. ^{64/} Thus, the Brazilian imports are not merely a supplementary source of supply, but are an integral part of the U.S. market. ^{65/}

In recent years there has been a change in the channels of distribution employed by importers of Brazilian FCOJ. A number of facilities for storing Brazilian FCOJ have been built, and several more are being built. ^{66/} The new facilities are located in areas outside of Florida, and away from the major U.S. processors. Moreover, some of these facilities have the capability of blending Brazilian FCOJ with domestic FCOJ. The resulting FCOJ can then be packaged and sold at the retail level. These changes mean that some Brazilian FCOJ now bypasses the major domestic orange processing operations entirely.

The Brazilian imports of FCOJ sold in both tanker-loads and drums undersold domestic FCOJ in most of the months during the January 1985-April

^{62/} Id.

^{63/} By comparison, we note that in 1978/80 Brazilian imports had a market penetration of 7.8 percent. See FCOJ Review at 15 (Views of Commissioners Eckes, Lodwick, and Rohr).

^{64/} Report at A-22, Table 11.

^{65/} The Commission reached the same conclusion in the 751 review investigation. See FCOJ Review at 17-18 (Views of Commissioners Eckes, Lodwick, and Rohr).

^{66/} Transcript of Conference at 17-18. See also Report at A-8-A-9.

1986 period. 67/ 68/ Moreover, the prices for domestic FCOJ sold in both tanker-loads and drums declined by about 40 percent during the January 1985-April 1986 period. 69/ 70/ Retail prices for twelve six-ounce cans have dropped from an average of \$5.02 for the 1984/85 season to \$3.83 in May 1986. 71/

The decline in FCOJ prices follows the record high prices that were caused by the most recent two freezes. Following such record high prices, it would be expected that prices would drop as the domestic round orange production began to increase again. The recent declines, however, appear sharper than the declines that occurred during the recoveries from previous

67/ Id. at A-27-A-28, A-31-A-32, A-33.

68/ Vice Chairman Brunsdale does not find persistent price underselling or overselling to be probative evidence of whether "there has been significant price undercutting by the imported merchandise as compared with the price of like products of the United States." (19 U.S.C. 1677(7)(C)(ii)(I)). If two products are not identical in all respects, there is no reason to suppose their prices will be equal. Rather, each product is, in effect, a bundle of characteristics, including such features as those listed in note 6, supra. See, for example, Title VII Lost Sales, Underselling, and Causation and Injury, Report to The Vice Chairman from the Director, Office of Economics of the ITC, attached to EC-J-010, at 8-21.

69/ Id. at A-31-A-32.

70/ It is difficult to accurately compare domestic and Brazilian FCOJ prices because all domestic FCOJ sold at the retail or institutional level is a blend of both domestic and Brazilian FCOJ. Id. at A-33, n.1. In any final investigation the Commission will try to ascertain where in the production process domestic and Brazilian FCOJ actually compete, and will see if it can thus obtain better price comparisons for the two types of FCOJ.

The Commission will also attempt to gather more information on how competition from Brazilian FCOJM affects the retail and bulk prices of FCOJ. In particular, the Commission will try to ascertain how the prices of Brazilian FCOJM sold to repackers and the prices of Brazilian FCOJM sold to U.S. processors affects FCOJ prices and how it affects the profitability of the domestic industry.

71/ Id. at A-31-A-32.

freezes. ^{72/} Moreover, Brazilian production has increased dramatically in recent years as a result of major investments made by Brazilian growers in the late 1970's and early 1980's. ^{73/} Brazilian imports accounted for about 45 percent of FCOJ available in the U.S. market in 1984/85 ^{74/} and 97 percent of U.S. imports of FCOJ imports from all sources. ^{75/ 76/} Based on the record in this investigation, there is a reasonable indication that the price decline of Brazilian FCOJ caused at least some of the decline in domestic prices. ^{77/}

We also note that there is a large amount of Brazilian FCOJ stored in bonded warehouses. Although those inventories have declined recently from 180 million gallons on November 30, 1985 to 144 million gallons on March 31, 1986, they remain high. ^{78/} The latter figure represents over 10 percent of the

^{72/} Id. at A-29, Figure 3.

^{73/} Foreign Agricultural Circular, Horticultural Products, USDA Pub. FHORT 4-86 (April 1986).

^{74/} Report at A-21, Table 10.

^{75/} Id., at A-20, Table 9.

^{76/} Vice Chairman Brunsdale notes that, as a result of expanded production, Brazil now accounts for 53 percent of world round orange production. Foreign Agricultural Circular, Horticultural Products, USDA Pub. FHORT 1-86 (Jan. 1986). See also Report at A-36-A-40. Thus, Brazil exerts great influence on the world price of round oranges paid by consumers in the United States. If Brazilian imports were unavailable through the world market, the domestic price would be considerably higher.

^{77/} In any final investigation the Commission will try to determine how the increase in the domestic production of FCOJ and the price of the allegedly LTFV Brazilian imports have affected the decline in domestic prices.

^{78/} Report at A-38, Table 15. Inventory levels of FCOJ in Brazil are also at very high levels. At the end of the 1985/86 Brazilian crop year, the inventories of FCOJ in Brazil were 340 million gallons. Id. at A-39, Table 16. Nearly 60 percent of all Brazil's FCOJ exports is destined for the U.S. Id. at A-39, Table 17.

total FCOJ available for consumption during the 1984/85 crop year. ^{79/} The presence and availability of that stored FCOJ may also have been a cause of the recent price decline of domestic FCOJ. ^{80/}

Conclusion

Therefore, on the basis of the information available in this preliminary investigation, we determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of FCOJ from Brazil.

^{79/} Compare id. at A-38, Table 15 with id. at A-6, Table 1.

^{80/} Cf. FCOJ Review at 19 (Views of Commissioners Eckes, Lodwick, and Rohr) (increased storage capacity for Brazilian FCOJ in the U.S. increases the ability of the imports to suppress the U.S. price).

VIEWS OF CHAIRMAN LIEBELER

Inv. No. 731-TA-326 (Preliminary)

Frozen Concentrated Orange Juice from Brazil

I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of frozen concentrated orange juice from Brazil allegedly being sold at less than fair value.¹

Like product and domestic industry

In prior investigations involving the importation of frozen concentrated orange juice ("FCOJ") the Commission determined that the like product was domestic FCOJ. In addition, the Commission defined the domestic industry to

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Material retardation is not an issue because the industry is well established.

include both growers of "round oranges"² and processors
involved in the production of FCOJ.³ I find no reason
to change Commission practice on these issues.⁴

Material Injury by Reason of Imports

In order for a domestic industry to prevail in a preliminary investigation, the Commission must determine that there is a reasonable indication that the dumped or subsidized imports cause or threaten to cause material injury to the domestic industry producing the like product. First, the Commission must determine whether the domestic industry producing the like product is materially injured or is threatened with material injury. Second,

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Round oranges include the Pineapple and Valencia in Florida and the Valencia and some Washington navel production in California. Report at A-3.

3

Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-184 (Final), USITC Pub. 1406, at 3 (1983); Frozen Concentrated Orange Juice from Brazil, Inv. No. 751-TA-10 ("FCOJ review"), USITC Pub. 1623 (1984), at 11 (Views of Commissioners Eckes, Lodwick, and Rohr), at 28 (Views of Chairwoman Stern); at 44 (Views of Vice Chairman Liebelier).

4

See FCOJ review, supra note 3, at 44-45 (Views of Vice Chairman Liebelier). An argument has been put forward that there is less vertical integration in this case than in previous investigations. I do not find this a meaningful distinction.

the Commission must determine whether any injury or threat thereof is by reason of the dumped or subsidized imports. Only if the Commission finds a reasonable indication of both injury and causation, will it make an affirmative determination in the investigation.

Before analyzing the data, however, the first question is whether the statute is clear or whether one must resort to the legislative history in order to interpret the relevant sections of the antidumping law. In general, the accepted rule of statutory construction is that a statute, clear and unambiguous on its face, need not and cannot be interpreted using secondary sources. Only statutes that are of doubtful meaning are subject to such statutory interpretation.⁵

The statutory language used for both parts of the two-part analysis is ambiguous. "Material injury" is defined as "harm which is not inconsequential, immaterial, or unimportant."⁶ This definition leaves unclear what

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Sands, Sutherland Statutory Construction Sec. 45.02 (4th Ed.)

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19 U.S.C. sec. 1977(7)(A) (1980).

is meant by harm. As for the causation test, "by reason of" lends itself to no easy interpretation, and has been the subject of much debate by past and present commissioners. Clearly, well-informed persons may differ as to the interpretation of the causation and material injury sections of title VII. Therefore, the legislative history becomes helpful in interpreting title VII.

The ambiguity arises in part because it is clear that the presence in the United States of additional foreign supply will always make the domestic industry worse off. Any time a foreign producer exports products to the United States, the increase in supply, ceteris paribus, must result in a lower price of the product than would otherwise prevail. If a downward effect on price, accompanied by a Department of Commerce dumping or subsidy finding and a Commission finding that financial indicators were down were all that were required for an affirmative determination, there would be no need to inquire further into causation.

But the legislative history shows that the mere presence of LTFV imports is not sufficient to establish causation. In the legislative history to the Trade Agreements Acts of 1979, Congress stated:

[T]he ITC will consider information which indicates that harm is caused by factors other⁷ than the less-than-fair-value imports.

The Finance Committee emphasized the need for an exhaustive causation analysis, stating, "the Commission must satisfy itself that, in light of all the information presented, there is a sufficient causal link between the less-than-fair-value imports and the requisite injury."⁸

The Senate Finance Committee acknowledged that the causation analysis would not be easy: "The determination of the ITC with respect to causation, is under current law, and will be, under section 735, complex and difficult, and is matter for the judgment of the ITC."⁹ Since the domestic industry is no doubt worse off by the presence of any imports (whether LTFV or fairly traded) and Congress has directed that this is not enough upon which to base an affirmative determination, the Commission must delve further to find what condition Congress has attempted to remedy.

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Report on the Trade Agreements Act of 1979, S. Rep. No. 249, 96th Cong. 1st Sess. 75 (1979).

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Id.

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Id.

In the legislative history to the 1974 Act, the Senate Finance Committee stated:

This Act is not a 'protectionist' statute designed to bar or restrict U.S. imports; rather, it is a statute designed to free U.S. imports from unfair price discrimination practices. * * * The Antidumping Act is designed to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a

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United States industry.

Thus, the focus of the analysis must be on what constitutes unfair price discrimination and what harm results therefrom:

[T]he Antidumping Act does not proscribe transactions which involve selling an imported product at a price which is not lower than that needed to make the product competitive in the U.S. market, even though the price of the imported product is lower than its home market

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price.

This "difficult and complex" judgment by the Commission is aided greatly by the use of economic and financial analysis. One of the most important assumptions

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Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

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Id.

of traditional microeconomic theory is that firms attempt to maximize profits.¹² Congress was obviously familiar with the economist's tools: "[I]mporters as prudent businessmen dealing fairly would be interested in maximizing profits by selling at prices as high as the U.S. market would bear."¹³

An assertion of unfair price discrimination should be accompanied by a factual record that can support such a conclusion. In accord with economic theory and the legislative history, foreign firms should be presumed to behave rationally. Therefore, if the factual setting in which the unfair imports occur does not support any gain to be had by unfair price discrimination, it is reasonable to conclude that any injury or threat of injury to the domestic industry is not "by reason of" such imports.

In many cases unfair price discrimination by a competitor would be irrational. In general, it is not

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See, e.g., P. Samuelson & W. Nordhaus, Economics 42-45 (12th ed. 1985); W. Nicholson, Intermediate Microeconomics and Its Application 7 (3d ed. 1983).

¹³

Trade Reform Act of 1974, S. Rep. 1298, 93rd Cong. 2d Sess. 179.

rational to charge a price below that necessary to sell one's product. In certain circumstances, a firm may try to capture a sufficient market share to be able to raise its price in the future. To move from a position where the firm has no market power to a position where the firm has such power, the firm may lower its price below that which is necessary to meet competition. It is this condition which Congress must have meant when it charged us "to discourage and prevent foreign suppliers from using unfair price discrimination practices to the detriment of a United States industry."¹⁴

In Certain Red Raspberries from Canada, I set forth a framework for examining what factual setting would merit an affirmative finding under the law interpreted in light¹⁵ of the cited legislative history.

The stronger the evidence of the following . . . the more likely that an affirmative determination will be made: (1) large and increasing market share, (2) high dumping margins, (3) homogeneous products, (4) declining prices and (5) barriers

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Id.

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Inv. No. 731-TA-196 (Final), USITC Pub. 1680, at 11-19 (1985) (Additional Views of Vice Chairman Liebeler).

to entry to other foreign producers (low¹⁶
elasticity of supply of other imports).

The statute requires the Commission to examine the volume of imports, the effect of imports on prices, and the general impact of imports on domestic producers.¹⁷ The legislative history provides some guidance for applying these criteria. The factors incorporate both the statutory criteria and the guidance provided by the legislative history. Each of these factors is evaluated in turn. But first I note that I concur with the majority in its discussion of condition of the industry and related parties.

Causation analysis

Examining import penetration data is relevant because unfair price discrimination has as its goal, and cannot take place in the absence of, market power. Imports of FCOJ from Brazil increased from 27.3 percent of the total available FCOJ in the United States in 1982/83 to 44.6

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Id. at 16.

¹⁷

¹⁹ U.S.C. sec. 1677(7)(B)-(C) (1980 & cum. supp. 1985).

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percent in 1984/85. Thus, imports of FCOJ represent a large and growing market share and the first indicator suggests that unfair price discrimination conditions may exist.

The second factor is a high margin of dumping or subsidy. The higher the margin, ceteris paribus, the more likely it is that the product is being sold below the competitive price¹⁹ and the more likely it is that the domestic producers will be adversely affected. In a preliminary investigation, the Commerce Department has not yet had time to calculate any margins. I therefore rely on the margins alleged by petitioner. Using the constructed value method, the petitioner alleges LTFV margins of over 100 percent.²⁰ These margins are very high and would further suggest the presence of unfair price discrimination.²¹

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Report at Table 10. The interim numbers for 1985/86 indicate that this percentage may be dropping sharply. Full year data for 1985/86 may provide support for the argument that Brazilian FCOJ increased only because of the freezes and is declining in response to the domestic recovery.

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See text accompanying note 11, supra.

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Report at A-3.

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My determination in the review investigation concerning subsidized orange juice from Brazil that the duty should have been revoked was based in large part on the level of the subsidy. The subsidy margin was only 3.51 percent. FCOJ review, supra note 3, at 46-51.

The third factor is the homogeneity of the products. The more homogeneous the products, the greater will be the effect of any allegedly unfair practice on domestic producers. There is some evidence suggesting that the domestic and imports differ in terms of flavor, especially during the early part of the growing season, and that blending of the two occurs to keep a constant flavor. All things constant, one would expect that the FCOJ with the better flavor would cost more. I ask that this be further investigated in the event that this case reaches a final.

As to the fourth factor, evidence of declining domestic prices, ceteris paribus, might indicate that domestic producers were lowering their prices to maintain market share. Domestic prices have been declining since the record high in 1984/85.²² The decline may be attributable totally to rebounding domestic production. This factor is therefore inconclusive, though it is not inconsistent with unfair price discrimination.

The fifth factor is barriers to entry (foreign supply elasticity). If there are barriers to entry (or low

foreign elasticity of supply) it is more likely that a producer can gain market power. Brazil accounts for over 90 percent of US FCOJ imports and is the largest producer of oranges in the world. The US imported approximately 58 percent of Brazilian exports during 1983-85.²³ This factor indicates that there may be barriers to entry and that Brazil may have an elastic supply to the US.

These factors must be balanced in each case to reach a sound determination. None of the factors in this case are inconsistent with finding a reasonable indication of material injury by reason of allegedly dumped imports of FCOJ from Brazil.²⁴

Conclusion

Therefore, I conclude that there is a reasonable indication that an industry in the United States is

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Id.

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However, certain items bear further examination. For example, if demand for FCOJ in the US is very elastic, then imports have a very small impact on the domestic industry. See Posthearing brief on behalf of Cargill Citro-America, Inc., 16-20 (June 5, 1986); Ethyl Alcohol from Brazil, Inv. No. 701-TA-239 (Final) & 731-TA-248 (Final), USITC Pub. 1818 (1986) at 13-15.

materially injured by reason of allegedly dumped imports
of FCOJ from Brazil.

VIEWS OF COMMISSIONER PAULA STERN

Over the past four years, the Commission has reviewed the condition of the Frozen Concentrated Orange Juice (FCOJ) industry three times.^{1/} The earlier investigations established that the production of round oranges and the processing of FCOJ are highly sensitive to Florida freezes. Since 1980, several freezes^{2/} have hit production of Florida round oranges hard. Normally, recovery of production from such freezes requires a number of years.^{3/} Fortunately, Florida growers rebounded quickly following the most recent January 1985 freeze. The recovery, however, has also brought the problem of market readjustment from record high prices that the last freeze produced.

^{1/} See Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-184 (Preliminary, USITC Pub. 1283 (1982) [hereinafter referred to as FCOJ I]; Frozen Concentrated Orange Juice from Brazil, Inv. No. 701-TA-184 (Final), USITC Pub. 1406 (1983) [hereinafter referred to as FCOJ II]; and Frozen Concentrated Orange Juice from Brazil, Inv. No. 751-TA-10, USITC Pub. 1623 (1984) [hereinafter referred to as FCOJ III].

^{2/} The freezes occurred in crop years 1980/81, 1981/82, 1983/84, and 1984/85. Report at A-24.

^{3/} FCOJ II at A-13.

The current preliminary investigation examines whether there is a reasonable indication that allegedly less than fair value (LTFV) sales of Brazilian FCOJ in the U.S. market have caused or threaten to cause material injury to the U.S. industry.^{4/} Except for some variations, the market forces in the preceding countervailing duty investigations^{5/} are the same ones at work in this LTFV investigation. Specifically, the presence or absence of a freeze is a determining factor in the health of the domestic FCOJ industry.

In the recovery years after a freeze, analysts of the FCOJ industry expect to observe rising Florida production, declining imports and a return of prices to pre-freeze levels. In this investigation, the Commission's data reflects this pattern. There is no reasonable indication that LTFV sales are enhancing the problems of the domestic industry. For this reason, I have made a negative determination.

DEFINITION OF THE DOMESTIC INDUSTRY

On the definition of like product^{6/}, I concur with my

^{4/} 19 C.F.R. Sec. 207.17. The question of whether imports have materially retarded the establishment of a domestic industry is not at issue in this investigation.

^{5/} See FCOJ II at 17 (views of Commissioner Paula Stern and FCOJ III at 25 (views of Chairwoman Paula Stern).

colleagues in the majority. As in previous investigations of FCOJ from Brazil, the majority has defined the like product to be FCOJ. Also, I concur with the majority's definition of the relevant domestic industry. The majority of round oranges are used solely in a single, continuous line of production of one-end-product, FCOJ. Further, it is unclear whether the recent increases in cash basis sales of round oranges is a temporary or long-term change. Therefore, as the record now stands, it is most appropriate to continue to treat the growers and processors as integrated elements of one industry.

CONDITION OF THE DOMESTIC INDUSTRY

On the best evidence available to the Commission, it appears that the domestic industry is experiencing problems. For FCOJ operations, corporations have experienced a decline in net sales, and for the interim period in 1986, are experiencing operating losses.^{7/} For cooperatives, the limited data on FCOJ operations shows lower net sales and declining pre-tax

6/ 19 U.S.C. Sec. 1677(10).

7/ Report at A-17.

proceeds.^{8/} Other indicators, however, indicate a brighter future for the industry. These indicators are discussed further below.

NO REASONABLE INDICATION OF MATERIAL INJURY OR THREAT BY REASON
OF LTFV IMPORTS

Since Florida production of round oranges accounts for about 90 percent^{9/} of all oranges processed in the U.S., weather conditions in Florida play a major role in the health of the entire domestic industry. Past Florida production figures illustrate the consequences of freezes to the U.S. FCOJ processing industry. During the period under investigation, total Florida acreage under production fell from 536,800 acres in 1982/83 to 420,100 acres in 1984/85.^{10/} This 22 percent^{11/} cutback is directly attributable to freezes. Meanwhile, Florida round orange production fell from 139.6 million boxes

^{8/} Id.

^{9/} Report at A-6.

^{10/} Id at A-7.

^{11/} Id at A-7 (Footnote 1 to Table 2).

in 1982/83 to 103.9 million boxes in 1984/85.^{12/} The later figure represents a 50 percent drop from the record year 1979/80 when Florida production of round oranges reached 206.7 million boxes.^{13/} Likewise, production of FCOJ from Florida oranges dropped markedly from 684.9 million gallons in 1982/83 to 478.5 million gallons in 1984/85.^{14/} The later figure is 47 percent of the record 1979/80 production of 1,012.9 million gallons.^{15/}

As has been the case in earlier freeze years, Brazilian imports diminished the adverse effects of smaller Florida crops.^{16/} The Brazilian imports have supplemented U.S. supply and helped to prevent consumers from switching to alternate products.

In the prospective section 751 review (1984), I stated that unless additional freezes occur, imports were likely to decline significantly in future years as production of round oranges recovered to more normal levels.^{17/} The present trends support that analysis. For the crop year 1985/86, the USDA

^{12/} Id at A-10.

^{13/} FCOJ II at A-13.

^{14/} Report at A-6.

^{15/} FCOJ II at A-7.

^{16/} FCOJ II at 27 (views of Commissioner Paula Stern).

^{17/} FCOJ III at 26 (views of Chairwoman Paula Stern).

estimates that Florida round orange production will increase by 20 percent.^{18/} Also, staff estimates that total U.S. production of FCOJ will increase between 5 and 10 percent in 1985/86.^{19/} In fact, at this stage of processing,^{20/} U.S. FCOJ production has already equalled last year's production of 120 million gallons.^{21/} At the same time, Brazilian exports of FCOJ have fallen dramatically. General imports are down from 302,271,000 gallons in the period December to March of 1984/85 to 123,833,000 gallons for the comparable period in 1985/86 - a 59 percent decline.^{22/} In addition, U.S. processors have drawn down 36,000,000 gallons of FCOJ from inventories.^{23/} The decline in general imports is a continuation of a trend first observed in crop year 1983/84, when general imports peaked at 586,241,000 gallons.^{24/} Thus, the recovery of the domestic FCOJ industry has coincided with the decline of the supplemental imports from Brazil.

^{18/} Report at A-10.

^{19/} Id at A-11.

^{20/} The processing of oranges into FCOJ is seasonal. The main processing season begins in December and continues through the following June. Report at A-8.

^{21/} Id at A-26 (Figure 2).

^{22/} Id at A-38 (Table 15).

^{23/} Id.

^{24/} Id.

In addition to rising production and falling imports, the period of this investigation also exhibits historically high prices for FCOJ and a recent, rapid decline in prices. Generally in freeze years, prices for round oranges and FCOJ rise slightly immediately after a freeze and soar the following year when short supply of fruit from damaged trees in most felt.^{25/} The last Florida freeze occurred in January 1985. Accordingly prices rose and reached historically high levels in March 1985 when the domestic weighted average price of FCOJM in drums reached \$1.83.^{26/} However, with the quicker recovery, the price of FCOJM in drums dropped to \$1.06 by April 1986.^{27/} Thus, the fall from record high prices is the outcome of expanded domestic production.

The petitioner contends that Brazilian imports have precipitated the decline in prices and have generally depressed prices.^{28/} Although prices have declined rapidly since January 1985, there are four factors that argue against the

^{25/} FCOJ II at 17 (views of Commissioner Paula Stern).

^{26/} Report at A-27. Frozen concentrated orange juice for manufacture (FCOJM) is reprocessed through the addition of water before packaged in retail-size or institutional-size containers as FCOJ.

^{27/} Id.

^{28/} Petition of Florida Citrus Mutual at 21.

petitioner's interpretation of the data. First, the falling volume of Brazilian FCOJ would tend to stabilize prices and not to depress them. Indeed, the market penetration of Brazilian imports^{29/} has declined. The ratio of imports from Brazil to total available FCOJ reached a peak of 44.6 percent in 1984/85.^{30/} The ratio then declined to 23.2 percent during the period December - March 1985/86, the precise period of rapid price declines.^{31/}

Second, although prices have fallen rapidly, it is important to remember that they were at record high levels following four freezes in the past six years. Prices are now returning to the pre-freeze levels of 1979/80^{32/}. Additionally, conference testimony on supply and demand expectations in 1985 argues against the causal link between declining prices and Brazilian imports. According to

^{29/} Typically, the usefulness of market penetration analysis is limited since at least some imported FCOJ is known to be exported. However, with the 57 percent decline in value of U.S. exports of FCOJ between 1982/83 and 1984/85, the market penetration analysis has become a more reliable one. Report at A-14.

^{30/} Report at A-21.

^{31/} Id.

^{32/} Id at A-24 (Figure 1).

witnesses,^{33/} processors expected greater consumer demand and lower domestic production. In expectation of these conditions, processors bid up prices as they sought to maintain reliable supplies. Consequently, the larger than expected Florida round orange crop and constant consumer demand helped to drive down the FCOJ price.

Third, an analysis of tanker FCOJM price data does not indicate any significant underselling by Brazilian imports. In the 16 months between January 1985 and April 1986, the Brazilian bulk tanker price equalled or exceeded the domestic price in 5 months and undersold the domestic price by less than 3.6 percent in 9 months.^{34/} Further, tanker transport represents 50 percent of Brazil exports of FCOJM.^{35/} Thus, the price comparison between tanker prices does not establish any significant underselling.

The last factor that cuts against the petitioners' causation argument is the nature of the industry. The number

^{33/} Frozen Concentrated Orange Juice From Brazil, Inv. No. 731-TA-326 (Preliminary), Official Transcript Proceedings Before I.T.C. at 81 (Statement of Mr. Tom Rankin, Chief Operating Officer of Lykes Brothers, Inc.), at 99 (Testimony of Mr. Rankin), and at 128 (Mr. Elliott Seabrook, President of Juice Farms, Inc.).

^{34/} Report at A-28.

^{35/} Id at A-9.

of cooperative processors has declined over the years, as major corporations have acquired processing plants. As recently as September 1982, there were 37 processors in Florida.^{36/} Today, that number has shrunk to 31.^{37/} In 1986, corporations represent 25 of the 31 processing plants in Florida.^{38/} Competition among these large corporations for the static FCOJ market^{39/} tends itself to lower prices.

In sum, market adjustment, processor miscalculation and increased domestic production explain the decline in prices. The factors I have discussed provide no reasonable indication of material injury or threat of material injury due to alleged LTFV imports from Brazil.

^{36/} FCOJ I at A-9.

^{37/} Report at A-8.

^{38/} Id.

^{39/} Total Available FCOJ has remained constant at 1.2 to 1.3 billion gallons over the period 1982/83 to 1984/85. Report at A-6.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On May 9, 1986, 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 voluntary cooperative marketing association of growers of citrus fruit, alleging that imports of frozen concentrated orange juice (FCOJ) from Brazil, provided for in item 165.29 of the Tariff Schedules of the United States (TSUS), are being sold in the United States at less than fair value (LTFV), and that an industry in the United States is materially injured or threatened with material injury by reason of such imports.

The Commission therefore instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(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 after its receipt of the petition, or in this case, by June 23, 1986.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of May 21, 1986 (51 F.R. 18671). 1/ The public conference was held in Washington, DC, on June 2, 1986, 2/ and the Commission voted on the investigation on June 18, 1986.

Previous Commission Investigations

In addition to the present investigation, the Commission has conducted two other investigations involving FCOJ from Brazil since 1982. On July 14, 1982, FCM filed a petition with the Commission and Commerce alleging that subsidies were being paid with respect to the manufacture, production, or exportation of FCOJ imported from Brazil. Following affirmative preliminary determinations by the Commission and Commerce, the Commission instituted investigation No. 701-TA-184 (Final), effective December 16, 1982, to determine whether an industry in the United States was materially injured, or threatened with material injury, by reason of imports of such merchandise into the United States. On February 24, 1983, Commerce and the Government of Brazil signed a suspension agreement, on the basis of which Commerce suspended its investigation, and Brazil agreed to offset completely the amount of the net subsidy determined by Commerce to exist with respect to FCOJ. Accordingly, the Commission suspended its investigation. However, the Government of Brazil filed a request to continue the investigation with Commerce on March 21, 1983,

1/ A copy of the Commission's notice of institution is presented in app. A. A copy of Commerce's notice of initiation is also presented in app. A.

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

and both Commerce and the Commission continued their investigations. On July 14, 1983, the Commission, by a 1 to 1 vote, 1/ determined that an industry in the United States was threatened with material injury. 2/

On May 31, 1984, the Commission received a request filed on behalf of three Brazilian producers and exporters of FCOJ, pursuant to section 751(b) of the Tariff Act of 1930, to review its affirmative injury determination in light of changed circumstances. Following a comment period, the Commission instituted investigation No. 751-TA-10 on August 21, 1984, to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of FCOJ from Brazil, if the suspension agreement regarding such merchandise were to be modified or revoked. On December 11, 1984, the Commission 3/ determined that an industry in the United States would be threatened with material injury if the suspension agreement were to be modified or revoked. 4/

Nature and Extent of Alleged Sales at LTFV

The petitioner alleges that imports of FCOJ from Brazil are being sold in the United States at LTFV. The allegations are presented on pages 8 through 16 of the petition.

Briefly, the petitioner used two methods to calculate LTFV margins. In one, the foreign market value of FCOJ was calculated by using data on sales to a third country, West Germany. The U.S. price was calculated for FCOJ entered in both Florida and New York. Based on petitioner's calculations, the following LTFV margins exist:

<u>Point of entry</u>	<u>LTFV margins</u> <u>(percent)</u>
Florida-----	17.7 - 30.2
New York-----	3.0 - 15.4

The petitioner states, however, that the foreign market value of FCOJ should not be calculated in the above manner since sales to third countries have been and will continue to be made at prices below Brazilian producers' costs of production. Using the constructed value method to determine foreign market value, the petitioner derives the LTFV margins presented below:

1/ Chairman Eckes voted in the affirmative and Commissioner Stern voted in the negative.

2/ Frozen Concentrated Orange Juice from Brazil, Investigation No. 701-TA-184 (Final), USITC Publication 1406, July 1983.

3/ Commissioners Eckes, Lodwick, and Rohr voted in the affirmative, and Chairwoman Stern and Vice Chairman Liebler voted in the negative.

4/ Frozen Concentrated Orange Juice From Brazil, Investigation No. 751-TA-10, USITC Publication 1623, December 1984.

<u>Point of entry</u>	<u>LTFV margin</u> (<u>percent</u>)
Florida-----	98.1 - 127.3
New York-----	133.7 - 175.5

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 in Florida and the Valencia and some Washington navel production in California. 1/ The composition (i.e., color, flavor, fragrance, and juice content) of fresh oranges is affected by such factors as growing conditions, various treatments, 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 processing and storage facilities and also is the principal product shipped in bulk. The use of FCOJM in these applications saves space and weight 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.

The concentration level of FCOJ and FCOJM is expressed by Brix value. 3/ 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°. 4/ For human consumption, FCOJ requires a 3-to-1 dilution with water to reach single-strength equivalent. By comparison, FCOJM requires approximately a 7-to-1 dilution with water.

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

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

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

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

All FCOJ that is prepared in the United States must meet the Food and Drug Administration's (FDA's) Standards of Identity. In addition, all FCOJ prepared in Florida must meet Florida Citrus Code Standards, which are more exacting than those promulgated by the FDA. For example, the FDA standards include no requirements regarding minimum maturity, flavor, color, oil content, or gelation, but 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. 1/

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. 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 it 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 frozen, and may be packed in retail- and institutional-size containers at about 42° Brix for shipment or further concentrated and 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 ensure the desired flavor and other qualities in the final product.

U.S. tariff treatment

U.S. imports of FCOJ are classified in item 165.29 of the TSUS. 2/ Imports from Brazil and all other countries receiving the column 1 rate of duty 3/ are dutiable at 35 cents per gallon 4/ (29.3 percent ad valorem

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

2/ This provision was added by sec. 117 of the Trade and Tariff Act of 1984 (Public Law 98-573), and became effective as of Jan. 1, 1985. Prior to this time, FCOJ was classified in TSUS item 165.35.

3/ The rates of duty in col. 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(d) of the TSUSA.

4/ 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.

equivalent in 1985). 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, and those from Caribbean Basin Economic Recovery Act (CBERA) beneficiaries are eligible for duty-free entry. Imports from beneficiary developing countries are not eligible for duty-free entry under the GSP, nor are reduced rates available for imports from least developed developing countries (LDDC's) or from Israel.

Processors that both import and export FCOJ are eligible to obtain a refund in the form of drawback of certain import duties paid. 1/ Under section 313 of the Tariff Act of 1930 (as amended), a manufacturer which imports merchandise and then exports products produced with the imported merchandise is eligible to receive a refund of 99 percent of the duties, taxes, and fees paid on the imports (19 U.S.C. 1313(a)). 2/ Additionally, if both imported and domestic materials of the same kind and quality are used within a specified period to produce a product, some of which is exported, drawback equal to 99 percent of the duty paid on the imported material is payable upon that exportation. Under this provision, called "substitution" drawback, it does not matter whether the actual imported material or like domestic material was used to produce the exported article (19 U.S.C. 1313(b)). 3/

U.S. Market and Channels of Distribution

Apparent U.S. consumption

Total available FCOJ 4/ declined slightly from 1.3 billion gallons in crop year 1982/83 5/ to 1.2 billion gallons in 1983/84 before recovering to 1.3 billion gallons in 1984/85 (table 1). During this three-season period the 206 million gallon decrease in Florida production was balanced by a 219 million gallon increase in imports. Total available FCOJ then declined from 809 million gallons in December 1984-March 1985 to 689 million gallons in December 1985-March 1986. This decrease resulted from a 8-percent decline in Florida production and a 28-percent decline in imports over the period.

1/ Drawback can also be collected on exports of single-strength orange juice, provided that either single-strength orange juice (either domestic, imported, or a blend), or water, oil, and essence are added to the imported FCOJ. Certain rights to receive drawback payments may be assigned by the importer or manufacturer.

2/ This refund also applies to any dumping, countervailing, or marking duties paid on imports (Customs regulations, 19 CFR 22.41).

3/ To claim drawback, exports must occur 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.

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

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

Table 1.--FCOJ: Production from Florida crop, imports, carryover stock, and total available FCOJ, crop years 1982/83 to 1984/85, December 1984-March 1985, and December 1985-March 1986

(In millions of gallons 1/)				
Period	: Production from: : Florida crop 2/	: Imports 2/	: Carryover : stock 3/	: Total avail- : able FCOJ
1982/83-----	: 684.9 :	: 377.1 :	: 215.6 :	: 1,277.6
1983/84-----	: 489.6 :	: 533.5 :	: 173.0 :	: 1,196.1
1984/85-----	: 478.5 :	: 596.6 :	: 219.8 :	: 1,294.9
December-March:	: :	: :	: :	: :
1984/85-----	: 348.0 :	: 241.1 :	: 219.8 :	: 808.9
1985/86-----	: 321.3 :	: 172.5 :	: 195.3 :	: 689.1
	: :	: :	: :	: :

1/ Single-strength equivalent.

2/ On a crop-year basis, which runs from Dec. 1 to Nov. 30, unless otherwise noted.

3/ From prior season.

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

U.S. producers

Growers.--U.S. orange growers are located almost entirely in the States of Florida, California, Texas, and Arizona. From crop years 1982/83 to 1984/85, Florida accounted for about 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 15,000 growers in Florida producing oranges on a total of 420,100 acres in crop year 1984/85 (table 2).

Growers may choose to sell their fruit through a cooperative, through a "participation plan," or in the cash market. According to FCM, about 80 percent of the Florida fruit is handled by cooperatives or in participation plans, with the remainder of the crop being sold in the cash market. 1/ However, a witness for the respondents testified that Florida Citrus Processor's Association (FCPA) 2/ data indicate that about 50 percent of the 1984/85 crop was priced at sale (i.e., sold in the cash market). 3/ Data reported in response to the Commission's questionnaire by 16 Florida processors which accounted for 91 percent of fresh Florida oranges purchased for processing in 1984/85 reveal that 40 percent of their purchases were on a cash basis.

1/ Transcript of the conference, p. 47.

2/ The FCPA is the trade association of processors of citrus fruit in Florida.

3/ Transcript, p. 129.

Table 2.--Florida, California/Arizona, and Texas bearing acreage in oranges, by crop years, 1982/83 to 1984/85

(In thousands of acres)				
State	1982/83	1983/84	1984/85	
Florida <u>1/</u> -----	536.8	474.3	420.1	
California/Arizona-----	188.1	190.1	186.3	
Texas-----	24.0	24.3	11.4	
Total-----	748.9	688.7	617.8	

1/ The 22-percent decline in Florida bearing acreage during 1982/83 to 1984/85 is the result of freeze-killed groves.

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

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, most cooperatives provide grove care, maintenance, and harvesting services for their 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, but does not usually 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 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. 2/

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

2/ 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.

At the present time, it is estimated that the average established grove is 50 acres in size and costs \$6,500 to \$10,000 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 ^{1/} that contract with a firm to provide care and maintenance 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 Citrus Processors Association, is shown in the following tabulation:

<u>Crop year</u>	<u>Processing firms</u>
1982/83-----	36
1983/84-----	34
1984/85-----	33
1985/86-----	31

Data on the number of processing plants in other States are not available, but they are believed to total less than 15 plants. 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 the 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, however, does not begin until December, when the Valencia variety is ripe. It then 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.

In 1986, 25 of the 31 processing plants in operation in Florida were corporations. ^{2/} Unlike cooperatives, which are viewed as extensions of their members' growing operations, corporations generally have more latitude to choose between purchases of oranges or FCOJM based on price and quality considerations.

U.S. importers

The largest U.S. importers of FCOJ from Brazil include * * *. With the exception of * * *, which are solely importers, these firms are also among the

^{1/} FCM has estimated that 10 percent of Florida's growers are out-of-State absentee owners.

^{2/} The number of cooperative processors has declined over the years, as major corporations have acquired processing plants. These corporations include: Proctor & Gamble, Campbell's Soup, Phillip Morris, and Quaker Oats. Two other corporations, Coca-Cola and Beatrice Foods, have owned processing plants in Florida for longer periods of time. Additionally, Nestle's Group has purchased a processing plant in California.

largest processors in the United States. * * *. Many U.S. importers have imported FCOJ from Brazil for a long period of time, and all processors in the United States are believed to have purchased imported Brazilian FCOJ at least once in recent years. Moreover, some processors have purchased FCOJ from Mexico and other Central American countries as well. In addition to U.S. processors, repackers 1/ of FCOJ into single-strength orange juice products and orange drinks import directly from Brazil.

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. 2/

According to the USDA, Brazil's production of FCOJ decreased from 816 million gallons (single-strength equivalent) in 1981/82 3/ to an estimated 707 million gallons in 1983/84. Brazil's production increased to 954 million gallons in 1984/85 and is projected to reach 1,181 million gallons in 1985/86. During the same period, Brazil's exports of FCOJ decreased from 819 million gallons in 1981/82 to 629 million gallons in 1982/83, increased in 1983/84 to 813 million gallons, and rose to 933 million gallons in 1984/85. Exports are projected to decline to 836 million gallons in 1985/86. The domestic market for FCOJ in Brazil is very small.

There are at least a dozen firms in Brazil producing FCOJ. Together, these firms own 28 processing plants. It is estimated that three firms account for over 80 percent of FCOJ processing capacity. 4/ Over one-half of the country's exports of FCOJ to the United States are believed to be in bulk on tank ships, with the remainder being shipped in 55-gallon drums filled with 52 to 53 gallons of FCOJ.

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

The Question of Material Injury

Orange growers, U.S. production and shipments

U.S. production of round oranges decreased steadily from 225.2 million boxes 5/ in 1982/83 to 158.4 million boxes in 1984/85, but is projected to

1/ Repackers may purchase bulk FCOJM from either U.S. processors or foreign sources.

2/ One processing plant in Brazil contains the world's largest evaporator.

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

4/ These firms are * * *.

5/ One box weighs 90 pounds in Florida, 85 pounds in Texas, and 75 pounds in Arizona and California.

rise to 179.0 million boxes in 1985/86. Production declined to 169.5 million boxes in 1983/84 following the Christmas 1983 freeze, which impacted groves in both Florida and Texas. Production declined further to 158.4 million boxes in 1984/85 following the January 1985 Florida freeze. It is estimated that production in 1985/86 will total 179.0 million boxes, up 13 percent from a year earlier, as groves slowly recover from the effects of recent freezes. Total U.S. production during 1982/83 to 1985/86 mirrors trends exhibited by the Florida crop, as shown in table 3.

Table 3.--U.S. production of round oranges, 1/ by States and by crop years, 1982/83 to 1985/86

(In millions of boxes <u>2/</u>)						
Crop year	Florida <u>3/</u>	California	Arizona	Texas	Total	
	Production					
1982/83-----	139.6	76.1	3.8	5.7	225.2	
1983/84-----	116.7	48.5	1.8	2.5	169.5	
1984/85-----	103.9	52.0	2.5	0	158.4	
1985/86 <u>4/</u> -----	123.2	53.0	2.5	0.3	179.0	
	Processed <u>5/</u>					
1982/83-----	129.3	32.9	1.3	2.3	165.8	
1983/84-----	109.1	11.7	.3	1.1	122.2	
1984/85-----	97.2	11.4	.5	0	109.1	
1985/86-----	-	-	-	-	-	

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

2/ Each box weighs 90 pounds in Florida, 85 pounds in Texas, and 75 pounds in Arizona and California.

3/ Excludes temples.

4/ Estimated.

5/ Processed into all juice and other citrus products.

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

Florida's production of round oranges usually 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. Nationwide, approximately 70 percent of orange production is used in processing.

Florida's production totaled 139.6 million boxes in 1982/83. 1/ Production decreased in 1983/84 to 116.7 million boxes because of the severe

1/ This amount is substantially below the 206.7 million box record crop in 1979/80.

freeze in late December 1983. ^{1/} Production decreased further in 1984/85 to 103.9 million boxes following the January 1985 freeze. The 1984/85 crop was the smallest since 1967/68. Production is forecast to be 123.2 million boxes in 1985/86 due to the continuing, but lessened, effects of the December 1983 and January 1985 freezes.

Orange processors

U.S. production.--U.S. production of FCOJ from fresh Florida oranges ^{2/} decreased steadily from 685 million gallons (single-strength equivalent) in 1982/83 to 479 million gallons in 1984/85 (table 4). Production fell from 348 million gallons during December 1984-March 1985 to 321 million gallons during December 1985-March 1986. However, it is estimated that total output in 1985/86 will be 5 to 10 percent greater than that in the freeze-shortened 1984/85 season.

Table 4.--FCOJ: U.S. production from Florida's orange crop, crop years 1982/83 to 1984/85, December 1984-March 1985, and December 1985-March 1986

Period	Production of FCOJ from Florida orange crop Million gallons ^{1/}
1982/83-----	684.9
1983/84-----	489.6
1984/85-----	478.5
December-March--	
1984/85-----	348.0
1985/86-----	321.3

^{1/} Single-strength equivalent.

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

Capacity.--To prevent spoilage and loss of quality, orange processors run their operations 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.

The hourly juice-extracting capacity of 16 U.S. processors that accounted for about 91 percent of fresh Florida oranges purchased for processing in

^{1/} The 1983/84 freeze cut the estimated crop size by 31 percent.

^{2/} Florida oranges account for over 90 percent of total production.

Table 5.--FCOJ: U.S. capacity to extract juice and evaporate water, as of January 1984-86

(In thousands of pounds per hour)				
Year	:	Juice-extracting capacity	:	Water-evaporating capacity
	:		:	
1984-----	:	4,750	:	2,570
1985-----	:	4,773	:	2,580
1986-----	:	4,601	:	2,557
	:		:	

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

1984/85 declined from 4.8 million pounds to 4.6 million pounds during 1984-86. Water-evaporating capacity of these producers remained stable at 2.6 million pounds per hour throughout the period.

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.

Shipments.--Total shipments (domestic, export, and futures deliveries) of FCOJ declined steadily since 1982/83, as shown in the following tabulation, compiled from FCPA data:

<u>Period</u>	<u>Total shipments 1/</u> <u>(1,000 gallons) 2/</u>
1982/83-----	965,204
1983/84-----	922,119
1984/85-----	870,886
December-March--	
1984/85-----	309,035
1985/86-----	299,676

1/ Domestic shipments include imported FCOJ.

2/ Single-strength equivalent.

Total shipments during 1982/83 through 1984/85 declined from 965 million gallons to 871 million gallons, or by 9.8 percent. Shipments then declined by 3 percent from December 1984-March 1985 to December 1985-March 1986.

Deliveries in fulfillment of futures contracts 1/ accounted for approximately 3 percent of total shipments during 1982/83 through 1984/85. These deliveries ranged from a low of 24 million gallons 2/ in 1982/83 to a high of 36 million gallons in 1983/84.

1/ FCOJ futures are traded on the New York Cotton Exchange.

2/ Single-strength equivalent.

As mentioned in the section of this report on U.S. tariff treatment, the import duty on FCOJ is substantial (29.3 percent ad valorem equivalent in 1985). 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 U.S. 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. Such exports decreased sharply from 82 million gallons (single-strength equivalent) in 1982/83 to 31 million gallons in 1984/85, or by 63 percent (table 6). Exports declined from 22 million gallons during December-March 1984/85 to 16 million gallons during December-March 1985/86, representing a decline of 27 percent.

Financial experience of U.S. producers

Usable financial data were received from 15 U.S. producers (9 corporations and 6 cooperatives) on their overall establishment operations and from 13 U.S. producers (9 corporations and 4 cooperatives) on their FCOJ operations. Because the accounting methods of corporations and cooperatives differ significantly, the data for these two types of organizations are presented separately in the tables.

Overall establishment operations.---Selected financial data for the overall operations of establishments within which FCOJ is produced are presented in table 7. Aggregate net sales of the 9 corporations ^{1/} rose from \$1.9 billion in 1983 to \$2.2 billion in 1984, representing an increase of 16.9 percent, and then increased further to \$2.4 billion during 1985, or by 8.7 percent. A similar trend is evident for aggregate net sales of the 6 cooperatives, ^{2/} which increased from \$417.3 million in 1983 to \$450.1 million in 1984, or by 7.8 percent, and rose further during 1985 to \$477.5 million, representing an increase of 6.1 percent. Combined total net sales of the corporations and cooperatives increased from \$2.3 billion in 1983 to \$2.7 billion in 1984, and climbed further to \$2.9 billion during 1985. Aggregate operating profits of the 9 corporations declined from \$163.0 million during 1983 to \$144.3 million in 1984, or by 11.5 percent, then significantly increased to \$193.4 million during 1985, for an increase of 34.0 percent. Unlike the corporations, aggregate net proceeds resulting from member and nonmember sales before income taxes for the 6 cooperatives increased from \$146.4 million during 1983 to \$174.8 in 1984, or by 19.4 percent. During 1985, however, net proceeds significantly declined to \$126.1 million, or by 27.8 percent despite the increase in net sales. The operating profit margins for the U.S. corporations were 8.6 percent, 6.5 percent, and 8.0 percent, respectively, for the 1983-85 period. One of the producers incurred an operating loss during 1983, two producers incurred operating losses during 1984, and three producers incurred operating losses during 1985. The ratio of

^{1/} The corporations are * * *.

^{2/} The cooperatives are * * *.

Table 6.--FCOJ: U.S. exports, by principal markets, crop years 1982/83 to 1984/85, December-March 1984/85, and December-March 1985/86

Market	1982/83	1983/84	1984/85	December-March--	
				1984/85	1985/86
	Quantity (1,000 gallons) <u>1/</u>				
Canada-----	34,907	31,495	12,097	8,545	6,132
Mexico-----	773	4,130	2,418	2,146	43
The Netherlands-----	7,859	4,216	1,199	658	1,903
France-----	3,268	2,707	1,175	916	442
West Germany-----	4,058	3,842	785	549	285
United Kingdom-----	2,772	3,357	724	525	322
Other-----	28,394	24,765	12,951	8,583	6,516
Total-----	82,031	74,512	31,349	21,922	15,643
	Value (1,000 dollars)				
Canada-----	66,776	68,475	25,523	17,986	11,679
Mexico-----	1,257	5,188	3,028	2,677	48
The Netherlands-----	6,047	4,254	1,344	634	1,411
France-----	6,210	5,819	3,087	2,262	1,209
West Germany-----	4,596	4,157	1,320	962	365
United Kingdom-----	3,357	4,095	1,134	731	497
Other-----	39,835	37,647	20,862	13,331	9,348
Total-----	128,078	129,635	56,298	38,583	24,557
	Unit Value (per gallon)				
Canada-----	\$1.91	\$2.17	\$2.11	\$2.10	\$1.90
Mexico-----	1.63	1.26	1.25	1.25	1.12
The Netherlands-----	.77	1.01	1.12	.96	.74
France-----	1.90	2.15	2.63	2.47	2.74
West Germany-----	1.13	1.08	1.68	1.75	1.28
United Kingdom-----	1.21	1.22	1.57	1.39	1.54
Other-----	1.40	1.52	1.61	1.55	1.43
Average-----	1.56	1.74	1.80	1.76	1.57

1/ Single-strength equivalent.

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

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

Table 7.--Selected financial data of 15 U.S. producers on the overall operations of establishments within which FCOJ is produced, accounting years 1983-85 and interim periods ending March 31, 1985 and March 31, 1986

Item	1983	1984	1985	:Interim period ended	
				March 31--1/	
				1985	1986
Operations of 9 U.S. corporations 2/					
Net sales-----1,000 dollars--	1,900,610	2,221,959	2,415,524	592,006	527,576
Cost of goods sold-----do----	1,366,107	1,635,742	1,725,370	462,795	418,607
Gross profit-----do----	534,503	586,217	690,154	129,211	108,969
General, selling, and admini-					
strative expenses-----do----	371,465	441,958	496,795	97,821	96,337
Operating profit (loss)--do----	163,038	144,259	193,359	31,390	12,632
Interest expense-----do----	10,488	7,997	31,111	1,900	5,017
Other income (expense)--do----	7,685	15,497	15,878	32,147	4
Net profit or (loss) before					
income taxes-----do----	160,235	151,759	178,126	45,759	7,619
Ratio of operating profit					
(loss) to net sales					
percent--	8.6	6.5	8.0	5.3	2.4
Ratio of net profit (loss)					
before income taxes to					
net sales-----percent--	8.4	6.8	7.4	7.7	1.4
Number of firms reporting					
operating losses-----	1	2	3	1	3
Number of firms reporting					
net losses-----	2	2	3	2	4
Number of firms reporting-----	9	9	9	7	7
Operations of 6 U.S. cooperatives 3/					
Net sales-----1,000 dollars--	417,323	450,082	477,546	179,975	173,786
Cost and expenses-----do----	270,928	275,314	351,415	116,881	122,317
Net proceeds resulting from					
member and nonmember sales					
before income taxes----do----	146,395	174,768	126,131	63,094	51,469
Net profit from nonmember					
business before income taxes					
do-----	3,020	7,948	(9,061)	(1,200)	5,078
Ratio of net proceeds resulting:					
from member and nonmember					
sales before income taxes					
to net sales-----percent--	35.1	38.8	26.4	35.1	29.6

1/ The corporations providing interim data are * * *. The cooperatives providing interim data are * * *.

2/ The corporations providing usable data for the 1983-85 periods are * * *.

3/ The coops providing 1983-85 period data are * * *. All coops provided interim data except for * * *.

net proceeds resulting from member and nonmember sales before income taxes to net sales for the 6 cooperatives during the 1983-85 period were 35.1 percent, 38.8 percent, and 26.4 percent, respectively.

During the interim period ended March 31, 1986, aggregate net sales of the 7 corporations 1/ totaled \$527.6 million, down 10.9 percent from net sales of \$592.0 reported during interim 1985. Similarly, aggregate net sales of the 4 cooperatives 2/ declined from \$180 million in interim 1985 to \$173.8 million during interim 1986, or by 3.6 percent. Combined total net sales of the corporations and the cooperatives decreased from \$772.0 million during interim 1985 to \$701.4 million during interim 1986, or by 9.1 percent. Aggregate operating profits of the 7 corporations notably declined from \$31.4 million during interim 1985 to \$12.6 million during interim 1986. Aggregate net proceeds resulting from member and nonmember sales before income taxes similarly declined from \$63.1 million during interim 1985 to \$51.5 million during interim 1986, or by 18.4 percent. The operating profit margins for the U.S. corporations during interim 1985-86 were 5.3 percent and 2.4 percent, respectively. One of the seven corporations incurred an operating loss during interim 1985, and 3 producers incurred operating losses during interim 1986. The ratio of net proceeds resulting from member and nonmember sales before income taxes to net sales for the 4 U.S. cooperatives during the 1985-86 interim periods were 35.1 percent and 29.6 percent, respectively.

FCOJ operations.--Selected financial data of U.S. producers on their FCOJ operations are presented in table 8. Aggregate net sales of the 9 corporations 3/ increased from \$519.8 million during 1983 to \$748.2 million during 1984, an increase of 43.9 percent, then declined somewhat to \$743.5 million during 1985, or by 0.6 percent. Aggregate net sales of the 4 cooperatives 4/ increased from \$184.9 million in 1983 to \$206.3 million during 1984, or by 11.6 percent, then fell to \$172.3 million during 1985, a decline of 16.5 percent. Combined total net sales of the corporations and cooperatives increased from \$704.8 million during 1983 to \$954.5 million in 1984, an increase of 35.4 percent, then fell to \$915.8 million in 1985, or by 4.1 percent.

Aggregate operating profits of the 9 corporations increased from \$33.4 million during 1983 to \$38.1 million during 1984, or by 14.3 percent, then significantly declined in 1985 to \$16.1 million, or by 57.8 percent. Unlike the corporations, aggregate net proceeds resulting from member and nonmember sales before income taxes for the four cooperatives declined from \$129.8 million during 1983 to \$121.4 million during 1984, or by 6.9 percent, then further declined by 11.0 percent to \$108.1 million in 1985. The cooperatives' net profit from nonmember business before income taxes decreased from \$1.5 million in 1983 to \$1.4 million in 1984. A loss of \$531,000 was incurred during 1985.

The operating profit margins for the U.S. corporations were 6.4 percent, 5.1 percent, and 2.2 percent, respectively, for the 1983-85 period. Two of the

1/ The corporations providing interim data are * * *.

2/ The cooperatives providing interim data are * * *.

3/ The corporations are * * *.

4/ The cooperatives are * * *.

Table 8.--Selected financial data of 13 U.S. producers on their FCOJ operations, accounting years 1983-85 and interim periods ending March 31, 1985, and March 31, 1986

Item	Interim period ended				
	1983 <u>2/</u>	1984	1985	March 31--1/	
				1985	1986
Operations of 9 U.S. corporations <u>3/</u>					
Net sales-----1,000 dollars--	519,837	748,244	743,464	251,310	206,070
Cost of goods sold-----do-----	407,182	598,355	610,451	218,929	194,814
Gross profit-----do-----	112,655	149,889	133,013	32,381	11,256
General, selling, and admini- strative expenses-----do-----	79,300	111,778	116,930	27,434	21,178
Operating profit (loss)--do-----	33,355	38,111	16,083	4,947	(9,922)
Interest expense-----do-----	2,447	3,363	7,837	785	1,289
Other income (expense)---do-----	(690)	1,431	1,326	432	138
Net profit or (loss) before income taxes-----do-----	30,218	36,179	9,572	4,594	(11,073)
Ratio of operating profit (loss) to net sales percent--	6.4	5.1	2.2	2.0	(4.8)
Ratio of net profit (loss) before income taxes to net sales-----percent--	5.8	4.8	1.3	1.8	(5.4)
Number of firms reporting operating losses-----	2	3	4	2	3
Number of firms reporting net losses-----	3	3	5	3	5
Number of firms reporting-----	7	9	9	7	7
Operations of 4 U.S. cooperatives <u>4/</u>					
Net sales-----1,000 dollars--	184,920	206,281	172,310	***	***
Cost and expenses-----do-----	55,147	84,900	64,227	***	***
Net proceeds resulting from member and nonmember sales					
before income taxes-----do-----	129,773	121,381	108,083	***	***
Net profit from nonmember business before income taxes do-----	1,461	1,440	(531)	***	***
Ratio of net proceeds resulting from member and nonmember sales before income taxes to net sales-----percent--	70.2	58.8	62.7	***	***

1/ The corporations providing interim data are * * *. The cooperatives providing interim data are * * *.

2/ 1983 data was not available for * * *.

3/ The corporations providing usable data for the 1983-85 periods are * * *.

4/ The coops providing 1983-85 data are * * *. All coops provided interim data except for * * *.

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

corporations incurred operating losses during 1983, three firms incurred operating losses during 1984, and four firms incurred operating losses during 1985. The ratio of net proceeds resulting from member and nonmember sales before income taxes to net sales for the four U.S. cooperatives during the 1983-85 period were 70.2 percent, 58.8 percent, and 62.7 percent, respectively.

During the three-month interim period ended March 31, 1986, aggregate net sales of the 7 corporations 1/ totalled \$206.1 million, down 18.0 percent over net sales of \$251.3 million reported during interim 1985. Aggregate net sales of the two cooperatives 2/ declined from * * * million in interim 1985 to * * * million during interim 1986, or by * * * percent. Combined total net sales of the corporations and the cooperatives decreased from * * * million during interim 1985 to * * * million during interim 1986, or by 17.8 percent. Aggregate operating profits of the 7 corporations significantly declined from \$4.9 million during interim 1985 to a \$9.9 million loss during interim 1986. Aggregate net proceeds resulting from member and nonmember sales before income taxes, on the other hand, increased from * * * million during interim 1985 to * * * million in interim 1986, for an increase of * * * percent. The operating profit (loss) margins for the U.S. corporations during interim 1985-86 were 2.0 percent and (4.8) percent, respectively. Two of the seven corporations incurred an operating loss during interim 1985 and three producers incurred an operating loss during interim 1986. The ratio of net proceeds resulting from member and nonmember sales before income taxes to net sales for the two U.S. cooperatives during the 1985-86 interim periods were * * * percent and * * * percent, respectively.

* * * and * * * accounted for over * * * percent of total aggregate cooperative net sales of FCOJ during 1985; their sales and operating results therefore have a significant impact on the aggregate data. * * * and * * * combined net sales increased to * * * million during 1984, up * * * percent over 1983 sales of * * * million. During 1985, however, the two cooperatives' combined sales fell to * * * million, a decline of * * * percent. * * * and * * *, on the other hand, reported steadily increasing sales during the 1983-85 period, from * * * million in 1983 to * * * million in 1984 and * * * million during 1985. * * * and reported declining net profits from nonmember business before income taxes of * * * million during 1983, * * * million during 1984, and * * * million in 1985. * * * and * * *, however, reported steadily increasing net profits during the period as follows: * * * million in 1983, * * * million in 1984, and * * * million in 1985.

* * * accounted for * * * percent of total aggregate corporation net sales of FCOJ during 1985. Although the * * * data raises the general profitability level of the aggregate corporation data, it does not affect the basic operating trends for the 1984-85 periods and the interim 85-86 periods. The results are shown in the tabulation below (in thousands of dollars):

1/ The corporations providing interim data are * * *.

2/ The cooperatives providing interim data are * * *.

	<u>Interim period</u> <u>ending March 31 1/</u>				
	<u>1983 2/</u>	<u>1984</u>	<u>1985</u>	<u>1985</u>	<u>1986</u>
<u>Net Sales:</u>					
***-----dollars--	***	***	***	***	***
Other 8 producers 3/--do----	***	***	***	***	***
Total-----do----	519,837	748,244	743,464	251,310	206,070
<u>Gross profit:</u>					
***-----do----	***	***	***	***	***
Other 8 producers 3/--do----	***	***	***	***	***
Total-----do----	112,655	149,889	133,013	32,381	11,256
<u>Operating profit (loss)-do----</u>					
***-----do----	***	***	***	***	***
Other 8 producers 3/--do----	***	***	***	***	***
Total-----do----	33,355	38,111	16,083	4,947	(9,922)
<u>Ratio of gross profit to net</u> <u>sales:</u>					
***-----percent--	***	***	***	***	***
Other 8 producers 3/--do----	***	***	***	***	***
Total-----do----	21.7	20.0	17.9	12.9	5.5
<u>Ratio of operating profit</u> <u>(loss) to net sales:</u>					
***-----percent--	***	***	***	***	***
Other 8 producers 3/--do----	***	***	***	***	***
Total-----do----	6.4	5.1	2.2	2.0	(4.8)

1/ The corporations providing interim data are * * *.

2/ 1983 data was not available for * * *.

3/ The corporations are * * *.

The Question of the Causal Relationship Between Alleged LTFV Imports and Alleged Material Injury

U.S. imports

U.S. imports of FCOJ 1/ from Brazil rose steadily from 349 million gallons in crop year 1982/83 to 578 million gallons in crop year 1984/85, or by 66 percent (table 9). Imports from Brazil then declined from 235 million gallons in December 1984-March 1985 to 161 million gallons in December 1985-March 1986, or by 32 percent.

Total imports mirrored the trend exhibited by imports from Brazil, rising steadily from 377 million gallons in 1982/83 to 597 million gallons in 1984/85, representing an overall increase of 58 percent. Total imports

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

Table 9.--FCOJ: U.S. imports for consumption, by countries, crop years 1982/83 to 1984/85, December 1984-March 1985, and December 1985-March 1986

Country	1982/83	1983/84	1984/85	December-March--		
				1984/85	1985/86	
	Quantity (1,000 gallons) <u>1/</u>					
Brazil-----	349,084	510,056	578,133	234,625	160,502	
Mexico-----	26,050	17,124	8,949	3,121	5,764	
Belize-----	-	2,123	3,785	1,339	3,212	
Canada-----	371	105	1,722	143	1,352	
Honduras-----	-	-	1,371	741	489	
Other-----	1,585	4,121	2,627	1,118	1,198	
Total-----	377,090	533,529	596,586	241,087	172,517	
	Value (1,000 dollars)					
Brazil-----	280,581	525,548	696,357	287,108	152,221	
Mexico-----	19,727	19,130	10,731	4,013	4,040	
Belize-----	-	3,296	6,131	2,285	3,402	
Canada-----	390	159	3,288	229	2,419	
Honduras-----	-	-	1,801	1,029	352	
Other-----	2,990	4,841	3,490	1,458	735	
Total-----	303,688	552,974	721,798	296,122	163,169	
	Unit value (per gallon)					
Brazil-----	\$0.80	\$1.03	\$1.20	\$1.22	\$0.95	
Mexico-----	.76	1.12	1.20	1.29	.70	
Belize-----	-	1.55	1.62	1.71	1.06	
Canada-----	1.05	1.51	1.91	1.60	1.79	
Honduras-----	-	-	1.31	1.39	.72	
Other-----	1.87	1.17	1.33	1.30	.61	
Average-----	.81	1.04	1.21	1.23	.95	

1/ Single-strength equivalent.

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

declined in December 1985-March 1986 to 173 million gallons, representing a level 28 percent below total imports during December 1984-March 1985.

The average unit value of imports from Brazil increased from \$0.80 per gallon in 1982/83 to \$1.20 per gallon during 1984/85. However, the average unit value of these imports declined sharply from \$1.22 per gallon in December 1984-March 1985 to \$0.95 in December 1985-March 1986.

Market penetration

As mentioned earlier, it is not possible to determine the portion of exported FCOJ that consists of the 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 of FCOJ from the Florida crop.

The ratio of imports from Brazil to total available FCOJ increased from 27.3 percent in 1982/83 to 44.6 percent in 1984/85 (table 10). The ratio of imports from Brazil to total available FCOJ then declined from 29.0 percent during December 1984-March 1985 to 23.2 percent during December 1985-March 1986. This trend is also illustrated in table 11, which compares imports from Brazil with production from the Florida crop.

Table 10.--FCOJ: U.S. imports from Brazil and total available FCOJ, crop years 1982/83 to 1984/85, December 1984-March 1985, and December 1985-March 1986

Period	Imports from Brazil	Total available FCOJ	Ratio of imports from Brazil to total available FCOJ
	Million gallons ^{1/}		Percent
1982/83-----	349.1	1,277.6	27.3
1983/84-----	510.1	1,196.1	42.6
1984/85-----	578.1	1,294.9	44.6
December-March--			
1984/85-----	234.6	808.9	29.0
1985/86-----	160.5	689.1	23.3

^{1/} Single-strength equivalent.

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

Table 11.--FCOJ: U.S. imports from Brazil and production from the Florida crop, crop years 1982/83 to 1984/85, December 1984-March 1985, and December-1985-March 1986

Crop year	Imports from Brazil	Production from Florida crop	Ratio of imports from Brazil to production from Florida crop
	-----Million gallons 1/-----		Percent
1982/83-----	349.1	684.9	51.0
1983/84-----	510.1	489.6	104.2
1984/85-----	578.1	478.5	120.8
December-March--			
1984/85-----	234.6	348.0	67.4
1985/86-----	160.5	321.3	50.0

1/ Single-strength equivalent.

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

Prices

Prices for FCOJ are determined in a market composed of orange growers, processors, and repackers. Oranges grown for FCOJ production are sold in three ways: on the spot market, through participation contracts, and through cooperatives. Only the oranges transacted on the spot market carry an actual transaction (cash) price. Growers who sell oranges through participation contracts generally receive a negotiated minimum per box price plus a return per box based on the prices received for sales of FCOJ, while those who are members of cooperatives receive a return per box. Representative prices for oranges sold to cooperatives and through participation contracts can be derived from the price for FCOJ by subtracting out processing and pick-and-haul costs. 1/ This process produces what are known as on-tree prices for oranges.

Whereas spot market transactions historically have accounted for only about 20 percent of all oranges sold to processors, in the past year more processors have moved into the spot market. The high prices for round oranges which prevailed in the past few years caused processors to agree to higher minimum per box prices under participation contracts. However, as orange production has risen and prices have declined, processors felt they were paying too much for their contract oranges, and recently have moved out of contract purchases somewhat.

Because the cost of oranges is the primary component of FCOJ production costs, the price of FCOJ and the price of oranges are closely related.

1/ Adjusted for the value of byproducts recovered in the processing of oranges.

Figure 1 demonstrates that Florida FCOJ drum prices move with spot and on-tree orange prices.

Frozen concentrated orange juice is sold in a variety of forms, and is sold into various markets. There are two distinct markets for FCOJ: the retail and institutional market and the bulk market. Processors produce FCOJ from oranges and blend it with Brazilian FCOJ, and then either package it in retail and institutional-sized cans, or transfer it into 55-gallon drums or tanker trucks for resale. ^{1/} The bulk FCOJ (in drums and tankers) is then used by repackers to make reconstituted, single-strength orange juice, which is sold "ready to drink".

The growth of the ready-to-drink market is fairly recent, and today approximately 50 percent of all FCOJ produced is sold in bulk form destined for this market. As a result of the development of this new market, retail sales of FCOJ have declined.

The unit of sale of FCOJ depends on the market into which it is being sold. Retail and institutional purchasers buy FCOJ already packaged, and prices are quoted per case. Other purchasers buy FCOJ in 55-gallon drums or tanker truckloads. Prices for FCOJ in drums and in tankers are quoted per pound of solids. ^{2/}

There also exists a futures market for FCOJ in which some domestic and imported FCOJ is transacted. In order for FCOJ to be bought and sold on the futures market it must meet three criteria: (1) it must be packaged in drums; (2) it must meet quality specifications; and (3) it must be warehoused in Florida. In September 1986, FCOJ held in bulk storage facilities may be traded on the futures market, but it will still have to meet the second and third criteria. The futures price for FCOJ has become increasingly important in the determination of contract prices for FCOJ in recent years. Industry sources report that contract prices are often based on the futures price. In addition, some sources indicate that spot market prices are also being tied to the futures price for FCOJ.

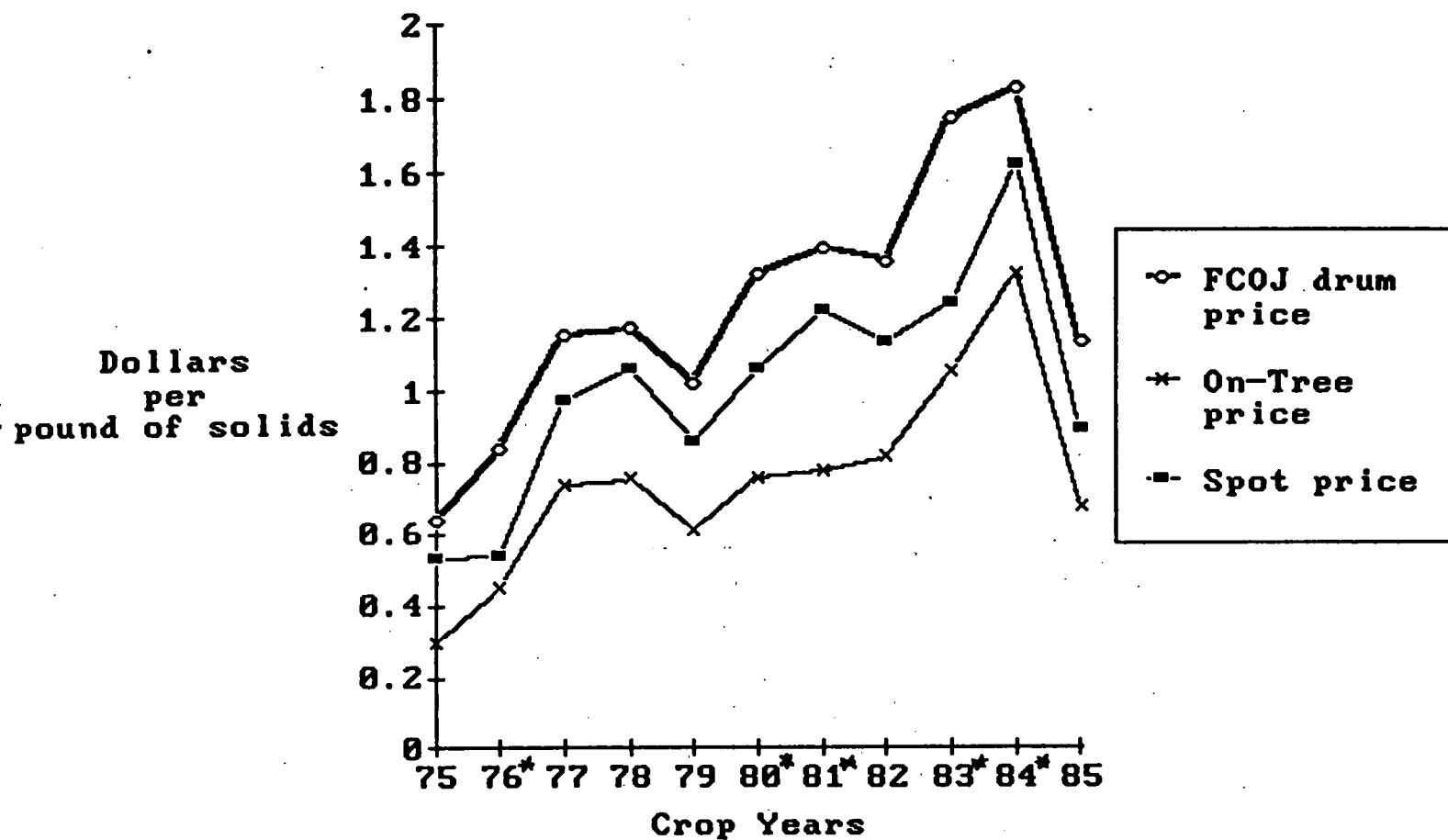
Within the industry there are some discounts given on purchases of both domestic and Brazilian FCOJ. In addition to the usual 2 percent discount for payment within ten days, many retailers meet industry-wide promotional discounts, and some producers offer discounts for large quantity purchases of bulk FCOJ.

Supply-side factors in the FCOJ market.--Orange production varies with weather conditions, and is highly susceptible to cold weather. In freeze

^{1/} Not all processors participate in both retail and bulk markets.

^{2/} Pounds of solids is a measurement of the internal quality of citrus fruit. In determining the pounds of solids per 90-pound box of oranges, two factors are used: 1) the amount of juice per box (in pounds) and 2) the amount of fruit sugars in the juice (expressed as percent solids or degrees Brix). When these two factors are known, multiplying them together produces the pounds of solids per box.

Figure 1.--FCOJ and orange prices: Season-average prices received for domestic FCOJ in 55-gallon drums, derived on-tree prices for oranges, and spot market prices for oranges, by crop year, 1975-76 to 1985-86 (to date).



Source: Compiled from data provided by Florida Department of Citrus and Florida Citrus Mutual.

Note: An asterisk denotes a freeze year.

All 1985-86 crop year data are as of May 24, 1986.

years the domestic orange crop may be damaged and reduced. When this happens, prices for the existing oranges are driven up, which, in turn, drives up production costs for FCOJ. If damage to the trees is extensive enough, orange production may be reduced in the following season, as well.

Processors may use comparatively more imported FCOJ in freeze years as a supplement to reduced domestic supplies. Figure 2 depicts the movement in production and imports of FCOJ over the 1975/76-1985/86 period. It is clear from figure 2 that imports tend to rise when domestic production is down. Imports of FCOJ in freeze years act as a supplement to domestic supplies, and may keep prices for FCOJ from being as high as they would be in the absence of imports. This price effect is partially transferred through to growers, as processors are less willing to pay premium prices for oranges. Also, this price effect may reduce processors' potential receipts for FCOJ, which may, in turn, reduce the returns received by growers participating in cooperatives and participation contracts. 1/

Changes in domestic output and changes in import levels simultaneously influence the price of FCOJ in the United States. Due to a succession of freezes between the 1980/81 and 1984/85 growing seasons, domestic output of FCOJ declined markedly, driving prices to historic levels in the 1984/85 crop year (tables 12 and 13, figure 3). However, the lack of U.S. product caused processors to source FCOJ from abroad, particularly from Brazil. Imports rose noticeably throughout the 1980-85 period (figure 2).

In the current growing season, domestic production of oranges has recovered somewhat, as no freeze occurred this season. This factor, alone, would tend to reduce prices for both oranges and FCOJ somewhat. Barring freezes, domestic production is expected to rise over the next few years as new and replanted groves come into production. Thus, in the absence of freezes or changes in import levels, orange and FCOJ prices can be expected to continue downward. 2/

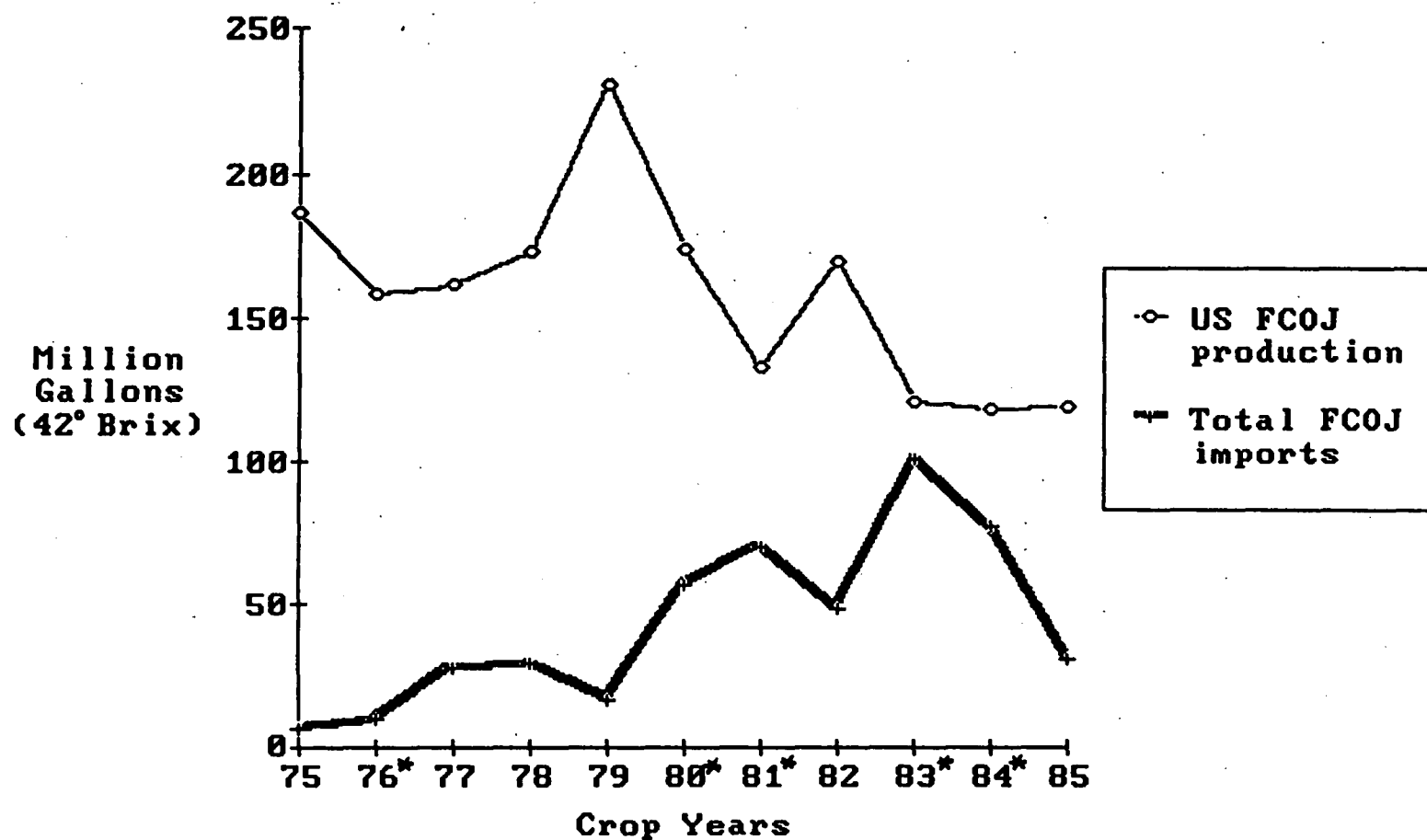
Demand-side factors in the FCOJ market.--Consumption of FCOJ in the United States has a seasonal pattern. Domestic consumption tends to be highest in the fall, winter, and spring months, and then tends to drop off in the summer. Processors contend that as consumption begins to increase in the fall, inventories are drawn down, and imports tend to rise at this time to offset this drawdown. Imports then tend to level off and gradually decline as domestic oranges are harvested and processed throughout the winter and spring.

Industry sources indicate that domestic consumption of FCOJ seems to be declining at the retail level, but that ready-to-drink products seem to be gaining in popularity among consumers. This change has increased the demand for FCOJ in bulk form for reconstitution and repackaging. In addition, the beverage and juice products market has become more competitive in recent years, as there are many more beverage and juice products competing for consumers' dollars. Industry sources report that it will be difficult for

1/ However, processors' receipts may rise in the presence of increased imports if the concomitant reduction in prices results in an even larger increase in consumption.

2/ This expectation is reflected in the futures market, and futures prices have shown sharp declines recently.

Figure 2.--FCOJ production and imports: Total domestic production of FCOJ from oranges, and total imports of FCOJ, by crop years, 1975-76 to 1985-86 (to date).



Source: Florida Citrus Mutual, Annual Statistical Report, 1984-85 Season, and updates.

Note: An asterisk denotes a freeze year.

All 1985-86 crop year data are as of May 24, 1986.

Table 12.--FCOJM: Weighted-average f.o.b. prices received by producers and paid by purchasers for FCOJM in drums, by month, January 1985-April 1986

(Per pound solids)			
Period	Domestic <u>1/</u>		Brazilian
1985:			
January-----	\$1.76	3/	\$1.33
February-----	1.82		1.35
March-----	1.83		1.28
April-----	1.76	3/	1.69
May-----	1.71		1.66
June-----	1.64		1.13
July-----	1.57		1.38
August-----	1.55		1.38
September-----	1.60		1.38
October-----	1.50	3/	1.38
November-----	1.45		1.23
December-----	1.27		1.32
1986:			
January-----	1.21	3/	1.21
February-----	1.15	3/	1.10
March-----	1.06	2/	1.03
April-----	1.06		.96

1/ Domestic prices may somewhat overstate actual transactions prices if brokerage fees were not subtracted out.

2/ Only one price reported.

3/ Only two prices reported.

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

Table 13.--FCOJM: Weighted-average f.o.b. prices received by producers and paid by purchasers for FCOJM in tankers, by month, January 1985-April 1986

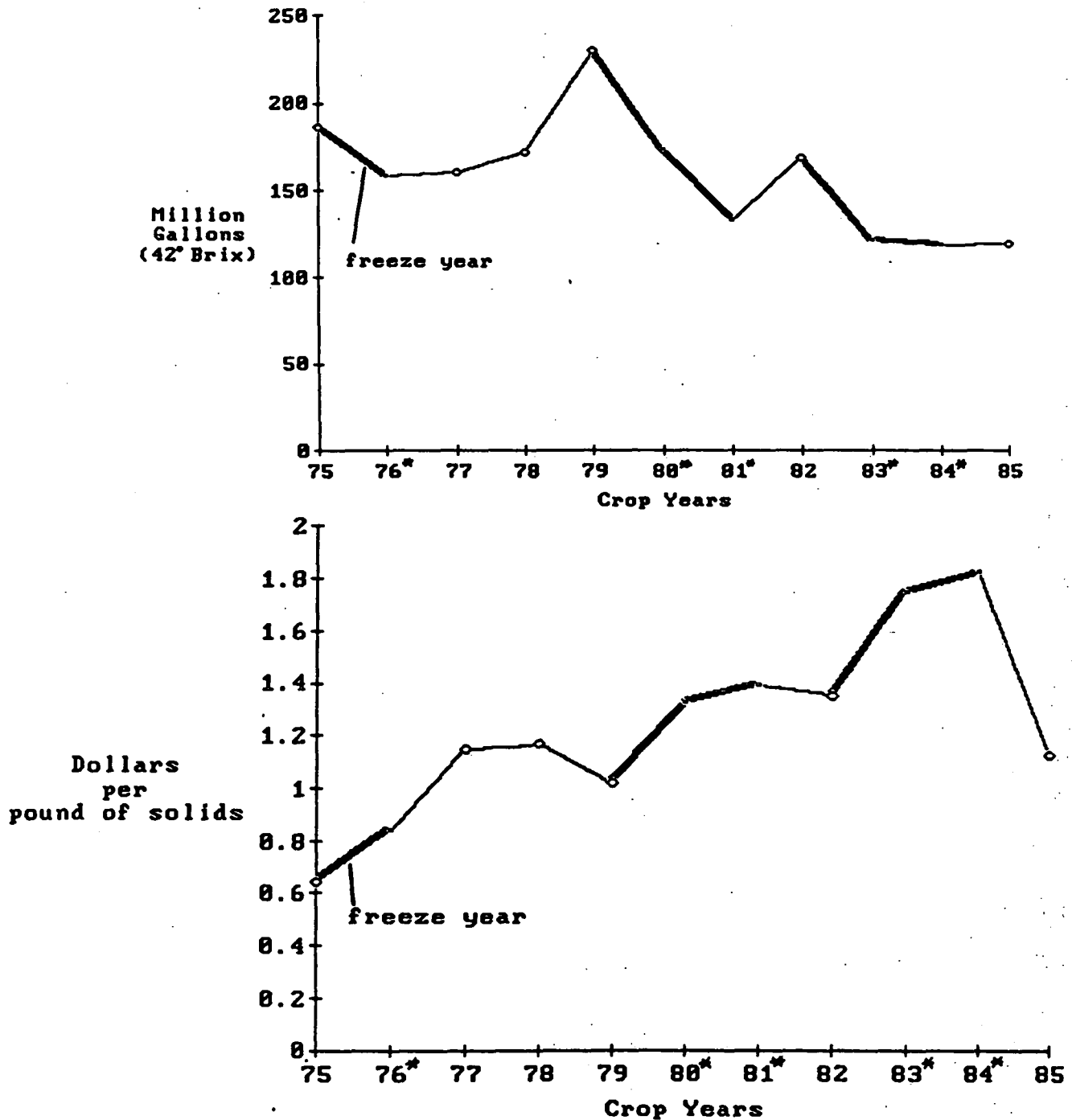
(Per pound solids)

Period	Domestic ^{1/}	Brazilian
1985:		
January-----	\$1.73 :	\$1.64
February-----	1.76 :	1.70
March-----	1.75 :	1.72
April-----	1.70 :	1.73
May-----	1.67 :	1.62
June-----	1.62 :	1.60
July-----	1.46 :	1.43
August-----	1.38 :	1.39
September-----	1.37 :	1.41
October-----	1.45 :	1.31
November-----	1.19 :	1.19
December-----	1.20 :	1.17
1986:		
January-----	1.11 :	1.07
February-----	1.07 :	1.05
March-----	.99 :	1.00
April-----	.99 :	.97

^{1/} Domestic prices may somewhat overstate actual transactions prices if brokerage fees were not subtracted out.

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

Figure 3.--FCOJ production and prices: Total domestic production of FCOJ from oranges, and season-average f.o.b. prices received for domestic FCOJ in 55-gallon drums, by crop year, 1975-76 through 1985-86 (to date).



Source: Florida Citrus Mutual, Annual Statistical Report, 1984-85 Season, and updates, and data provided by Florida Department of Citrus.

Note: An asterisk denotes a freeze year.

All 1985-86 crop year data are as of May 24, 1986.

FCOJ to maintain its market share in the face of such competition. 1/ This factor may influence retailers and manufacturers to lower prices for FCOJ in retail cans in an attempt to attract consumers.

International factors in the FCOJ market.--The recent rapid increase in imports of FCOJ from Brazil can be traced to a number of sources. First, Brazilian production of oranges and FCOJ has been on the increase. 2/ This increased output resulted in a higher level of exports of Brazilian FCOJ because consumption of FCOJ in Brazil did not rise to keep up with the increased production.

Second, the recent and successive freezes in Florida reduced the domestic orange crop dramatically, which meant that more imported FCOJ was required to maintain production levels for U.S. consumers. 3/ However, the Florida freezes also served to drive U.S. and world FCOJ prices to record high levels. This alone acted as an incentive for Brazil to sell more FCOJ on the world market. However, compounding this effect was the reduction in European consumption of FCOJ in response to the higher prices. As the European market shrank, Brazil, which exported much of its production to Europe, was less able to sell its product, and looked to other markets to sell its FCOJ. Thus, the U.S. market may have received some of the Brazilian FCOJ that would otherwise have gone to Europe. 4/

The other factor which influenced Brazil to sell its FCOJ in the United States was the strength of the U.S. dollar prior to the 1985/86 crop year. The strength of the U.S. dollar in relation to other currencies made Brazilian FCOJ a bargain to import, and processors sought Brazilian FCOJ as a way to cut costs.

However, these trends could reverse themselves somewhat. First, the recent drought in Brazil is expected to reduce 1986/87 Brazilian FCOJ production. 5/ In addition, Florida production is on the rise, and is expected to grow over time as groves are replanted further south to escape the threat of future freezes. The current and anticipated increase in domestic production may help reduce the need for imports as a supplement to domestic production. 6/

Secondly, if production continues to rise and prices continue to decline, consumption is expected to rebound, especially in Europe. The return of the

1/ Based on an interview with Bobby McKown and Jerry Graham of Florida Citrus Mutual, May 22, 1986.

2/ Transcript of staff conference, June 2, 1986, p. 22, testimony of Bobby McKown.

3/ Based on an interview with Cliff Beasley, Florida Citrus Processors Association, May 22, 1986.

4/ Based on an interview with Dan Gunter, Economic Research Director, Florida Department of Citrus, May 21, 1986.

5/ Tr. at 25-26 and 62-63.

6/ Based on an interview with representatives of Florida Citrus Mutual, cited above.

European market will provide Brazil with another outlet for its FCOJ, and may cause Brazil to export less FCOJ to the United States. 1/

Third, the recent weakening of the U.S. dollar makes imports of Brazilian FCOJ relatively more expensive, and processors may move out of imports somewhat in response.

Trends in prices.--Price data on FCOJ and oranges were gathered from a variety of sources. Florida Citrus Mutual, the Florida Citrus Processors Association, and the Florida Department of Citrus provided data to the Commission. In addition, the responses received to Commission questionnaires have been compiled to show weighted-average prices for bulk FCOJ. Because virtually all domestically-produced FCOJ has been blended with imported FCOJ, domestic weighted-average prices generally refer to blended juice.

Domestic prices.--Figure 3 shows the trend in domestic drum prices over the past ten crop years. Prices tend to rise sharply in freeze years, as noted in the diagram, and the successive freezes between 1980/81 and 1984/85 drove domestic prices to an all-time high in 1984-85. Since that time, however, domestic production has rebounded somewhat, and domestic prices have declined.

Eleven domestic producers and two repackers of FCOJ responded to Commission questionnaires with usable data on domestic drum and tanker prices. 2/ Tables 12 and 13 present weighted-average prices for FCOJ in 55-gallon drums and in tanker loads. A comparison of prices reveals 1985/86 monthly prices for FCOJ in drums to be below 1984/85 monthly prices by about 30-40 percent. Overall, drum prices for domestic FCOJ in drums declined 40 percent between January 1985 and April 1986. Month-to-month comparisons show domestic prices for FCOJ in tankers declining 35-45 percent between 1984/85 and 1985/86. Prices of FCOJ in tankers fell 42.8 percent between January 1985 and April 1986, overall.

Retail prices for 12 6-ounce cans of FCOJ reflect the trends observed in bulk FCOJ prices. The tabulation below presents average monthly f.o.b. prices received for FCOJ in 12 6-ounce cans. To date in 1986, prices have declined 23.7 percent from the 1984-85 season average of \$5.02 per 12 6-ounce cans.

1/ Based on an interview with a representative of Florida Department of Citrus, cited above.

2/ * * *'s questionnaire response did not include price data, and * * *'s price data were unusable because no transaction quantities were reported.

Season average 1984-85-----\$ 5.02
1986:

January-----4.13
February-----3.83
March-----3.83
April-----3.83
May 1/-----3.83

1/ To May 10, 1986.

Source: Florida Citrus Mutual, Summary of Citrus Statistics, biweekly.

However, since no Brazilian FCOJ is imported already packaged for the retail and institutional market, no price comparisons at the retail/institutional level are possible. In addition, because of the shift in consumers' preferences away from retail FCOJ, retail prices have become a less significant measure of activity in the FCOJ market.

Brazilian prices.--The Brazilian government has established a minimum export price for FCOJ, which places a floor on the amount Brazilian exporters must repatriate to Brazil on sales of FCOJ. Actual transaction prices may differ from this minimum price, and there may be transactions which take place at less than the legal minimum. During the 1985/86 season, the minimum export price was revised downward in November 1985 and January 1986. In April 1986, the minimum export price was abolished, and an export license price was established. This price is likely to be identical in effect to the minimum export price; Brazilian exporters now can only receive an export license if they agree to repatriate no less than the export license price. When put into place, the export license price represented another downward adjustment of Brazil's minimum acceptable price. The tabulation below shows the trend in the minimum export price in recent years.

<u>Crop year</u>	<u>Minimum export price</u> <u>(per metric ton)</u>
1978/79-----	\$ 900
1979/80-----	900
1980/81-----	900
1981/82-----	1200
1982/83-----	1200
1983/84:	
January-----	1250
October-----	1700
1984/85:	
January-----	1800
October-----	1400
November-----	1150
1985/86:	
January-----	1000
April <u>1</u> /-----	800

1/ Export license price.

Five importers/repackers reported usable data on prices of Brazilian FCOJ in drums and tanker loads, and weighted-average prices are presented in tables 12 and 13. The price of Brazilian FCOJ sold in drum form has declined since January 1985 by 27.8 percent, while the price of Brazilian FCOJ sold in tankers has dropped more rapidly, falling 40.8 percent between January 1985 and April 1986.

Price comparisons.--A comparison of weighted-average FCOJ prices ^{1/} shows Brazilian FCOJ in drums to have been significantly lower-priced than the blended domestic product throughout the entire January 1985-April 1986 period, with the exception of December 1985 and January 1986, when the Brazilian price exceeded and matched the U.S. price, respectively. For FCOJ transacted in tanker loads, prices for the Brazilian product were below domestic prices for blended juice in all but 5 months between January 1985 and April 1986. However, the difference between import and domestic prices is more marked, on average, for FCOJ in drums.

Inland transportation costs

Information on transportation costs obtained in the investigation indicates that most domestic producers and importers quote prices as f.o.b. plant or port, and that the majority of purchasers pay transport costs. Freight costs as a percentage of the f.o.b. price commonly range from 2 to 5 percent, although they may exceed that for longer distance shipments. Industry sources indicate that FCOJ shipment costs within Florida and the southeastern portion of the United States are such that Florida processors might have trouble competing with imported FCOJ from Brazil in markets far from Florida which are served by a nearby port. Brazil charges essentially the same delivered price to both Florida and non-Florida ports.

Exchange rates

Quarterly data reported by the International Monetary Fund indicate that during the period January 1983 through March 1986 the nominal value of the Brazilian cruzado depreciated relative to its U.S. counterpart in all 13 quarters by an overall 97.4 percent (table 14). ^{2/} Once the differing rates of inflation in the United States and Brazil are taken into account, the Brazilian cruzado depreciated in real terms throughout most of 1983 and the

^{1/} Meaningful price comparisons are difficult to make in this investigation because the weighted-average domestic price is actually the weighted-average price for juice which is a blend of domestic and imported juice. Thus, there is no true domestic price which can be compared with a price for all-Brazilian product, and margins of underselling/overselling have not been calculated. However, since the Brazilian FCOJ was generally priced below the blended product, it is likely that the domestic component of the blended FCOJ was more costly per pound of solids than either the blended FCOJ or Brazilian FCOJ. It is not possible to verify this because no all-domestic FCOJ is produced or sold in the United States.

^{2/} International Financial Statistics, April 1986.

Table 14.--U.S.-Brazilian exchange rates: 1/ Nominal-exchange-rate equivalents of the Brazilian cruzado in U.S. dollars, real-exchange-rate equivalents, and producer price indicators in the United States and Brazil, 2/ indexed by quarters, January 1983-March 1986

Period	U.S. producer price index	Brazilian producer price index	Nominal- exchange- rate index	Real- exchange- rate index 3/
			dollars/cruzado	
1983:				
January-March-----	100.0	100.0	100.0	100.0
April-June-----	100.3	132.2	68.5	90.3
July-September-----	101.2	189.4	51.1	95.6
October-December----	101.8	266.9	37.6	98.6
1984:				
January-March-----	102.9	351.9	28.6	97.7
April-June-----	103.6	467.4	21.5	97.2
July-September-----	103.3	623.8	16.3	98.2
October-December----	103.0	871.7	11.9	100.9
1985:				
January-March-----	102.9	1,201.3	8.7	101.2
April-June-----	103.0	1,536.3	6.2	93.0
July-September-----	102.2	2,017.9	4.8	94.6
October-December----	102.9	2,858.0	3.6	100.5
1986:				
January-March-----	101.3	4/	2.6	4/

1/ Exchange rates expressed in U.S. dollars per unit of Brazilian currency.

2/ Producer price indicators--intended to measure final product prices--are based on average quarterly indexes presented in line 63 of the International Financial Statistics.

3/ The real value of a currency is the nominal value adjusted for the difference between inflation rates as measured here by the Producer Price Index in the United States and in Brazil. Producer prices in the United States increased by 2.9 percent during the period January 1983 through December 1985, compared with a 2,758-percent increase in Brazil during the same period.

4/ Not available.

Source: International Monetary Fund, International Financial Statistics, April and December 1985.

Note.--January-March 1983=100.0

first two quarters of 1984. In the third and fourth quarters of 1984 and the first quarter of 1985, it appreciated slightly relative to the dollar. During the second and third quarters of 1985 the cruzado once again depreciated relative to the dollar, but it ended 1985 slightly higher. Over the 12-quarter period, the cruzado showed a net real appreciation of 0.5 percent relative to the U.S. dollar.

Lost sales and lost revenues

In the staff's investigation of lost revenues and lost sales allegations, it became apparent that not all purchasers of FCOJ are well-informed about the origin of the FCOJ they buy. Because the vast majority of FCOJ produced in Florida is actually a blend of domestic and imported FCOJ, it is likely that most purchasers buying Florida juice are buying blended juice, rather than all-domestic FCOJ. The staff has made the distinction between Florida juice, whether blended or not, and "all-Brazilian" juice in an attempt to resolve the confusion surrounding the origin of FCOJ as it applies in this investigation.

The Commission received a total of six allegations of lost revenue from * * * processors. The staff attempted to contact all six firms, but four firms were unavailable for comment on the allegations.

* * * alleged that it had lost revenues due to imports from Brazil on sales made to * * * in * * *. * * * discussed the allegations with the Commission staff. * * * indicated that * * * has two somewhat distinct product lines: private label products, and products for the institutional market. For their private label items, * * * uses only Florida juice, and labels its products as such. No all-Brazilian product is ever used in these products, although * * * indicated that he often uses the Brazilian price as a negotiating tool with domestic suppliers. However, * * * has used some all-Brazilian FCOJ in the production of its institutional products, and estimated that up through the end of 1985 about * * * of its volume of purchases of FCOJ was all-Brazilian. Since * * * often uses Brazilian prices as a negotiating tool in its purchasing, * * * could neither confirm nor deny whether revenues were lost on any particular sales to * * * in 1985. However, * * * has not purchased any all-Brazilian FCOJ in 1986 for its institutional production. On this basis * * * denied that any revenues could have been lost in 1986.

* * * also alleged it had lost revenues on a * * * sale of FCOJ to * * *. When contacted in this regard, * * * told the Commission staff that * * * uses only Florida juice, and has never purchased all-Brazilian FCOJ. * * * indicated that * * * had been * * * sole source of FCOJ until about a year ago, when * * * shifted some of its purchases to * * *, another domestic producer. * * * explained that * * * high prices had caused * * * to shift some of its purchases. Both * * * and * * * denied that * * * had lost any revenues on sales to * * *.

The Commission also received allegations of lost sales to 18 domestic purchasers of FCOJ. The staff attempted to contact 16 of these purchasers, but was unable to reach 5 of these 16 for comment. In addition, one of

the firms identified by * * * no longer exists at the location listed, and could not be contacted.

Six of the purchasers contacted could neither confirm nor deny the allegations made, either because the purchaser could not recall the particular transaction(s) in question, or because the individual handling purchasing now was not the purchaser at the time in question.

* * * alleged lost sales to * * *. However, when purchasers at both facilities were contacted, both indicated * * * did not use any FCOJ whatsoever at either plant, and that, therefore, no sales could have been lost.

* * * also alleged it lost a sale of FCOJ to * * *. * * * reported that * * * has purchased all-Brazilian FCOJ because it found the quality to be superior to domestically-produced FCOJ. * * * stated that his firm has had quality problems with its Florida supplier, and that this supplier may have lost some sales on that basis. Thus, * * * denied that * * * could have lost a sale to imports on the basis of price alone.

* * * denied * * * allegation of lost sales between * * *. * * * told the Commission staff that at no time has * * * purchased all-Brazilian juice as a regular part of its FCOJ purchases. * * * did purchase two tankerloads of all-Brazilian FCOJ at one time as an experiment, but has not included Brazilian imports in its regular purchases of FCOJ. * * * stated that * * * could not have lost sales to imports, but may have lost sales to another domestic producer.

The Question of a Reasonable Indication of Threat of Material Injury

The rate of increase of imports for consumption from Brazil

Imports for consumption of FCOJ from Brazil increased sharply (by 46 percent) from 1982/83 to 1983/84. These imports then increased at a lower rate in 1984/85. Imports declined by 32 percent in December 1985-March 1986 from December 1984-March 1985 levels, as shown in the following tabulation:

	<u>Imports from Brazil</u> <u>(million gallons) 1/</u>	<u>Percentage change</u>
1982/83-----	349.1	2/
1983/84-----	510.1	46
1984/85-----	578.1	13
December-March--		
1984/85-----	234.6	2/
1985/86-----	160.5	-32

1/ Single-strength equivalent.

2/ Not available.

The amount of FCOJ from Brazil in bonded warehouses

Due to the relatively high tariff on FCOJ, there is more incentive for importers of this product to store their imports in bonded warehouses 1/ than exists with respect to imports of many other products. FCOJ imports may then be withdrawn from the bonded warehouses, and the duties paid, closer to the time the FCOJ will be used by the processor. As shown in table 15, estimated end-of-period imports from Brazil held in bonded warehouses increased irregularly from 1972/73 to 1980/81, when such imports reached a record (at that time) high of approximately 185 million gallons. 2/ These imports then declined to 124 million gallons in 1982/83, rose sharply to a record 201 million gallons in 1983/84, and then declined to 181 million gallons in 1984/85. Imports in bonded warehouses during December 1984-March 1985 increased by 68 million gallons. However, this trend reversed in December 1985-March 1986, when withdrawals exceeded imports by 37 million gallons.

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

According to data published by the USDA, 3/ Brazil displaced the United States as the world's largest producer of oranges in crop year 1981/82 4/ when production reached 180 million boxes. 5/ Brazil's production increased to 195 million boxes in 1982/83, declined to 180 million boxes in 1983/84, and again reached 190 million boxes 1984/85 (table 16). Production is estimated to have increased to 230 million boxes in 1985/86 as is projected to decline to 210 million boxes in 1986/87.

In recent years approximately 80 to 90 percent of the Brazilian orange crop was utilized in the production of FCOJ, which totaled 766 million gallons 6/ in 1982/83. Production declined in 1983/84 to 707 million gallons. Production of FCOJ in 1984/85 was 954 million gallons, and production is projected to reach a record 1,181 million gallons in 1985/86. 7/ The record output in 1985/86 was in part due to high yields and very favorable prices to growers.

As shown in table 17, the United States is Brazil's largest export market for FCOJ, accounting for 58 percent of total Brazilian exports during 1983-85.

1/ FCOJ may be stored for three or four years without product degradation.

2/ As no official statistics exist as to imports in bonded warehouses, all data are only approximations. However, the trends shown by such data are valid and indicate the patterns of entries and withdrawals.

3/ BR 4029, BR 4036, FHORT 7-84, and FHORT 4-86.

4/ The Brazilian crop year runs from July 1 through June 30 of the following calendar year, compared with the U.S. crop year of Dec. 1 to Nov. 30.

5/ A box in Brazil weighs 40.8 kilograms, or 89.95 pounds.

6/ Single-strength equivalent.

7/ TOFAS BR 6016, May 15, 1986.

Table 15.--FCOJ: General imports and imports for consumption from Brazil, 1972/73 to 1984/85, December-March 1984/85, and December-March 1985/86

(In thousands of gallons, single-strength equivalent)

Period	General imports	Imports for consumption	Excess of general imports over imports for consumption 1/	Estimated end-of-period imports in bonded warehouses
1972/73-----	7,620	10,550	-2,930	<u>2/</u>
1973/74-----	18,790	15,884	2,906	2,906
1974/75-----	39,897	29,992	9,905	12,811
1975/76-----	34,496	29,064	5,432	18,243
1976/77-----	31,860	28,842	3,018	21,261
1977/78-----	140,867	117,470	23,397	44,658
1978/79-----	199,504	163,890	35,614	80,272
1979/80-----	99,423	100,122	-699	79,573
1980/81-----	303,675	197,876	105,798	185,371
1981/82-----	327,122	352,239	-25,117	160,254
1982/83-----	313,176	349,084	-35,908	124,346
1983/84-----	586,241	510,056	76,185	200,531
1984/85-----	558,537	578,133	-19,596	180,935
December-March-----				
1984/85-----	302,271	234,625	67,646	268,177
1985/86-----	123,833	160,502	-36,669	144,266

1/ Includes imports for re-export, which accounted for less than 1 percent of general imports during 1978/79-1984/85.

2/ Base year is 1972/73. Imports held in bonded warehouses during this period are believed to have been minimal.

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

Table 16.--Selected data on oranges and FCOJ in Brazil, by crop years, 1982/83 to 1986/87

Item	Crop year <u>1</u> --				
	1982/83	1983/84	1984/85	1985/86	1986/87 <u>3</u> /
Oranges:					
Production-million---boxes---	195	180	190	230	210
Fresh consumption-----do-----	33	33	13	16	38
Fresh exports-----do-----	2	2	2	2	2
Processed <u>4</u> /-----do-----	160	145	175	212	170
FCOJ:					
Beginning stocks					
million gallons <u>5</u> /---	28	142	14	15	340
Production-----do-----	766	707	954	1,181	836
Domestic consumption--do-----	22	22	18	21	21
Exports-----do-----	629	813	933	836	1,010
Ending stocks-----do-----	142	14	15	340	145

1/ Processing seasons in Brazil run from July 1 to June 30.

2/ Preliminary.

3/ Estimated by the USDA.

4/ Includes 3 to 8 million boxes of tangerines and tangors.

5/ Single-strength equivalent.

Source: Compiled from data published by the USDA in FHORT 4-86, April 1986.

Table 17.--FCOJ: Brazil's exports, by selected markets, 1983-85

(In million of gallons) <u>1</u> /			
Market	1983	1984	1985
United States-----	365.5	791.2	399.1
European Community-----	260.4	323.0	<u>2</u> / 177.5
Canada-----	44.6	66.1	30.5
All other-----	99.6	79.8	<u>2</u> / 68.0
Total-----	770.1	1,260.1	675.1

1/ Single-strength equivalent.

2/ Some exports to the European Community included in all other.

Source: Compiled from official statistics of the USDA.

Exports to Europe from Brazil have increased in 1986 as the value of the U.S. dollar declined. 1/ During January-March 1986 exports to Europe totalled 93 million single-strength gallons, representing a 257 percent increase over exports to Europe during January-March 1985. 2/

1/ Brazil's exports to Europe are priced in U.S. dollars.

2/ Post hearing brief on behalf of Cargill Citro-America, Inc., Citrosuco Paulista, S.A., Coopercitrus Industrial-Frutesp, S.A., and Sucocitrco Cutrale, S.A., exhibit 9.

APPENDIX A

**COMMISSION'S NOTICE OF INSTITUTION AND
COMMERCE'S NOTICE OF INITIATION**

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

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-326 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(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 165.29 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by June 23, 1986.

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), and Part 201, Subpart A through E (19 CFR Part 201).

EFFECTIVE DATES: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on May 9, 1986 by Florida Citrus Mutual, Lakeland, Florida.

Participation in the investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on June 2, 1986 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact David Coombs (202-523-1376) or Lynn Featherstone (202-523-0242) not later than May 29, 1986 to arrange for their appearance. Parties in support of the imposition of antidumping 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.

Written submission

Any person may submit to the Commission on or before June 5, 1986 a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.8 of the Commission's rules (19 CFR 201.8).

(Investigation No. 731-TA-326
(Preliminary))

**Frozen Concentrated Orange Juice
From Brazil; Import Investigation**

AGENCY: International Trade
Commission.

* Such fittings are those with standard pressure ratings of 150 pounds per square inch (psi) and heavy-duty pressure ratings of 300 psi. Groove-lock fittings are not included.

18672

Federal Register / Vol. 51, No. 98 / Wednesday, May 21, 1986 / Notices

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: May 14, 1986.

By order of the Commission.

Kenneth R. Mason.

Secretary

[FR Doc. 86-11424 Filed 5-20-86; 8:45 am]

BILLING CODE 7020-02-M

Washington, DC 20230; telephone: (202) 377-3965.

SUPPLEMENTARY INFORMATION:

The Petition

On May 9, 1986, we received a petition in proper form filed by Florida Citrus Mutual, a voluntary cooperative marketing association of growers of citrus fruit for processing and processors of citrus fruits. The petition was filed on behalf of the United States industry producing FCOJ, including growers and processors. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on FCOJ from Brazil and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether FCOJ is being, or is likely to be, sold in the United States at less than fair value.

Scope of Investigation

The product covered by this investigation is FCOJ in a highly concentrated form for transport and further processing, sometimes referred to as frozen concentrated orange juice for manufacturing, currently provided for under the *Tariff Schedules of the United States (TSUS)* item number 165.29.

United States Price and Foreign Market Value

The petitioner based United States price on offers made by Brazilian producers to U.S. purchasers. Using price offers from the Brazilian producers, petitioner arrived at ex-factory prices by subtracting estimated charges for foreign inland freight, ocean freight, insurance, customs duties, brokerage, Brazilian export tax, Florida

[A-351-605]

Frozen Concentrated Orange Juice From Brazil: Initiation of Antidumping Duty Investigation

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

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether frozen concentrated orange juice (FCOJ) from Brazil is being, or is likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before June 23, 1986, and we will make ours on or before October 16, 1986.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW.,

citrus equalization tax and U.S. inland freight.

Petitioner alleged that sales of FCOJ in Brazil were too small to constitute a viable home market. Therefore, it based foreign market value on constructed value because the sales price to third countries was below the cost of production of the Brazilian producers. We will determine whether the home market is viable. If it is not viable, we will initiate a cost of production investigation with regard to sales to third countries.

Based on the comparison of these estimated values, petitioner alleged dumping margins ranging from 3.0 percent to 167.8 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 23, 1986, whether there is a reasonable indication that imports of FCOJ from Brazil are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary for Import Administration.

May 29, 1986.

[FR Doc. 86-12582 Filed 6-3-86; 8:45 am]

BILLING CODE 3510-06-M

APPENDIX B

WITNESSES APPEARING AT THE CONFERENCE

CALENDAR OF PUBLIC CONFERENCE

Subject: Frozen Concentrated Orange Juice
from Brazil

Inv. No.: 731-TA-326 (Preliminary)

Date/time: June 2, 1986; 9:30 a.m.

Those listed below appeared as witnesses at the United States International Trade Commission's conference on the subject investigation. Sessions were held in the Commission's Hearing Room, at 701 E Street, NW, Washington, DC.

In support of the imposition
of antidumping duties

Barnes, Richardson & Colburn—Counsel
Washington, DC
on behalf of—

Florida Citrus Mutual

Bobby F. McKown, Executive Vice President
Phil Herndon, Vice President, Alcoma Packing Co.
Thomas Taylor, Executive Vice President, Berry Citrus Products

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

In opposition to the imposition
of antidumping duties

National Juice Products Association
Tampa, FL

David C.G. Kerr, Secretary and General Counsel
Mr. Tom Rankin, Chief Executive Officer, Lykes Pasco Packing Co.
Mr. Talmadge Rice, Executive Vice President, Lykes Pasco Packing Co.
Mr. Ronald Edwards, Sr. Vice President for International Procurement,
Tropicana Products
Mr. Stephen Gold, General Counsel, Tropicana Products.

Paul C. Rosenthal—OF COUNSEL

CALENDAR OF PUBLIC CONFERENCE—Continued

In opposition to the imposition
of antidumping duties—Continued

Covington & Burling—Counsel
Washington, DC
on behalf of—

The Proctor & Gamble Co.
Ben Hill Griffin Citrus Co.

Kenneth R. Dunnivant, Purchases Director, Beverage Division,
Proctor & Gamble Co.

Harvey M. Applebaum)
Paul G. Gaston)—OF COUNSEL

O'Connor & Hannon—Counsel
Washington, DC
on behalf of—

Coca-Cola Foods

F. Gordon Lee—OF COUNSEL

Willkie, Farr & Gallagher—Counsel
Washington, DC
on behalf of—

Sucocitricon Cutrale, S.A.

Royal Daniel III)
James P. Durling)—OF COUNSEL

Potts & Kalik—Counsel
Washington, DC
on behalf of—

Citrosuco Paulista, S.A.

Elliott Seabrook, President, Juice Farms, Inc.

Robert G. Kalik—OF COUNSEL

CALENDAR OF PUBLIC CONFERENCE—Continued

In opposition to the imposition
of antidumping duties—Continued

Ablondi & Foster—Counsel
Washington, DC
on behalf of—

Coopercitrus Industrial—Frutesp, S.A.

F. David Foster)
Aaron B. Karas) —OF COUNSEL

O'Melveny & Myers—Counsel
Washington, DC
on behalf of—

Cargill, Inc.

Richard Kellor

Butch Almstedt)
Sheila Landers) —OF COUNSEL

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